

**Planning Application LPA Ref: PL/2021/09778**

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



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

# **Statement of Case**

**Prepared for Tisbury Parish Council**

*Final version – 15<sup>th</sup> December, 2022*

## Contents

<b>1. Introduction.....</b>	<b>4</b>
<b>2. Site Location and Description .....</b>	<b>6</b>
<b>3. Relevant Planning History .....</b>	<b>7</b>
<b>4. Description of the Proposed Development.....</b>	<b>9</b>
<b>5. Deemed Reasons for Refusal .....</b>	<b>9</b>
Public Representations .....	9
Deemed Refusal.....	10
<b>6. Development Plan &amp; Other Relevant Documents.....</b>	<b>12</b>
Wiltshire Core Strategy .....	12
Emerging Wiltshire Local Plan .....	13
Neighbourhood Plan .....	13
National Planning Policy .....	14
Ministerial Statements.....	15
Other Documents.....	15
<b>7. Matter 1 – The Principle of Development .....</b>	<b>16</b>
The Appellant's Case .....	16
The Parish Council's Assessment .....	17
<b>8. Matter 2 – Quantum &amp; Form of Development .....</b>	<b>22</b>
The Appellant's Case .....	22
The Parish Council's Assessment .....	22
<b>9. Matter 3 – Transport and Access.....</b>	<b>29</b>
The Appellant's Case .....	29
The Parish Council's Assessment .....	30

<b>10. Matter 4 – Flood Zones.....</b>	<b>34</b>
The Appellant's Case .....	34
The Parish Council's Assessment .....	35
<b>11. Matter 5 – Ecological Impacts.....</b>	<b>36</b>
<b>12. Matter 6 – Design, Heritage and Landscape .....</b>	<b>36</b>
The Appellant's Case .....	36
The Parish Council's Assessment .....	37
<b>13. Matter 7 – Affordable Housing &amp; Viability .....</b>	<b>38</b>
The Appellant's Case .....	38
The Parish Council's Assessment .....	38
Delivery of Affordable Homes.....	39
Questions on the Viability Model .....	40
<b>14. Matter 8 – Public Footpath FP16.....</b>	<b>41</b>
<b>15. Matter 9 - Enabling Infrastructure.....</b>	<b>42</b>
<b>16. Matter 10 - Deliverability.....</b>	<b>45</b>
<b>17. Matter 11 – The Neighbourhood Plan.....</b>	<b>45</b>
<b>18. Conclusions .....</b>	<b>49</b>
Ministerial Statement .....	49
Reasons for Dismissal .....	50
<b>19. Contents of the Document Pack.....</b>	<b>51</b>

# 1. Introduction

- 1.1. This initial draft statement of case is submitted on behalf of Tisbury Parish Council in connection with the appeal under Section 78 of the Town and Country Planning Act 1990 by Tisbury Community Homes ("TCH") for non-determination by Wiltshire Council of the outline planning application PL/2021/09778 for the redevelopment of Land at Station Works, Station Road, Tisbury, Wiltshire SP3 6QU, 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"*.
- 1.2. The application is for outline consent for the principle of the development proposed, but with all matters reserved save for the means of vehicular access to and from the site and details of pedestrian and cycle access between the site and Tisbury village centre, including footway proposals, pedestrian crossing, access under the existing railway bridge, and associated traffic management on Jobbers Lane and Station Road.
- 1.3. This application was registered on 13<sup>th</sup> October, 2021. Of 260 public representations received 257 objected; including from Tisbury Parish Council and six neighbouring parish councils, whilst two neither objected, nor supported the proposal and one commented on process.
- 1.4. The Parish Council was not party to Wiltshire Council's deliberations on the application or to its communications with the appellant, but understands that Wiltshire Council was unable to make proper judgement of the application as a result of the lack of detail in more than one area. It understands from the appellant's Statement of Case that at least one extension was agreed between the appellant and the Council until 30<sup>th</sup> June, 2022<sup>1</sup>.
- 1.5. On **22<sup>nd</sup> July, 2022** Wiltshire Council's website shows that its Highways Officer reported to its Case Officer as follows

*"In conclusion, I would currently recommend the application be refused for the following reasons:*

*In terms of several critical aspects, the application does not contain sufficient information to allow proper consideration of the proposals.*

*Despite the lack of detail, the principles of access for pedestrians and cyclists is unacceptable. The route proposed is unattractive and circuitous, and is conditional on an unacceptable proposition ie the road being closed to vehicular traffic and the implications thereof.*

*It has not been demonstrated that an acceptable and safe means of access for non-motorised users can be achieved to the site, which is considered to be contrary to Wiltshire Core Policies 60, 61 & 62 and NPPF Section 9, paras 104-106 & 110-112.*

*Insufficient information has been provided to demonstrate that the proposed pedestrian/cycle route meets the requirements set out within LTN 1/20 and DDA 1995 and that the proposed signals can be accommodated within the existing highway. The proposals are thus considered to be contrary to Wiltshire Core Policies 60, 61 & 62 and NPPF Section 9, paras 104-106 & 110-112."*

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<sup>1</sup> Appellant, Statement of Case, page 18

- 1.6. On **28<sup>th</sup> July, 2022** the appellant sent Wiltshire Council formal notice of its intention to appeal for non-determination<sup>2</sup>, having become frustrated with the “*slow and, at times, obstructive way*” in which the application had been considered<sup>3</sup>.
- 1.7. The application was deemed as refused at the meeting of the Southern Area Planning Committee of Wiltshire Council on 10<sup>th</sup> November, 2022 and a copy of the Officer Report, Committee Minutes, the statement by Tisbury Parish Council and the remarks of the for the division at the meeting are included in the appeal documents<sup>4</sup>.
- 1.8. This initial draft Statement of Case is submitted on the basis of Wiltshire Council's deemed decision and the reasons for appeal so far set out by the appellant, although it is noted that appellant has indicated it was not aware what reasons (if any) Wiltshire Council might have for refusing the application when submitting their appeal, which might lead them to submit additional statements or evidence<sup>5</sup>.
- 1.9. The Parish Council recognises that communications on the matter of this application have almost entirely taken place between Wiltshire Council and the appellant, and consequently the Parish Council's voice may not have been heard. To save inquiry time, it has therefore used this opportunity to set out its full case and all relevant evidence as comprehensively as it can, so that both the appellant and Wiltshire Council have every opportunity to consider its arguments.
- 1.10. The Parish Council also acknowledges that in making this statement it has drawn on the evidence and comments submitted by members of the public to the planning consultation on the appellant's proposal in October/November 2021; but that much of this material is weighty and that certain subjects straddle a large number of representations. This Statement of Case is therefore presented with six appendices, each giving a summary of the supporting arguments and evidence relating to a specific issue and linking with the relevant documents. These appendices are:
- A Access Scheme
  - B Mass, Scale and Density
  - C The Care Home Proposal and Employment
  - D Report on Community Representations to the Planning Consultation
  - E Summary of Neighbourhood Plan provisions
  - F Engagement – Intelligent Land and St. Modwen Developments Ltd.
  - G Reasons for Dismissal
- 1.11. The Parish Council hopes that these appendices will provide a convenient summary of (and route to) its detailed evidence and will therefore help to save inquiry time.
- 1.12. For ease of reference, footnotes in this Statement of Case or in its appendices which reference documents in the accompanying documents packs, show identifiers in brackets, for example ‘S10’, which point to the title of the relevant document pack (A, B, C or S) and the number of the document within that pack. A bookmarked link to each document is

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<sup>2</sup> Appellant, Statement of Case, page 18

<sup>3</sup> Appellant, Statement of Case, paragraph 3.8

<sup>4</sup> Officer Report to the Southern Area Planning Committee (S22), Minutes of the Southern Area Planning Committee Meeting 10<sup>th</sup> November 2022 (S23), Statement by Tisbury Parish Council (S24) and Remarks by the Unitary Councillor for the Division S3)

<sup>5</sup> Appellant Statement of Case, paragraph 1.4

provided on the first page of each document pack and a full list of documents is shown at the end of this Statement of Case.

- 1.13. Although the Parish Council has not been approached by the appellant or by Wiltshire Council's Case Officer in connection with the current appeal, it would welcome the opportunity to contribute to a Statement of Common Ground with the appellant, Wiltshire Council, or both, to save Inquiry time and has written to both parties with this suggestion.

## 2. Site Location and Description

- 2.1. The appeal site is a long, narrow, light industrial and commercial site, adjacent to the railway line at Tisbury Station on the 'far' side of the line from Tisbury Station and village, adjoining open countryside. The site is cut into the hillside and comprises large span industrial buildings, a two storey prefabricated office block and areas of external storage adjacent to the railway line.
- 2.2. The developable site measures approximately 1.9 hectares; oriented from North-east to South-west, approximately 400 metres in length at its longest point and 60 metres in width, enclosed on two sides by a steep hillside comprising trees, grass and dense vegetation and on a third side by the railway line and Tisbury station. The 'railway' boundary of the site is the former 'down' platform edge which can be clearly seen from the station side.
- 2.3. Along with the railway line, the site occupies an elevated position, separate from and overlooking the settlement of Tisbury across the River Nadder floodplain, and falls within the settlement boundary.
- 2.4. Tisbury village and the appeal site lie within the Cranborne Chase Area of Outstanding Natural Beauty<sup>6</sup>, designated in 1981, whose Statement of Significance<sup>7</sup> indicates it is a "*landscape of national significance*" whose special qualities derive "*from the historical interaction of humans and the land*". They include its diversity, distinctiveness, sense of history and remoteness, dark night skies, tranquillity; and its overwhelmingly rural character. The site and is visible from a distance from Union Road/Monmouth Hill, The Avenue and Vicarage Road. It is substantially concealed from the roads within Tisbury but very visible from the station platform.
- 2.5. In 2019 the AONB became one of fourteen international dark sky reserves in recognition of the exceptional quality of its night skies and its commitment to protect and improve them.
- 2.6. Tisbury village lies to the North-west of the site across the railway line and on all three other sides lie woodland, pasture and arable land forming the AONB. The River Avon Special Area of Conservation (SAC) lies 1.6km northeast; Chilmark Quarries SAC, 2.4km north; and Prescombe Down SAC, 4.7km southeast. Tisbury Railway Station is the sole station lying within the AONB, of which the River Nadder valley (in which Tisbury lies), forms a substantial part.
- 2.7. The only means of vehicular access to the site is from its South-west end, away from Tisbury village, where two short slip roads connect the site with Jobbers Lane and open countryside. A public right of way (FP16) borders the site at its North-eastern end, crossing the railway line by means of a pedestrian level crossing (the "Chantry Crossing") and joining Station Road, which connects Tisbury village with the railway station.

<sup>6</sup> Full legal title "Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB)"

<sup>7</sup> Cranborne Chase Partnership Plan 2019-2024, paragraph 2.1 (S1)

- 2.8. Approximately 30 metres along Jobbers Lane to the right on leaving the site the road dips and passes under two arches of the “Three Arch Bridge”, which carries the railway over the road and the River Nadder immediately alongside. Shallow flooding occurs intermittently on the road under the bridge with extensive flooding of over 60cm depth occurring less frequently, most recently on 16<sup>th</sup> March 2013 and 21<sup>st</sup> October, 2021.
- 2.9. Having travelled through this arch the road turns sharply right towards Tisbury village, narrows and loses its pavement after approximately 20 metres at a point where a footpath (the “Stubbles Path”) leaves at the left to cross the floodplain and River Nadder towards Tisbury village. The footpath has been flooded on four occasions since 2012.
- 2.10. Tisbury village is defined as one of only seven “Local Service Centres” within the hierarchy established in the Wiltshire Core Strategy, which consists of four levels: Principal Settlements, Market Towns, Local Service Centres and Large and Small Villages.

### 3. Relevant Planning History

- 3.1. Two previous applications for mixed development have been submitted for the site.
- 3.2. The first, an application for outline planning permission for mixed residential and commercial use with all matters reserved except for access - application reference S/2002/1367 - refused, 2<sup>nd</sup> December, 2002. This refusal comprised the eight reasons set out below:

(1) This proposal is contrary to policies E2 & 1 2 of the adopted Salisbury District Local Plan and policy E16 of the deposited replacement Salisbury District Local Plan in that the proposal would result in the loss of a large employment site, does not result in demonstrable environmental or conservation benefits nor does it provide for a similar number and range of job opportunities. Furthermore, this is a large site and the loss; of available land for employment/industrial use is of significant importance

(2) The proposed development is considered by the Local Planning Authority to be contrary to Housing Policy H23 of the Salisbury District: Local Plan in that it is located outside any housing policy boundary and the requirement for the: ‘dwellings has neither been justified in connection with the needs of agriculture or forestry nor are they ‘affordable’ housing for those unable to compete in the local housing market, nor are they replacement dwellings and notwithstanding that this is a brownfield site, not in accordance with other policies of the adopted local plan.

(3) The proposal is considered to be contrary to policy Tran 4 of RPG 10 in that it makes no provision for the safeguarding of land for improvements to the Waterloo - Exeter railway line; and to Tisbury Station in particular

(4) The proposal is considered to be contrary to policy DP1 of the approved Wiltshire Structure Plan and the aims of PPG13 in that there are inadequate pedestrian links into the main settlement of Tisbury and it would lead to an increase in use of a pedestrian level crossing across the railway, which would increase the risk both to pedestrians and. ‘he operation, of the railway.

(5) The proposal is considered to be contrary to 1 of the adopted SDLP, DP1 of the approved Wiltshire Structure Plan and the aims of- PPG13 in. that it is likely to lead to an increase in out commuting car borne traffic on a local road: network that ill-suited to increased levels of demand.

(6) The proposal is contrary to policy G1 of the ‘adopted Salisbury District Local Plan in that it contains insufficient information to demonstrate that ‘the site’ could be satisfactorily drained without an increased risk of flooding off site.



(7) The proposal is considered to be contrary to policy C2 and C6 of the adopted Salisbury District Local Plan in that the proposed gateway residential development will be detrimental to the visual qualities of the designated AONB in that it will form an intrusion within an area where the railway bridge forms a clear visual break between the character of the Settlement of Tisbury and the open countryside.

(8) The proposal is considered to be contrary to policy R 2 of the adopted Salisbury District Local Plan in that it makes no provision for recreational open space.

- 3.3. The second, an application for outline planning permission for mixed residential and commercial use with all matters reserved except for access - application reference S/2003/2547 - refused, 13<sup>th</sup> August, 2004. This refusal comprised the seven reasons set out below:

(1) This proposal is contrary to policy E16 of the adopted Salisbury District Local Plan in that the proposal would result in the loss of a large employment site, does not result in demonstrable environmental or conservation benefits nor does it provide for a similar number and range of job opportunities. Insufficient evidence has been supplied to demonstrate that the site is not viable in its entirety for employment uses. Furthermore, this is a large site and the loss of available land for employment/industrial use is of significant importance.

(2) The proposed development is considered by the Local Planning Authority to be contrary to Housing Policy H22 of the adopted Salisbury District Local Plan in that the relocation of the existing business is likely to lead to increased reliance on the private car and insufficient evidence has been supplied to demonstrate that the site is not viable for alternative employment uses.

(3) The proposal, which involves the loss of employment land in a settlement where there has been a loss of such land over the years, is contrary to policy G1 of the adopted Salisbury District Local Plan and DP1 of the Wiltshire Structure Plan in that it does not help create sustainable communities

(4) The proposal is considered to be contrary to policy DP1 of the approved Wiltshire Structure Plan and the aims of PPG13 in that the proposed development has not demonstrated that adequate provision can be made to accommodate the requirements of disabled people crossing the proposed new footbridge over the railway. This will lead to wheelchair users wishing to access the railway station and the main part of Tisbury village (and vice versa) having to travel via a circuitous route along a section of Class III road where there are no footways and where visibility is restricted to the detriment of highway safety.

(5) The proposal is considered to be contrary to policy G1 of the adopted SDLP, DP1 of the approved Wiltshire Structure Plan and the aims of PPG13 in that it is likely to lead to an increase in out commuting car borne traffic on a local road network that is ill suited to increased levels of demand

(6) The proposal is contrary to policy G1 of the adopted Salisbury District Local Plan in that it contains insufficient information to demonstrate that the site could be satisfactorily drained without an increased risk of flooding off site.

(7) The proposal is considered to be contrary to policy R2 & R4 of the adopted Salisbury District Local Plan in that it makes no provision for recreational open space or community facilities.



## 4. Description of the Proposed Development

- 4.1. The appellant has indicated that the application is “for outline consent for the principle of the development proposed, but with all matters reserved save for the following:
- Details of the means of vehicular access to and from the site;
  - Details of pedestrian and cycle access to and from the site, including footway proposals, pedestrian crossing, access under the existing railway bridge, and associated traffic management on Jobbers Lane and Station Road.<sup>8</sup>”
- 4.2. The principle of development, as set out on the Application Form<sup>9</sup> is for “Outline planning application for 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”.
- 4.3. The development proposal is supported by a description and indicative site plan contained in the Planning Statement (prepared by Intelligent Land, dated August 2021) and Design and Access Statement (prepared by Thrive Architects, dated September 2021) and other documents including a Noise Impact Assessment (prepared by Venta Acoustics, dated July, 2021), a Transport Assessment (prepared by Campbell Reith Hill LLP, dated September 2021) and a Flood Risk Assessment and Drainage Strategy (prepared by Campbell Reith Hill LLP, dated September 2021)
- 4.4. Tisbury Parish Council understands that the proposal remains unchanged from that presented in November 2021 and this Statement therefore considers the Planning Statement and the other documents mentioned above as they appear on Wiltshire Council’s website at the time of writing, although for the reasons set out below and in the appendices a significant amount of additional information (and further detail on information already submitted) is considered essential to enable a proper understanding of the impacts of the development which will result from the application.

## 5. Deemed Reasons for Refusal

### Public Representations

- 5.1. The application was subject to statutory public consultation from 26<sup>th</sup> October, 2021 and 260 representations from non-statutory consultees and members of the public were received (13.6%<sup>10</sup> of the adult resident population of Tisbury’s built-up area), of which 257 objected and 3 neither supported nor objected.

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<sup>8</sup> Appellant Statement of Case, paragraph 2.3

<sup>9</sup> Application Form registered by Wiltshire Council on 13<sup>th</sup> October, 2021, section 3. (S2)

<sup>10</sup> Resident Adult Population calculated from 2011 Census Table KS102EW, uplifted by 6.3% representing the percentage increase between 2011 and 2020 projected in the ONS Mid-2020 population estimates for Tisbury Community Area.

5.2. Appendix D provides a high-level analysis of the concerns raised, which can be summarised down as follows:

- 217 (83%) representations cited issues arising from Access
- 155 (60%) cited Mass, Scale & Density
- 106 (41%) cited the inclusion of a Care Home
- 95 (37%) cited a failure to deliver a Mixed Development
- 91 (35%) cited lack of conformity with the Neighbourhood Plan
- 85 and 70 respectively, (33% and 27%) cited pressure on Healthcare and Transport
- 54 (21%) cited lack of Affordable Home Provision
- 42 (16%) cited lack of sufficient Parking

### Deemed Refusal

5.3. The application came before Wiltshire Council's Southern Area Planning Committee on 10<sup>th</sup> November 2022, when the committee considered:

- a report by the Case Officer, also made available to the public and parish councils before the meeting
- a powerpoint presentation by the Case Officer and a written statement by the Appellant (made/circulated to members of the committee, but not previously published)

5.4. In his subsequent remarks, the Unitary Councillor for the division expressed his agreement with the grounds for refusal recommended by the Case Officer, but considered that the application failed to comply with the Tisbury & West Tisbury Neighbourhood Plan and with other areas of planning policy in ways which related to the principle of development, but which had not been fully outlined in the Case Officer's report, highlighting the following matters<sup>11</sup>:

- masterplanning;
- affordable housing;
- number of dwellings/report of the Council's Senior Urban Design Officer; and
- substitution of a residential care home for commercial units.

5.5. The Unitary Councillor's remarks are reproduced at Appeal Document S3.

5.6. The Committee resolved that the application would have been refused for the following five reasons:

1. The proposal envisages the closing off of one of the existing vehicular routes under the existing railway bridge, and the construction of a raised pedestrian and cycle structure. In terms of several critical aspects, the application does not contain sufficient information to allow proper consideration of the proposals. Notwithstanding the lack of detail, the principles of access for pedestrians and cyclists is unacceptable. The route proposed is unattractive and circuitous and is conditional on the road being close to vehicular traffic and the implications thereof, which is an unacceptable proposition.

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<sup>11</sup> Remarks by Councillor Nick Errington to the Southern Area Planning Committee, 10<sup>th</sup> November, 2022 (S3)

Consequently, it has not been demonstrated that an acceptable and safe means of access for non-motorized users can be achieved to the site. Furthermore, insufficient information has been provided to demonstrate that the proposed pedestrian/cycle route meets the requirements set out within the Department of Transport's Local Transport Note 1/20 and Disability Discrimination Act 1995, and that the proposed signals can be accommodated within the existing highway.

As a result, the proposal is considered to be contrary to Tisbury Neighbourhood Plan policies BL3 (2), BL7 (3), Wiltshire Core Policies 60, 61 & 62 and NPPF Section 9, paras 104-106 & 110-112.

2. Notwithstanding the highway access issues, the highway and field systems around the site have a history of flooding issues. The proposal envisages the access via Jobbers Lane which is located in Flood Zone 3. Therefore, if residents or the emergency services needed to access the site during the design flood they would need to pass through floodwater, during a flood event. The proposed walkway access will need to remain operational and safe for users in times of flood; result in no net loss of floodplain storage; not impede water flows, and not increase flood risk elsewhere.

However, this matter has not yet been resolved, and the proposals do not address the flooding/drainage issues associated with the accessing of the site and hence how suitable linkage between the site and the facilities and services in Tisbury can be achieved. The proposal is therefore contrary to the aims of policy BL7 (criterion 3 & 5), and HNA 3 of the Tisbury Neighbourhood Plan, and also the aims of policy CP67 of the Wiltshire Core Strategy, and the NPPF guidance related to flooding matters.

3. Furthermore, at the present time, the viability assessment of the application remains ongoing. The applicant's assessment is currently indicating that a policy compliant percentage of affordable housing cannot be provided on site. Until this viability process is completed, the Council assume that the proposal can provide the required quantum of affordable housing required by policy. Notwithstanding, the applicant has also indicated that they would not wish to provide the required contribution towards mitigating the impact of the scheme on existing educational infrastructure. Consequently, and in the absence of a suitable legal agreement, the proposal would therefore not be able to contribute suitable mitigation towards off site educational facilities; onsite affordable housing; the management or enhancement of on or off-site open space facilities, on site waste and recycling facilities, the enhancement of highways access infrastructure, off site rights of way, public art provision, or any contribution towards nitrate mitigation.

As a result, the proposal is contrary to the aims of CP3, CP43, CP50, CP52, CP57, CP69 of the Wiltshire Core Strategy, the Council's Planning Obligations DPD, saved policies R2, D8, the waste and recycling core strategy policy WCS6, and the aims of policy BL1, BL2, and BL7 criterion 6 in relation to the quantum of affordable housing.

4. The site is allocated within the adopted Tisbury Neighbourhood Plan for comprehensive redevelopment to include an appropriate balance of housing and commercial industrial units. In the absence of information justifying the need for a residential care home, or any analysis of its likely impacts on local medical facilities, it is considered that the proposal would not be in accordance with aims and objectives of policies EB1 (1 & 5), BL3 (2), & BL7 (criterion 4,5,7 & 9) of the Tisbury Neighbourhood Plan, and the general aims of Wiltshire Core Strategy CP27, CP35, & CP46 (criterion viii, ix, x, & xi).
5. The proposal envisages 86 dwellings and a residential care home, which does not reflect the scale, mix or density of development in the adopted Tisbury Neighbourhood Plan policy BL7. The proposed development would be inappropriate for the site's setting and out of keeping the character of the surrounding area in a way which would

not be in accordance with the principles of sustainable development set out in the NPPF or the aims and objectives of policies BL7 (criterion 4,7) of the Tisbury Neighbourhood Plan; the general aims of Wiltshire Core Strategy CP27 and CP57, including the Council's adopted design guide Creating Places, and the design guidance provided by the NPPF in relation to Design Guides and Codes. Wiltshire Council's assessment of the built form of the development is set out in the following documents:

- 5.7. The Committee also requested that the following note be included in the notice sent to the appellant:

Further, to avoid any inference that the opinions expressed in the Officer Report might be misrepresented as a statement of common ground, Members requested that it was noted that the application had not been based on a site masterplan, agreed with the community and key partners, as contemplated by the Neighbourhood Plan and its Independent Examiner and that it was based on questionable principles for development, as set out in objections from the Environment Agency, Highways, Drainage, Economic Development, Spatial Planning, Urban Design and the Cranborne Chase AONB partnership.

## 6. Development Plan & Other Relevant Documents

- 6.1. The Development Plan for the purposes of this application is formed principally of:
- **Wiltshire Core Strategy 2006-2026** (2015), including the Wiltshire Housing Site Allocations Policy 2020, minerals and waste plans and the saved policies of the Salisbury District Local Plan 2011; and
  - **Tisbury and West Tisbury Neighbourhood Plan**, 2019-2036 (made 29<sup>th</sup> November 2019, the "Neighbourhood Plan")
- 6.2. The emerging Wiltshire Local Plan 2016-2036 is currently under preparation. The following documents, intended to inform the emerging Local Plan, were the subject of public consultation between January and March 2021, and may be relevant to the current application to the extent that they indicate the Council's assessment of the meaning and continued relevance of certain policies within the Wiltshire Core Strategy:
- **Wiltshire Local Plan - Emerging Spatial Strategy** – January 2021
  - **Wiltshire Local Plan – Empowering Local Communities** – January 2021

### Wiltshire Core Strategy

- 6.3. The over-arching strategy for development of local service centres such as Tisbury is encapsulated in Core Policy 1 and explained more fully at paragraph 4.14: *"development at Local Service Centres will be closely linked to their current and future role of providing for a significant rural hinterland. This will consist of less development than that at the Principal Settlements and Market Towns. Developments at Local Service Centres, in accordance with the Settlement Strategy, should provide for local employment opportunities, improved communities facilities and/or affordable housing provision. This will safeguard the role of these settlements and support the more rural communities of Wiltshire."*
- 6.4. The following policies of the Wiltshire Core Strategy are relevant to this application:
- Core Policy 1                      - Settlement Strategy
  - Core Policy 2                      - Delivery Strategy

- Core Policy 27 (including paragraph 5.146) - Strategy for Tisbury Community Area
- Core Policy 34 - Additional employment sites (B1, B2, B8)
- Core Policy 35 - Re-use of Existing employment sites (B1, B2, B8)
- Core Policy 36 (noting paragraph 6.20) - Economic Regeneration
- Core Policy 43 - Affordable Homes
- Core Policy 45 - Housing Type, Mix and Size
- Core Policy 46 - Housing for Older People
- Core Policy 51 - Landscape and Character
- Core Policy 52 - Green Infrastructure and Open Spaces
- Core Policy 56 - Contaminated Land
- Core Policy 57 - Design and Place-shaping
- Core Policies 60 & 61 - Sustainable Transport
- Core Policy 69 - Protection of the River Avon SAC

### Emerging Wiltshire Local Plan

- 6.5. The following paragraphs relating to the emerging Wiltshire Local Plan are relevant to this application:

- Emerging Spatial Strategy, page 3 - Settlement Hierarchy
- Emerging Spatial Strategy, page 7 - Housing Requirement
- Empowering Local Communities, paragraph 28 - Settlement Hierarchy
- Empowering Local Communities, paragraph 28 - Indicative Housing Requirement 2016-2036

### Neighbourhood Plan

- 6.6. The Neighbourhood Plan allocates the Station Works site for “comprehensive redevelopment to include an appropriate balance of housing, commercial units and parking” on the following basis:

*“The mix for the development should be informed by a viability test. Development proposals should be set down in a Masterplan which has been the subject of consultation with the*

*community and the other interested parties. The Masterplan should indicate the phasing and infrastructure requirements and how their delivery will be assured. Once agreed, development should proceed strictly in accordance with the Masterplan.”*

- 6.7. The Neighbourhood Plan includes numerous provisions for the Station Works site. For ease of reference, the paragraphs most relevant to the current application, together with the policies listed below, are reproduced at Appendix E.
- 6.8. The following policies of the Neighbourhood Plan are relevant to this application:
- Pages 5 & 6                      - Vision Statement and Vision for Buildings
  - Policy HNA.2                    - Tisbury Conservation Area
  - Policy BL.1                      - Housing Mix
  - Policy BL.3                      - Brownfield Development
  - Policy BL.4                      - Design & Landscape
  - Policy BL.7                      - Site Allocation – Station Works
  - Policy TR.2                      - Development relating to Tisbury Railway Station
  - Policy TR.3                      - Traffic Impact and Road Safety
  - Policy TR.4                      - Sustainable Transport
  - Policy EB.1                      - Promoting Employment
  - Policy LCW.3                    - Amenity Space
- 6.9. The adopted Wiltshire Housing Site Allocations Plan 2020 identifies the site as being within the Tisbury settlement boundary.

### **National Planning Policy**

- 6.10. The following chapters of the National Planning Policy Framework 2021 (“the Framework”) are relevant to this appeal:
- Chapter 2 – Achieving Sustainable Development
  - Chapter 3 – Plan-making
  - Chapter 4 – Decision-making
  - Chapter 5 – Delivery a sufficient supply of homes
  - Chapter 6 – Building a strong, competitive economy
  - Chapter 7 – Ensuring the vitality of town centres
  - Chapter 8 – Promoting healthy and safe Communities

- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment
- Annex 1 – Implementation

### Ministerial Statements

6.11. The following ministerial statements are considered relevant to this appeal:

- Ministerial statement HCWS415 “Update on the Levelling Up Bill” dated 6<sup>th</sup> December, 2022<sup>12</sup>.

### Other Documents

6.12. The following documents are also considered relevant to the appeal:

- Tisbury Conservation Area Appraisal and Management Plan, 2009<sup>13</sup>
- Cranborne Chase AONB Management Plan (Cranborne Chase Partnership Plan) 2019-2024<sup>14</sup>
- Network Rail West of England Line Study 2020<sup>15</sup>

6.13. The Council may refer to relevant appeal decisions and case law. This may include the following cases including (but not necessarily limited to):

- APP/H1705/W/20/3248187 Land on the South and South East side of Harts Lane, Burghclere, Basingstoke & Deane BC, Hampshire dated 1st December 2020. 35 dwellings.
- APP/W3520/W/20/3258516 Former Poultry Processing Plant, Haughley Park, Haughley, Stowmarket IP14 3JY, Mid-Suffolk District Council, 25<sup>th</sup> March 2021, 134 dwellings
- Appeal Ref: APP/Y3940/W/22/3295577 Land to the west Drynham Lane and east of Eagle Park, Southview Farm, Trowbridge, Wiltshire. Wiltshire Council, dated 20th September, 2022

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<sup>12</sup> Ministerial Statement UIN HCWS415 issued 6<sup>th</sup> December (S6)

<sup>13</sup> Tisbury Conservation Area Appraisal and Management Plan 2009 (S7)

<sup>14</sup> Cranborne Chase Partnership Plan 2019-2024 (S1)

<sup>15</sup> West of England Line Study 2020, Network Rail (S20)



- Crane v Secretary of State for Communities and Local Government and Harborough District Council [2015] EWHC 425 (Admin)
- Gladman Developments Ltd. v Secretary of State for Housing, Communities and Local Government, Corby District Council, Uttlesford District Council [2020] EWHC 518 (Admin)
- Peel Investments (North) Ltd., v Secretary of State for Housing, Communities and Local Government & Salford City Council, [2020] EWCA Civ 1175
- Council Of The City Of Newcastle Upon Tyne v Secretary Of State For Levelling Up, Housing And Communities, [2022] EWHC 2752 (Admin)

## 7. Matter 1 – The Principle of Development

### The Appellant's Case

- 7.1. TCH consider that the development proposal is in accordance with the Neighbourhood Plan in two important respects:
- the proposal site is “allocated for mixed development” in the Neighbourhood Plan and because the “broad principle of mixed development on the Station Works site is established”, the application “conforms with the allocation policy BL.7<sup>16</sup>”
  - there is doubt as to the “*extent to which a “master plan” for the site is required, and the extent to which this has, or can be agreed with the local community*” and that in the circumstances TCH has done all that could reasonably be expected of it, by subjecting its development proposal to “community engagement and formal pre-application engagement with the Council”, meaning Wiltshire Council in the usual way<sup>17</sup>.
- 7.2. TCH mentions that “*relevant changes*” made as part of the Neighbourhood Plan examination would support its case that its proposal conforms with the “*broad principle of mixed development*” on which the Neighbourhood Plan is based<sup>18</sup>.
- 7.3. TCH's case therefore appears to rest on five arguments:
- First, that the development proposal represents ‘mixed development’ which accords with the Neighbourhood Plan allocation.
  - Second, that there is considerable doubt as to what a ‘master plan’ is or should be in the context of a Neighbourhood Plan allocation
  - Third, that to go beyond what the normal application process requires would be too onerous and have the effect of frustrating development;
  - Fourth, that it is unrealistic to expect that a ‘master plan’ could or should be “agreed with the local community”; and
  - Fifth, that TCH has done the best it could by ensuring that the development proposal “*has been subject to community engagement and formal pre-application engagement with the Council*”<sup>19</sup>

<sup>16</sup> Appellant Statement of Case paragraphs 5.4 and 5.5

<sup>17</sup> Appellant Statement of Case, paragraphs 5.5 and 5.6

<sup>18</sup> Appellant Statement of Case, paragraph 5.4

## The Parish Council's Assessment

7.4. On the first question,, the Parish Council will present:

- that TCH has misconstrued the meaning of “mixed development”, both in terms of its general planning usage and as used by the Neighbourhood Plan. It considers that the term “mixed use” in the context of residential development is invariably used to indicate the combination of a residential with a non-residential use, for example as used in the Town and Country Planning (General Permitted Development) (England) Order 2015;
- that even if the general use of the term were unclear, the Neighbourhood Plan is clear, first because it indicates that the need is for a combination of housing and commercial units and also because it makes clear why that need
- exists. Its allocation of the site set by Policy BL.7 is for “*comprehensive redevelopment to include an appropriate balance of housing, commercial units and parking*”;
- that in making its allocation, the Neighbourhood Plan is supporting the strategic policies set out in the Core Strategy to make rural communities more self-sufficient and reduce levels of out-commuting. The Parish Council acknowledges that mixed development might not be what TCH would prefer to deliver, but in the Parish Council’s view the Neighbourhood Plan is clear.

7.5. On the second question, the Parish Council will present:

- that the meaning of “masterplan” as a planning term is well-understood and that the term “masterplan” or “masterplanning” is used no fewer than 137 times in the Wiltshire Core Strategy;
- that the Neighbourhood Plan’s meaning can be understood in the context of the Wiltshire Core Strategy, whose references to masterplanning, including those examples given in its Appendix A, indicate that masterplans are “comprehensive and joined up”<sup>20</sup>, developed through partnership between the local community, planning authority and the developer before an application is considered, and are associated with:
  - robust infrastructure delivery plans;
  - regeneration;
  - public/private partnership;
  - clearly stated design principles; and
  - assessment of the site’s constraints, such as contamination.
- that even were the general use of the term unclear, the Neighbourhood Plan is clear about what is required when the Plan is read as a whole, because:
  - it is candid about the many challenges relating to the Station Works site and shows how these are inter-related;
  - it demonstrates that unlocking the site for development requires a comprehensive approach which addresses these challenges together and in

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<sup>19</sup> Appellant Statement of Case, paragraph 5.5

<sup>20</sup> Wiltshire Core Strategy, paragraph 4.8

particular links development to the proposed railway enhancement, most notably at paragraph 120;

- it indicates that a masterplan is required, dealing with, among other matters phasing, infrastructure, viability, development mix, building envelope, density and employment;
  - it indicates that development of the masterplan requires consultation with the community and other interested parties and that, once agreed development should proceed in accordance with it;
  - it underlines this approach by specifying that the Parish Council should create a sub-committee to work with Wiltshire Council and *“any prospective developer to ensure that the Station Works site is delivered in accordance with the community’s mandate.”*;
- that in following a masterplan-led approach to bring forward a difficult but strategic site, the Neighbourhood Plan is following an acknowledged path contemplated by both:
- the Wiltshire Core Strategy, paragraph 6.20 which states that where there is an objective of economic regeneration, for example in respect of brownfield sites, it may be appropriate for Neighbourhood Plans to call for a masterplanned approach for important regeneration initiatives in Local Service Centres; and
  - the Framework, paragraphs 8, 22, 82, 93, 41, 73, 94 and 104 which state that planning policies should seek take an integrated and pro-active approach which looks ahead over a 15-year term and seeks to address barriers to investment caused by lack of infrastructure; identifying and coordinating the provision of new infrastructure and anticipating opportunities arising from improvements in transport infrastructure;
- that in recognising the need for a multi-agency approach the Neighbourhood Plan’s policies are rational and evidence-based, given the failure of conventionally developed planning applications to overcome its various issues.

7.6. On the third question, the Parish Council will present:

- that the Neighbourhood Plan has recognised the proposal site’s long history of inertia, spanning over 20 years and the consequent need for a more integrated approach to bring it forward;
- that far from frustrating development, the Plan has sought to unlock the site first by securing a change to Tisbury’s settlement boundary to include the site, second by allocating it, third by achieving community support for its re-deployment for mixed housing as well as commercial use and finally by pursuing a realistic and comprehensive masterplan for its future;
- that this approach was recognised as reasonable by the Plan’s examiner who made no material changes to the Neighbourhood Plan on the question of masterplanning following examination and repeated in his report the comment made that *“although this site does not form a strategic site as part of CP2 it is important to the Tisbury Community and is in effect strategic to Tisbury. The community also want to ensure a good development is delivered. Tisbury wish to follow the example of the Wiltshire Core Strategy and is felt to be a reasonable approach.”*<sup>21</sup>

<sup>21</sup> Report of the Independent Examiner on the Neighbourhood Plan, page 25 (S6)

- that for the same reason, the Examiner repeated and accepted the Qualifying Body's comment that it would be *"willing for the plan to be amended to be less prescriptive and for development mix to be determined through a master-planning process that is undertaken in conjunction with the local community"*<sup>22</sup>, adding additional references to masterplanning into the examined Plan as a result of their recommendations;
- that the appellant's concerns about viability are addressed by the Plan, which makes clear that decisions on both the provision of infrastructure and the site mix will be informed by considerations of viability;<sup>23</sup>
- that the need to integrate development with the expansion of Tisbury station and for proposals to be progressed in conjunction with Network Rail, Wiltshire Council and the Parish Council was also recognised by the Examiner, whose report stated *"a partnership between railway, local authority and other bodies is required", a view endorsed by the owners of the Station Works site. It would seem that Policy TR.2, and the Qualifying Body endorses this view, should seek to ensure a working partnership between the interested parties rather than be prescriptive about the nature of improvements, the viability of which has yet to be assessed. The representation from Network Rail notes the preliminary nature of current plans but acknowledges that the "interdependencies between the Station Works site and potential future [railway] needs have been referenced" within the Plan*.<sup>24</sup>
- that as a consequence, the Examiner recommended adding to the Regulation 16 version of the Neighbourhood Plan the following requirement, which now forms part of Policy TR.2: *"to ensure the necessary co-ordination, proposals should be developed in conjunction with the Local Planning Authority, Network Rail and other interested parties as appropriate."*<sup>25</sup>
- that to pursue a stand-alone scheme for the Station Works site, developed ahead of and in isolation from the railway enhancement, and without provision of direct access between the proposal site and Tisbury village, would result in a built form and layout which would be permanently mis-aligned, and would prove impossible to integrate into its surroundings in the future.

7.7. On the fourth question, the Parish Council will present:

- that the approach set out in the Neighbourhood Plan is consistent with Planning Practice Guidance which states *"masterplans can benefit from a collaborative approach between the local planning authority, site promoters and local communities so that aspirations and constraints are understood early on."*<sup>26</sup>
- that the Neighbourhood Plan's approach to this matter was both clear and reasonable, when taken as a whole, and was also clear to its Examiner.

7.8. The Parish Council recognises that TCH acquired the Station Works site in 2019 and that the masterplanned approach might not be what it would have preferred for the site. Nevertheless, the Parish Council considers that the Neighbourhood Plan should be

<sup>22</sup> Report of the Independent Examiner on the Neighbourhood Plan, page 26 (S6)

<sup>23</sup> Neighbourhood Plan, paragraph 118 and Policy BL.7 (Appendix E)

<sup>24</sup> Report of the Independent Examiner on the Neighbourhood Plan, page 30 (S6)

<sup>25</sup> Report of the Independent Examiner on the Neighbourhood Plan, recommendation 38

<sup>26</sup> Planning Practice Guidance, Design – Process and Tools -paragraph: 007 Reference ID: 26-007-20191001

interpreted as it is, rather than what one might want it to say. In this context, the Parish Council will present:

- that the emerging Neighbourhood Plan had been under preparation for four years before it was made in November 2019;
- that the Regulation 16 version of the Plan was published on 7<sup>th</sup> March 2019 with formal consultation commencing on 11<sup>th</sup> March;
- that the proposed allocation of the Station Works site would therefore have been properly within the scope of the appellant's due diligence before purchase and the appellant would have had ample opportunity to take this into account when assessing the hope value of the site.

7.9. On the fifth question, the Parish Council will present that this question can best be addressed by considering the degree to which such community and stakeholder engagement as occurred in connection with the appellant's proposal reflects the letter and spirit of the Neighbourhood Plan.

7.10. On the one hand, the following statements by the appellant would lead to the conclusion that the development proposal was based on a comprehensive and iterative masterplanning process which achieved a balance between the various issues affecting the site through a collaborative approach:

- in his report the Plan's Examiner indicated that the *"a partnership between railway, local authority and other bodies is required"*, a view endorsed by the owners of the Station Works site<sup>27</sup>;
- the Statement of Community Involvement supporting the proposal states that *"work on preparing a planning application for Station Works began in early 2019"*<sup>28</sup>
- the Planning Statement notes that *"the indicative master plan has been developed through an iterative process .... A series of layout options have been considered and these have been refined to the detailed indicative layout submitted with this application"*<sup>29</sup>

7.11. On the other hand, the Parish Council notes:

- that between late 2019 and April 2021 the Parish Council was not contacted by the appellant;
- that the Parish Council therefore had no information about the progress of the appellant's work, or even that work was in progress;
- that during this period no indication was given to the Parish Council or Qualifying Body that TCH wished to propose alteration of the Plan's site allocation by substituting a care home for commercial units, to significantly increase housing numbers or to implement an alternative stand-alone pedestrian access route which did not integrate with railway expansion; all of which would have required a robust process of evidence gathering as well as community engagement;
- that the Parish Council was first informed of the nature of the development proposal on 6<sup>th</sup> April 2021<sup>30</sup>, some two years after the appellant states that design work had

<sup>27</sup> Report of the Independent Examiner, page 30, policy TR.2 (S6)

<sup>28</sup> Statement of Community Involvement, paragraph 3.2 (S10)

<sup>29</sup> Planning Statement, paragraph 3.2

<sup>30</sup> Statement of Community Involvement, paragraph 6.8 (S10)

commenced<sup>31</sup>, four months after the current proposal scheme had been submitted for pre-application advice and shortly after Wiltshire Council had issued its final pre-application assessment to the appellant on 11<sup>th</sup> March 2021<sup>32</sup>

- that the public engagement conducted by the appellant was restricted to a leaflet distribution and web survey in May/June 2021 on the basis of a two-sided illustrative brochure<sup>33</sup>;
- that despite its lack of preparation, the Parish Council responded appropriately:
  - by sending a leaflet to all households;
  - by organising a public meeting on 27<sup>th</sup> May, 2021 at which a representative from Intelligent Land spoke and answered questions<sup>34</sup>;
  - by organising a second public meeting held on 16<sup>th</sup> November, 2021 to which representatives from Intelligent Land were invited, but did not attend;

7.12. On the basis of the above evidence, the Parish Council therefore concludes:

- that in September 2019, the appellant was progressing a scheme for development of the site;
- that this process continued until 4<sup>th</sup> January, 2021, when the appellant registered a request for pre-application advice for its proposed development with Wiltshire Council<sup>35</sup>;
- that either from the outset in September 2019 or at some point during the period September 2019 and January 2021, the appellant made the decision to formulate its own scheme, involving the access route and uses for the site which are now proposed;
- that the appellant received pre-application advice from Wiltshire Council on its proposed scheme on 11<sup>th</sup> March 2021;
- that it informed the Parish Council of its scheme for the first time on 5<sup>th</sup> April, 2021.

7.13. Despite the importance of the proposed care home in the application, the Parish Council notes that engagement with the local Integrated Care Board (formerly Clinical Commissioning Group) appears to have first occurred at a meeting on 14<sup>th</sup> June 2021<sup>36</sup>

7.14. A specific issue relates to engagement with Network Rail. The Parish Council considers that the evidence offered of the appellant's first meeting with Network Rail on 26<sup>th</sup> April 2021,<sup>37</sup> indicates that such engagement which took place was intended to validate an independent access scheme which the appellant had already decided upon and does not appear to show evidence of a genuine attempt to integrate with the planning of rail expansion.

<sup>31</sup> Statement of Community Involvement, paragraph 3.2 (S10)

<sup>32</sup> Wiltshire Council letter to Intelligent Land, reference 20/11563/PREAPP dated 11<sup>th</sup> March 2021, presented in the Statement of Community Involvement, Appendix C (S11)

<sup>33</sup> Tisbury Community Homes A4 brochure "Proposals for the former Station Works Site", April 2021 (S8)

<sup>34</sup> Notes of the remarks made by Simon Trueick of Intelligent Land at the Public Meeting held 27<sup>th</sup> May, 2021

<sup>35</sup> Wiltshire Council letter to Intelligent Land, reference 20/11563/PREAPP dated 11<sup>th</sup> March 2021 (S11)

<sup>36</sup> Statement of Community Involvement, paragraph 4.3 (S10)

<sup>37</sup> Statement of Community Involvement, Appendix A, notes of meeting on 26<sup>th</sup> April, 2021 (S12)



## 8. Matter 2 – Quantum & Form of Development

### The Appellant's Case

- 8.1. TCH considers that the development proposal is in accordance with the Neighbourhood Plan in two ways:
- because the Plan's reference to "an estimated capacity" of "60 dwellings in two-storey buildings" for Station Works does not impose a "*rigid quantum*" and that as a consequence the horizon of 86 homes, as set out in the development proposal meets, "*the broad requirements of the policy and local housing needs*"<sup>38</sup>
  - because the proposal for a residential care home "*relates to the desire to provide commercial use for the site*"<sup>39</sup>
- 8.2. TCH also questions Wiltshire Council's current housing land supply position, and indicates that the proposal can importantly meet "local housing needs" by delivering more homes in Tisbury. Finally, it questions whether matters of density and built form are really relevant to an outline planning application.
- 8.3. TCH's case therefore appears to rest on six arguments:
- First, that a proposal for 86 homes, cannot be in conflict with the Neighbourhood Plan because the latter does not set a maximum limit;
  - Second, that regardless of the Neighbourhood Plan's policies, Wiltshire Council cannot demonstrate a 5-year housing land supply and therefore there is an important need for additional homes to meet local demand which the development proposal can help to address;
  - Third, a further benefit will arise as development will enhance the appearance of the site to the public gain;
  - Fourth, that provision of a residential care home as proposed is in accordance with the Neighbourhood Plan because it offers a form of employment;
  - Fifth, that even if it were not in accordance with the Neighbourhood Plan, the proposal for a residential care home will offer significant benefits and help to meet local housing need; and
  - Sixth, that it is unreasonable to consider matters of built form, mass and density, as raised by the Council's Senior Urban Design Officer, when assessing the current proposal, as these matters can be resolved in the normal way through the reserved matters process.

### The Parish Council's Assessment

- 8.4. On the first question, the Parish Council will present:
- that the Qualifying Body took care to bring the Station Works site forward in a way which would contribute to Tisbury's long-term development. Had the Neighbourhood Plan not existed, the Parish Council considers that proposals to develop the site

<sup>38</sup> Appellant Statement of Case, paragraph 5.10

<sup>39</sup> Appellant Statement of Case, paragraph 5.9



would not have been forthcoming, a point which is reflected in the appellant's frequent references to the Neighbourhood Plan in its Statement of Case<sup>40</sup>;

- that as the Neighbourhood Plan forms part of the Development Plan, and the Framework<sup>41</sup> is very clear that "*planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise*" the Neighbourhood Plan's policies are very relevant to the proposal site;
- that development of the Neighbourhood Plan's allocation policy for the Station Works site can be seen emerging over a number of years, and involved a balancing exercise to achieve a coherent set of policies which took account of the site's specific challenges, the wishes of the community and engagement with the previous landowner, St. Modwen Developments Ltd., alongside questions of sustainability and viability;
- that this was recognised by the Plan's examiner who commented "*The plan-making had to find ways to reconcile the external challenges that are perceived as likely to affect the area with the positive vision agreed with the community. All such difficult tasks were approached with transparency, with input as required and support from Wiltshire Council.*"<sup>42</sup>
- that the reference to 60 dwellings is clear in the context of the Plan when read as a whole and that if necessary this can be illuminated by consulting related documents, such as the report of the Independent Examiner, the minutes of Parish Council meetings and previous versions of the plan if they are needed to throw light on the Plan's meaning:
  - "estimated capacity" is clearly meant to indicate the maximum which the site is considered able to sustain, without being intended as an arbitrary barrier;
  - "estimated" could not have been an initial or rough estimate, and was clearly the result of careful deliberation over a lengthy period, balancing the need to provide for a mix of uses on the site, to respond to its setting within an AONB and at the edge of Tisbury village, to meet the community's aspirations and to ensure that the site made a sustainable contribution to the village's economy and housing stock, as recognised by the Plan's Examiner;
- that by contrast, the development proposal represents an alternative use of the site and its proposed increase in the number of dwellings from 60 to 86 combined with restriction of the site to residential use, goes far beyond the use contemplated by Policy BL.7 without providing adequate evidence to demonstrate how that number of dwellings can be accommodated on the site whilst also achieving good design and avoiding unacceptable impacts on the AONB;
- that the degree of deviation is so significant as to upset the balance established by the Neighbourhood Plan and frustrate its key policy on the Station Works site;
- that this change of direction has been proposed without the benefit of the collaborative, masterplanned approach expected by the Plan and offers no evidence that research into its benefits and impacts has been undertaken;

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<sup>40</sup> Appellant Statement of case paragraphs 3.3, 4.3, 4.5, 5.2, 5.4, 7.2

<sup>41</sup> Framework, paragraph 47

<sup>42</sup> The Report of the Independent Examiner, page 7.(S6)

- that it was reasonable for the Parish Council to have been consulted about the possibility of altering the Plan's allocation many months before 6<sup>th</sup> April 2021<sup>43</sup> (the meeting at which it was first informed) as this would have required a process of robust evidence gathering as well as community engagement; and
- that even had the appellant not decided to follow an approach which differed so radically from the principles set out in the Neighbourhood Plan, the Parish Council would still conclude that masterplanning with the input of the community and other stakeholders is essential, given the interplay between access, housing number, site mix, housing density, built form, viability, the AONB, parking, open space and the relationship with the development of the railway.

8.5. On the second question, the Parish Council will present:

- that the Neighbourhood Plan was positively prepared and its housing policies are in alignment with the Framework, the Wiltshire Core Strategy and Wiltshire's indicative housing requirement for Tisbury;
- that even without allocation of the Station Works site, new housing completions in Tisbury can still be expected to exceed Wiltshire's indicative housing requirement at 2026 (set in the Wiltshire Core Strategy);
- that based on the evidence of other sites which have come forward in Tisbury between 2020 and 2022, the supply of smaller brownfield sites in Tisbury (not including the Station Works site) could be expected to meet or be close to meeting its updated baseline requirement by 2036 (set out in the emerging Wiltshire Local Plan)
- that as part of its evidence gathering to support the planned renewal of the Neighbourhood Plan in 2023, the Parish Council has commissioned an up-to-date Affordable Housing Needs Assessment for the Neighbourhood Plan area which was delivered by Aecom in May 2022, which concluded:
  - there are 67 more social and affordable rented homes in Tisbury than there would be if Tisbury had followed the Wiltshire average for provision of social rented accommodation, meaning that in Aecom's view *"it is likely that the NA not only caters for the need generated locally but also some of the need of surrounding parishes or areas within Wiltshire"*;
  - there is a problem of affordability affecting a substantial cohort of local people who can just afford to rent, but cannot afford to own an entry-level market or affordable home;
- that although the emerging (renewal) Neighbourhood Plan has little weight as a planning consideration, this evidence-gathering supports the conclusion that the Plan's housing policies are as up-to-date as they can be in practical terms;
- that as set out in Appendix C the lack of a sufficient and varied employment-base has had a significant effect on Tisbury for some years, and that consequently a key aspect of the Neighbourhood Plan's strategy is to ensure that delivery of new homes is matched with new commercial uses, to avoid unnecessary levels of out-commuting;
- that in the wider South Wiltshire Housing Market Area (in which Tisbury sits):
  - annual completions in the five years 2016/7 to 2020/21 inclusive amounted to 99% of the area's Annual Housing Requirement based on the standard

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<sup>43</sup> Statement of Community Involvement, paragraph 6.8 (S10)

method, with an annual shortfall across the entire South Wiltshire area of 5 homes per annum<sup>44</sup>; and

- in the years 2009-2021 windfall permission in the South Wiltshire area amounted to 24% of completions, on which basis Wiltshire have conservatively calculated a windfall allowance for the years 2021-2026 amounting to 9.67% of the area's Housing Requirement for the same period<sup>45</sup>.

- that in view of the above, there is no compelling reason to deviate from a plan-led approach as set out in the Neighbourhood Plan.

8.6. On the third question, the Parish Council recognises that there will be public gains arising from improvement of the site, but will present that these gains would be significantly outweighed by the adverse impacts arising from:

- the harms resulting from the access scheme (for which evidence is presented in Appendix A);
- the harms resulting from the loss of existing employment and employment potential (for which evidence is presented in Appendix C and summarised under the fourth question below);
- the harms resulting from the care home proposal (for which evidence is presented in Appendix C);
- the harms resulting from the scale, mass and density which arise from the principle of development (for which evidence is presented at Appendix B and summarised under the sixth question below); and
- the harms resulting from the lack of masterplanning and the absence of integration with the railway enhancement.

8.7. On the fourth question, the Parish Council will present:

- that for the same reasons as set out under the first question to Matter 1 above, TCH has misconstrued the purpose and meaning of Neighbourhood Plan's reference to mixed development involving commercial units;
- that it is clear that the Plan's purpose is to promote a strong local economy, with diverse and resilient local employment;
- that the Plan recognises the contribution that commercial uses can make in driving economic growth in terms of:
  - spread of risk between multiple businesses, meaning that failure of one would not lead to collapse of all employment at the site;
  - diversity of employment offer;
  - versatility for re-use, meaning that a commercial space released by a business operating in one sector is more suitable for re-use by a range of businesses operating in a variety of sectors; and
  - higher economic turnover, resulting in greater indirect benefit to the wider local economy, in terms of subcontractors, suppliers and logistics;

<sup>44</sup> Wiltshire Council, Housing Land Supply Statement, Base Date April 2021, table 1, page 8.(S9)

<sup>45</sup> Wiltshire Housing Land Supply Statement, Base Date April 2021, pages 13 and 127 (S9)

- that the Plan's strategy to promote the continued use of the Station Works site for commercial use to achieve this purpose is consistent with:
  - Wiltshire Core Policy 36, which supports the regeneration of brownfield sites in Local Service Centres through neighbourhood plans to *"enhance the vitality and viability of the town centre by introducing a range of active uses that complement the existing town centre"*; and
  - the Framework, paragraphs 8, 81 and 82 which place "significant weight" on *"the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development"*, stating that planning policies should ensure *"that sufficient land of the right types is available in the right places and at the right time"* to support growth and innovation, whilst also being flexible enough to accommodate "needs not anticipated in the plan" and support a rapid response *"to changes in economic circumstances"*;
- that whilst the appellant might prefer that the Plan said something else, the Plan's policies are nevertheless, in the Parish Council's view, clear and rational;
- that the appellant's proposal to use the Station Works site exclusively for residential use, providing for employment through a single residential care home would not achieve the Plan's stated purpose, nor a better purpose, for the reasons set out in Appendix C and in particular because:
  - the level of employment is limited and only 2 FTE above current employment levels at the Station Works site;
  - such employment as would be available would not be diverse, but confined to a single sector in direct caring roles close to the national living wage, a large proportion of which would be part-time;
  - development would result in the permanent loss of Tisbury's only large site capable of supporting future commercial and light industrial activity, frustrating the strategy set out in the Neighbourhood Plan to secure the Tisbury's future economic growth and its ability to service the needs of surrounding villages;
  - the substitution of a residential care facility for commercial uses would significantly reduce the indirect benefits to the local economy in terms of sub-contractors, materials and logistics, which derive from commercial activity, without any compensating economic gain; and
  - the substitution of a single care home for a variety of commercial and light industrial uses, combined with the lack of versatility of the proposed care home building and the ease with which it could be converted into dwellings through permitted development rights, would represent an undue concentration of risk on a single business type, with a resulting risk to the vitality and viability of Tisbury as a local service centre;
- that, for the reasons set out in Appendix C there is considerable doubt as to the deliverability of the care home proposal on the basis of the very limited evidence which has been presented.

8.8. On the fifth question, the Parish Council will present:

- that for a settlement of its size, Tisbury is unusual in South Wiltshire in having its own 19-bed care home at Albany House in the centre of Tisbury village;

- that no evidence has been brought forward to demonstrate that there is a genuine local need for a second residential care home;
- that there is compelling evidence that current local care home provision is adequate for local needs, including:
  - the assessment from the local Integrated Care Board, as reported in the Statement of Community Involvement, that *“on the basis of our experience, we would contend that such a home would be largely occupied by those who do not live in this area and would thus be of limited benefit to the local population.”*<sup>46</sup>;
  - the finding of the Parish Council that care homes within a 10-mile radius of Tisbury offered 430 bed spaces with an average vacancy rate of 27% at the time of their last CQC inspection, above the average for England;
  - Wiltshire Council records showing the average concurrent number of local authority funded residents in residential care who had previously lived locally to Tisbury, was only 7 during 2020;
- that instead of care home accommodation there is compelling evidence for the need for alternative forms of accommodation for older people, which enable them to maintain their independence as far as possible in their later years, as set out in Appendix C;
- that evidence of any benefits of a residential care home on the proposal site must be balanced against an assessment of the harms caused by such a scheme and in particular:
  - the evidence of the Integrated Care Board that introduction of a second residential care home in Tisbury would require an entirely new service model for the area<sup>47</sup>;
  - the evidence of the senior clinician at Tisbury surgery, that *“it would have a profound effect on our ability to deliver care, overnight - challenges which would normally take five or ten years to be able to plan for and slowly build upon, and I don’t think any provision has really been made for the local health needs of the population whatsoever.”*<sup>48</sup>;
  - arguments as to the unsuitability of the Station Works site for a residential care home in view of its isolation and proximity to the railway as put forward, among others, by Intelligent Land, on behalf of its client to the Regulation 14 consultation on the Neighbourhood Plan, who stated: *“when considering what it would be like to be a resident living on this site, the proposed redevelopment must be questioned. Tisbury residents will be living on an isolated small industrial/business park site within 50-60 metres of a busy, noisy mainline railway with poor pedestrian links, little if any gardens/amenity space and no sense of community. Is this really a vision for village living in the 21st century?”*

<sup>46</sup> NHS Bath and North East Somerset, Swindon and Wiltshire Clinical Commissioning Group, Statement of Community Involvement, page 12 (S10)

<sup>47</sup> Statement of Community Involvement, paragraph 4.13 (S10)

<sup>48</sup> Remarks of Dr. Adam Smith, the senior clinician at Tisbury GP Surgery in his remarks at the Public Meeting held on 16th November 2021:

*This does not, in our opinion, constitute sustainable development as envisaged in the National Planning Policy Framework.*<sup>49</sup>;

- the likelihood that failure of the care home business model would result in its conversion into dwellings and the collapse of all employment at the Station Works site;
  - the likelihood that a care home, not offering well-paid local employment, together with 86 new dwellings would create unacceptable levels of car-borne out-commuting to and from the site with a consequent impact on the local transport network and on air quality, as set out in Appendix C;
- that there is compelling evidence that operation of a residential care home on the Station Works site is not an attractive proposition for care home providers, as represented, again, by Intelligent Land, that *“Dudsbury Homes Southern has received correspondence from three specialist leading developers of older person housing (Churchill, Renaissance and McCarthy Stone) which states that the Station Works site is not considered suitable given its proximity to the rail station and its isolation from the services and facilities of Tisbury.*<sup>50</sup>”
- that this evidence has been confirmed by the Parish Council, whose own assessment, indicates the following significant risks to deliverability of the proposal:
- it has been developed as a speculative project without being integrated with other local care services, and without the support of the Integrated Care Board and local GP practitioners;
  - no evidence has been brought forward as to the presence of a credible and willing operator;
  - there are already lower than average occupancy rates across the eleven care homes within a 10 mile radius of Tisbury, based on their last CQC ratings of 73.3%;
  - the viability model prepared for the Parish Council and presented at Appendix C indicates that to achieve viability a local care home staffed to the level proposed by the appellant would require at least a 90% occupancy rate;
  - evidence of the closure or “mothballing” of two specialist homes for older people within a 10 mile radius of Tisbury during 2022;
  - the presence of a 19-bed care home in the same rural village setting, approximately 400 metres from the proposal site.
- 8.9. The Parish Council gives the evidence brought forward by Intelligent Land significant weight, given the established nature and financial strength of the three care home operators whom they consulted, and does not consider that the factors which led them to make their assessments have changed materially for the better since 2017.
- 8.10. In the Parish Council’s view, the deliverability of the care home proposal is a significant planning consideration. The proposal has been promoted as an important benefit which justifies a significant deviation from the Neighbourhood Plan, and its failure would result in the permanent loss of all employment at the proposal site.
- 8.11. On the sixth question, the Parish Council will present:

<sup>49</sup> Intelligent Land, submission to Regulation 14 Consultation on the Tisbury Neighbourhood Plan, 8<sup>th</sup> September 2017, page 8 (S13)

<sup>50</sup> Ibid, page 8



- that because the proposal goes significantly above and beyond Policy BL.7 of the Neighbourhood Plan, it is no longer possible to judge the principle of development without a full and proper assessment of the built form, mass and density of the development which will arise from the proposal and their impacts on the site's setting within the Cranborne Chase AONB; meaning that these matters cannot be resolved in the normal way through the reserved matters process;
- that the extent to which the number of dwellings and resident site population have been increased, compared with the planned site allocation, would impose severe constraints on the site's design; and that no evidence has been presented that these constraints could be addressed in a way which would not result in a density, scale and mass that failed to meet the requirement to achieve well-designed places, conserve the special qualities of the Cranborne Chase AONB or respond positively to the site's setting, resulting in a number of unacceptable impacts;
- that these impacts are the direct and unavoidable consequence of the appellant's proposed use for the site as set out in Section 4 of the application form, when compared with the Neighbourhood Plan allocation, and are therefore inextricably linked to the principle of development for which consent is now sought;
- that they cannot be dealt with as reserved matters and in isolation without a workable masterplan (as contemplated by the Neighbourhood Plan) that deals with those fundamental decisions that will determine the design (including access, housing numbers and development mix), demonstrate viability and show that the resulting scale, form and density of development will be appropriate for such a sensitive site within an AONB.

8.12. Appendix B provides further evidence on the adverse impacts referred to above.

## 9. Matter 3 – Transport and Access

### The Appellant's Case

- 9.1. TCH considers that the access proposals were "*carefully considered in the light of different options*" and that as a consequence they "*represent the best option to deliver safe and improved pedestrian and cycle access to the site*" and "*fully meet the requirements of [Neighbourhood Plan] Policy BL.7*".
- 9.2. In addition, it considers the proposed access scheme "*will not impact on the local highway network*" and will "*improve pedestrian and cycle access from the site to the Station and the rest of the village.*"
- 9.3. TCH refers to the positive pre-application engagement it conducted with Wiltshire Council and questions whether Wiltshire Council's deemed reasons for rejection are reasonable, given that they were not raised previously.
- 9.4. TCH's case therefore appears to rest on four arguments:
  - First, that the proposed access scheme is fully compliant with Neighbourhood Plan Policy BL.7, including the need to liaise with Network Rail and it is therefore unreasonable for more to be expected of it;
  - Second, in the light of the pre-application process which took place with Wiltshire Council, and its lengthy delay in responding, it is questionable as to whether Wiltshire Council's objections, received after over eight months' delay, have weight;



- Third, the access scheme represents the only credible option to deliver pedestrian and cycle access to the development at this time;
- Fourth, the access scheme will not impact the local highway network unduly and will in fact improve pedestrian and cycle access between the proposal site and [a] the Station and [b] the rest of Tisbury village.

### The Parish Council's Assessment

9.5. On the first question, the Parish Council will present:

- that the question to consider is not whether the access scheme meets the requirements of any one Neighbourhood Plan policy, but whether it is in accordance with the development plan (including the Neighbourhood Plan) when read as a whole;
- that this should not exclude related documents, such as the report of the Independent Examiner, previous version of the Plan or the Neighbourhood Plan Site Assessment which informed it, if they are needed to throw light on the Plan's meaning;
- that the provisions of the Neighbourhood Plan, taken as a whole, are clear that provision of a new, convenient, pedestrian access route is regarded as integral to a wider scheme involving both development and rail enhancement at the site;
- that from the Regulation 14 version of the Neighbourhood Plan onwards, the Plan indicated the importance of a direct and convenient pedestrian and cycle access to connect the Station Works site to Tisbury, with the preference for a new bridge or underpass, although the final version of the Plan sought to avoid imposing unduly rigid requirements in view of viability and other considerations;
- that the Plan recognised the dual benefits of a direct access route which serves the objectives of both rail enhancement and regeneration of an important brownfield site;
- that the Plan recognised the need for positive engagement over a sustained period on the part of the landowner and other stakeholders, including Network Rail and the Parish Council, to achieve these objectives over the Plan's lifespan, anticipating that masterplanning was the only way to ensure that all the moving parts necessary to deliver a sustainable future for the site could be brought together into a coherent whole;
- that the need for an integrated approach was agreed by Wiltshire Council, Network Rail, the parish councils and by the current landowner and endorsed by the Examiner of the Neighbourhood Plan, whose report indicated that Wiltshire Council, considered that *"a partnership between railway, local authority and other bodies is required", a view endorsed by the owners of the Station Works site.*<sup>51</sup>
- that the appellant's proposed access scheme has been promoted as an alternative, self-standing solution in preference to the integrated access arrangement, connecting the site directly to Tisbury village envisaged by the Neighbourhood Plan;
- that the proposed access scheme is based upon a design which was rejected by Wiltshire Council in 2003 on the basis, among other things of the circuitous route, which has now been modified to close the Southbound arch of the Three Arch Bridge to motor vehicles, introduce signalised one-way working together with a mesh walkway through the arch for the exclusive use of pedestrians and cyclists;

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<sup>51</sup> Report of the Independent Examiner, page 30, policy TR.2 (S6)

- that the Parish Council was not consulted on the access scheme, but was able to view its details along with members of the public, when they were published by Wiltshire Council in October 2021 when dealing with the appellant's planning application;
- that the proposed access scheme represents an issue of most concern to local people with 83% of the 260 representations to the planning consultation in October/November 2021, raising objections on grounds of the access arrangements, many putting forward practical issues relating to the access scheme<sup>52</sup>;
- that Wiltshire Council also presented a number of concerns relating to the scheme in its pre-application advice,<sup>53</sup>
- that nevertheless, the access scheme remains unchanged from that presented with the planning application in October 2021; and
- that the access scheme, in the Parish Council's view, represents significant risks to users of the highway and to the well-being of residents of the proposed development, the technical details of which are described more fully in Appendix A to this Statement of Case.

9.6. On the second question, the Parish Council was unaware of the communications which took place between the appellant and Wiltshire Council during the pre-application stage. However, it has had the opportunity to review the pre-application advice letter from Wiltshire Council to TCH dated 11<sup>th</sup> March, 2021, which is included at Appendix A of the appellant's Statement of Community Involvement.

9.7. The Parish Council considers that some of the remarks in this letter are very material to the appellant's case and they are therefore reproduced in full below:

- On the subject of the Neighbourhood Plan and the need for a masterplanned approach, the Case Officer wrote on pages 12 and 16:

*"The Tisbury Neighbourhood Plan contains a transport section, and policy TR1 -TR4 deal with transport issues, and indicates that there are access issues around this site, particularly at Three Arch Bridge, together with localised flooding issues at this point. The NP also raises the need for a pedestrian crossing of the railway line, and also suggests that this site could be used to resolve some of the parking issues associated with the railway station. The current suggested scheme only partially addresses some of these points, and consequently, it is considered that the current scheme be reconsidered, following a discussion with the local Parish Council and Network Rail."*

*"These highway and access related issues will need to be agreed with the Parish Council prior to submission of an application, as otherwise, the scheme may not meet the requirements of the Neighbourhood Plan policies for this site thus resulting in a possible rejection of the scheme at local level."*

*"Consequently, you are urged to resolve these access issues with all relevant parties prior to submission of a formal application, as trying to resolve them during the course of an application may significantly impact on the time needed to consider and decide any such application, and/or may result in a less positive outcome to that application if all relevant parties do not support the chosen solution."*

<sup>52</sup> Appendix D - Report on Community Representations, page 9

<sup>53</sup> Letter from Wiltshire Council 11<sup>th</sup> March, 2021, presented at Statement of Community Involvement, Appendix C (S11)

- This advice was repeated by the Highways Officer, who pointed to the rejection of the previous “stand-alone” scheme in 2003 and commented on page 13:

*In general terms, the key issues relating to the development of this site for residential use in highway terms are mainly related to the pedestrian and cycle connectivity with/to the Town. This is however multifaceted, as any improvements offered to address these issues are likely to have a major impact upon the surrounding highway network, especially at the arches on Jobbers Lane, but also affect the local rights of way network and Network Rail’s asset in the form of the railway line and its level crossing*

*The applicant is thus strongly advised to engage with all relevant parties as early as possible, including the local Parish Council and Network Rail as a priority, as their views on key elements of these proposals are a prerequisite and essential to guide these proposals. It is worth noting that Tisbury NP Policy BL.7 states that the Parish will appoint a sub-committee to liaise with the LPA and developer of Station Works to help form the proposals.*

- The significance of taking account of the impact of station expansion, not merely on the proposal site, but in the traffic modelling, was also pointed out by the Highways Officer, who referred again to the Neighbourhood Plan and wrote on pages 14 and 15:

*It is also essential that the future expansion of/ improvement of services and facilities at Tisbury Station are considered in this assessment, as any significant station improvements will create an increase in traffic and parking demand (see Tisbury NP para 151)..... Whilst the space appears to be allocated within the scheme, the impacts of station expansion are much wider than this, in particular, in respect to travel demand. The capacity of a signalised junction at the arches must therefore be considered alongside the potential expansion of the station.*

*It is also worth considering any proposals in respect to this route alongside the future expansion of Tisbury Station and as the Tisbury NP states in para 150, the reinstatement of the southern platform would require a new pedestrian access over/under the rail line as a prerequisite. Understanding the likelihood, timescales and options for the future expansion of the rail station are also key in guiding these proposals and in some respect, may potentially help to mitigate issues created by the development.*

9.8. In the Parish Council’s view, these comments on the part of the Case Officer and the Highways Officer show an appropriate reading of the Neighbourhood Plan, a clear understanding of what was required to achieve a sustainable outcome, and a genuine desire to steer the appellant towards pursuing a more collaborative approach.

9.9. On the third question, the Parish Council will present:

- that whilst other alternatives to the provision of railway crossing (which would give direct access from the proposal site to Tisbury village) could be put forward, there is no evidence that any could address the problems represented by the alternative access scheme which is currently proposed;
- that given the dual benefit that a crossing would offer both to development and to the rail network a key driver of success will be to agree such a scheme with Wiltshire Council and Network Rail, which would, among other things, enable the cost of important enabling infrastructure to be shared between the development and railway enhancement;
- that engagement by the Qualifying Body with Network Rail Wessex between July and December 2022 indicates that Network Rail has now progressed to the next stage of

its plan for the expansion of Tisbury Station and construction of a railway crossing through a Strategic Outline Business Case, to be completed before December 2023 and that a proposal for a level of partnership funding to promote delivery of the railway crossing, through inclusion of this project in Wiltshire Council's infrastructure delivery plan will shortly be submitted for Cabinet approval;

- that a direct access route would in addition save approximately £250,000 of build costs, based on the appellant's own estimates<sup>54</sup>; and
- that as a consequence it is a realistic proposition that a sustainable access solution for the site, aligned with the Neighbourhood Plan, is deliverable within its lifespan which does not involve the harms associated with the proposed access scheme.

9.10. The findings from the Qualifying Body's dialogue with Network Rail Wessex and Wiltshire Council are presented more fully at Section 15 below and at Appendix A.

9.11. On the fourth question, the Parish Council will present:

- that the proposed access scheme would prove difficult to reverse once implemented and would create a single point of failure by using only one arch of the Three Arch Bridge;
- that in their letter of 5<sup>th</sup> July, 2022, Campbell Reith LLP accept that flooding of the pedestrian access route may occur from time to time, proposing that *"an appropriate and effective response ... could be achieved through .... simple and clear signage confirming that the structure should not be used if flood water extended to a specified point, or more technical solutions such as warning lights/automated gates if water reached a certain level)"*<sup>55</sup>
- that with this in mind, the available evidence must give both planning and highway authorities a very high level of confidence that the scheme will work as intended for the foreseeable future before consent is granted;
- that confidence will depend among other things, on the following matters:
  - the accuracy of the traffic modelling on which the scheme is based;
  - judgements made about the safety of pedestrians, cyclists and motorists;
  - judgements made about the length and difficulty of the proposed pedestrian and cycle route and the extent to which these will exclude the site from the remainder of Tisbury village and hinder objectives to promote active modes of travel;
  - the likelihood of flooding affecting the access route and its impact on residents of the development, and in particular the residents of the proposed care home;
  - the impact of the scheme on the surrounding lanes;
  - the degree to which the access scheme will reduce the resilience of the local road network and increase its vulnerability to disruption at the Three Arch Bridge.
- that based on the proposal presented, there is insufficient evidence to avoid the conclusion that the access scheme represents a material risk to highway safety,

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<sup>54</sup> Affordable Housing Viability Statement, paragraph 3.31 (S14)

<sup>55</sup> Letter Campbell Reith LLP to Simon Trueick 5<sup>th</sup> July, 2022 (A11)

would weaken the resilience of the local road network to an unacceptable degree and would compromise the well-being of residents of the proposed development;

- that these defects cannot be resolved by condition, but go to the heart of the proposed access scheme, the choice of access route, and the decision to develop and pursue a “stand-alone” access solution for the site without the engagement and support of other key stakeholders;
- that these risks in summary are:
  - that pedestrians and cyclists will be put in danger;
  - that traffic volumes will result in bottle-necks, leading to unmanaged pressure on surrounding roads;
  - that residents of the proposed development, and particularly the proposed care home would become unduly isolated taking into account its hard boundaries on three sides, its single means of egress facing away from Tisbury village, and the length and difficulty of the proposed pedestrian access route to and from Tisbury village along partly unmade paths without sufficient lighting;
  - that the difficulty of the pedestrian route is made more acute because it relies on a footpath which crosses the Nadder floodplain, and which has been flooded on at least four occasions since November 2012, as set out in Appendix A;
  - that the difficulty of the pedestrian route will bring about the use of motor vehicles for short journeys into the village, thereby frustrating objectives to promote active forms of travel and reduce air pollution; and
  - that disruption to vehicle flows at the Three Arch Bridge, whether from flooding, equipment breakdown or the reduced size of the remaining vehicle arch, will put residents of the proposed care home at unnecessary risk;

9.12. For ease of reference the technical issues involved with the access scheme are set out more fully in Appendix A to this Statement of Case.

## 10. Matter 4 – Flood Zones

### The Appellant’s Case

- 10.1. TCH considers that the Neighbourhood Plan was “*framed in the light of current flood zones*”<sup>56</sup> and was examined on the basis that despite the flood risk some form of direct access between Tisbury and the proposal site would have to be provided. Moreover, because TCH has created a “*safe and proportionate pedestrian and cycle link to the village*” which is compliant with the Neighbourhood Plan, therefore the Environment Agency and Wiltshire Council are behaving unreasonably.
- 10.2. In particular, TCH question the Environment Agency’s wish to seek additional reassurance that the pedestrian walkway proposed to occupy one arch of the Three Arch Bridge will not prevent the Bridge from acting as a relief channel at times of flood, resulting in greater flooding of upstream areas.

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<sup>56</sup> Appellant Statement of Case, paragraph 5.20

- 10.3. Finally TCH questions whether Wiltshire Council's concerns about the drainage strategy could not be simply resolved either through agreement on a revised calculation or by condition.
- 10.4. TCH's case therefore appears to rest on three arguments:
- First, because the proposed access route through the Three Arch Bridge was contemplated in the Neighbourhood Plan, it is not unreasonable to expect that the necessary environmental assessments should have been performed on the route through the Three Arch Bridge. It is unreasonable for the Environment Agency and Wiltshire Council to insist on the production of costly and detailed reports to verify a matter which should have been established at the plan-making stage. The Flood Zones are unchanged from the point when the Plan was made.
  - Second, whether or not the Plan did commission the necessary assessments, they go beyond what is reasonable in attempting to address a very low risk.
  - Third, drainage issues which could be resolved by condition have been elevated to an objection to the principle of development.

### The Parish Council's Assessment

- 10.5. On the first question, the Parish Council recognises that development plans go through a process of screening and assessment, at the plan-making stage. However, it is the Parish Council's understanding that these assessments relate to fundamental policies within a Plan which will inevitably give rise to an environmental risk, as with the connection between housing numbers and the need for a habitats regulations assessment. The Parish Council considers that the Neighbourhood Plan was clear that the necessary access and infrastructure associated with development would emerge through the masterplanning process rather than being directed through the site allocation.
- 10.6. On the second question, the Parish Council will present that:
- the sensitivity of the Environment Agency to flood issues in the Tisbury area is likely to stem from four causes:
    - in May 2019, Wiltshire Council published a new Strategic Flood Risk Assessment, which recognised that hydraulic models of "1 in 20-year modelled flood extent" were not always available<sup>57</sup>. Wherever suitable hydraulic models are not available it applies a 'precautionary principle' and re-designates these areas of Zone 3b Functional Floodplain (the highest risk designation). It states this approach was agreed between Wiltshire Council and the Environment Agency. This in turn moved the area around the Three Arch Bridge from Flood Zone 3a to Zone 3b but occurred after the Regulation 16 version of the Neighbourhood Plan had been published;<sup>58</sup>
    - on 21<sup>st</sup> October 2021, severe flooding occurred across the floodplain around the Three Arch Bridge, resulting in a water level at the Environment Agency's Monitoring Station for Tisbury of 91.13 metres above ordnance datum (AOD). The road under the Three Arch Bridge arches was flooded to a depth of approximately 60 centimetres; and

<sup>57</sup> Wiltshire Level 1 Strategic Flood Risk Assessment, May 2019, paragraph 3.3.3 (S15) and Appendix C map (S16)

<sup>58</sup> Flood Zone Map for Tisbury supplied by Wiltshire Council 2022.



- the assessment of flood risk is an evolving process as the result of climate change, meaning that there is always a need to reconsider and re-test existing models.
- the proposed development is dependent on a single means of egress at its South-western end and a single pedestrian access route into Tisbury village through the Three Arch Bridge and across a Zone 3b floodplain, making it understandable that the Environment Agency would wish to subject it to careful assessment, noting Planning Policy Guidance that “where access and egress is important to the overall safety of the development, this should be discussed with the local planning authority and Environment Agency at the earliest stage, as this can affect the overall design of the development.”<sup>59</sup>

10.7. On the third question, the Parish Council notes recent complaints of local sewerage overflows into the River Nadder including one response to its recent consultation on renewal of the Neighbourhood Plan<sup>60</sup>. Given the number of additional homes and the contribution from the proposed care home, the Council would therefore appreciate the opportunity to discuss this matter with Wiltshire Council once all the additional information requested has been provided, in order to satisfy itself that the impact of the scheme on its setting and on the local drainage infrastructure is acceptable.

## 11. Matter 5 – Ecological Impacts

11.1. The Parish Council would broadly be happy for these questions to be resolved by agreement between the appellant and Wiltshire Council, but again, in the light of recent complaints of sewerage overflows, it would appreciate the opportunity to review this matter with Wiltshire Council’s ecologist once all information requested has been supplied to satisfy itself that the impact of the additional dwellings and care home is acceptable.

## 12. Matter 6 – Design, Heritage and Landscape

### The Appellant’s Case

- 12.1. TCH considers that it has addressed the requirement of the Neighbourhood Plan for development proposals to respond to the Station Works setting in the AONB and alongside the Conservation Area, through commissioning Landscape and Heritage Assessments. Neither Wiltshire Council’s Conservation Officer, nor its Landscape Officer, have raised any objections to these assessments or to the development proposal.
- 12.2. TCH’s case therefore appears to rest on the argument that as the Council’s Landscape and Conservation Officers have raised no objections, it could not be held that the proposal has any adverse impact on the Cranborne Chase Area of Outstanding Natural Beauty. By implication, the report of Wiltshire’s Senior Urban Design Officer, which pointed to impacts which might affect the AONB, should be disregarded in this respect.

<sup>59</sup> Planning Practice Guidance, “Flood Risk and Coastal Change”, paragraph 039 Reference ID: 7-039-20140306

<sup>60</sup> Tisbury & West Tisbury Neighbourhood Development Plan Renewal 2022 – Stage 1 Community Engagement Report, Section 63 (page 41) (A3)



## The Parish Council's Assessment

- 12.3. The Parish Council will present that the case put forward on behalf of TCH ignores the response sent by the Cranborne Chase Area of Outstanding Natural Beauty, which the Council understands to be a statutory consultee. The overall conclusion of the submission was that the *"the AONB Partnership is of the view that the submitted scheme fails to comply with the Neighbourhood Plan, fails to present a scheme that is positively related to the landscape location and context, and lacks imagination."*<sup>61</sup>.
- 12.4. For ease of reference, the main provisions relating to AONBs from the National Planning Policy Framework (the "Framework") are reproduced below:
- 176 - Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.*
- 177. When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, 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. Consideration of such applications should include an assessment of:*
- a) 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;*
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*
- 12.5. In the Parish Council's view it is difficult to understand how the Wiltshire Council's Conservation Officer and Landscape Officer could reach the conclusions they did in the light of the representation from the AONB, the matters raised by the Senior Urban Design Officer, and the absence of more detailed information on the built form of the development.
- 12.6. In addition to the concerns expressed by the AONB Partnership, the Parish Council notes that the grounds for refusal of an earlier, similar proposal by Wiltshire Council, was on grounds that *"the proposal is considered to be contrary to policy C2 and C6 of the adopted Salisbury District Local Plan in that the proposed gateway residential development will be detrimental to the visual qualities of the designated AONB in that it will form an intrusion within an area where the railway bridge forms a clear visual break between the character of the Settlement of Tisbury and the open countryside."*
- 12.7. The Parish Council considers that because of its scale and setting, the proposed development constitutes major development in these circumstances. Framework paragraphs 176 and 177 seek to ensure that for major development to take place there are both "exceptional" circumstances and that the development is in the "public interest". It continues that this should be based on a broad assessment of the balance of

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<sup>61</sup> Cranborne Chase AONB letter to Wiltshire Council, 30<sup>th</sup> November, 2021, paragraph 19 (S17)

- benefits/impacts on the local economy, options to meet the need in some other way and thirdly the effects on environment, landscape and recreational opportunities.
- 12.8. Given this wider view, the Parish Council considers that objections raised by the Senior Urban Design Officer relating to the view of the proposal site from Tisbury Station, the site's response to the view corridors from Tisbury village, the provision of open space on site and the boundary fencing (necessary for noise attenuation) are all relevant.
  - 12.9. The Parish Council would go further and suggest that a high level of confidence is required that the benefits of development (in terms of affordable homes and employment opportunity) are sufficiently in the public interest and that these cannot be met in some other way, which would avoid major development.
  - 12.10. The Parish Council considers that the lack of affordable homes deliverable through the appellant's proposal, compared with the number proposed through alternative smaller schemes, will be an important consideration. This is dealt with in more detail under Matter 7 below.

## 13. Matter 7 – Affordable Housing & Viability

### The Appellant's Case

- 13.1. TCH considers that the percentage of affordable homes delivered in the proposal can be no more than 12% because of "*significant abnormal costs*"<sup>62</sup> associated with development of the Station Works site. Its viability appraisal has been challenged by the District Valuation Service, which considers that 30% affordable ratio is viable. TCH considers that the District Valuation Service's conclusions are based on "*incorrect assumptions and calculations*"<sup>63</sup>. It considers its proposal offers additional benefit through the provision of "smaller market homes" and the residential care home, "which also meets local needs, not currently met in the village"<sup>64</sup>.
- 13.2. TCH's case therefore appears to rest on two arguments:
  - First, the relative merit of its own viability assessment as against that of the District Valuation Service; and
  - Second, that Wiltshire Core Policy 43 permits the provision of affordable housing to vary on a site-by-site basis "*taking into account evidence of local need, mix of affordable housing proposed and, where appropriate, the viability of the development.*"<sup>65</sup> On this basis, the contribution of "smaller market homes" and the residential care home which "meet local needs" should be taken into account.

### The Parish Council's Assessment

- 13.3. On the first question, the Parish Council considers:

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<sup>62</sup> Appellant Statement of Case, paragraph 5.31

<sup>63</sup> Appellant Statement of Case, paragraph 5.33

<sup>64</sup> Appellant Statement of Case, paragraph 5.33

<sup>65</sup> Wiltshire Core Strategy, Core Policy 43 (Affordable Housing)

- that the Neighbourhood Plan is clear that the development mix, density and infrastructure delivery for the Station Works site should be determined by the masterplan which is informed by a viability test<sup>66</sup>; and
  - that consequently, consideration of viability should be an input into the masterplan and not only considered at the end of the process when assessing the number of affordable homes;
- 13.4. On the second question, the Parish Council considers that it is not appropriate to make any adjustment to reflect the proposed provision of a residential care home or smaller-than-average market housing for the following reasons:
- the questionable benefit of and deliverability of a 40-bed residential care home in the absence of demonstrable local need, as set out in Matter 2 above; and
  - the evidence of Aecom's Affordable Housing Needs Assessment, and particularly table 4-3 that the main need for affordable homes comes from those who cannot afford to purchase 'entry-level' market housing or even entry-level affordable homes.<sup>67</sup>

### Delivery of Affordable Homes

- 13.5. The Parish Council considers that the benefit of the proposed development can be measured by comparing delivery of affordable homes offered by the proposal with that possible through alternative schemes.
- 13.6. The table shows the delivery of affordable homes at the Wyndham Estate, completed in 2016, taken from its S106 agreement:

Application	Location	Status	Affordable %	Affordable No.
S2008/0779	Wyndham Estate	Completed	<b>38%</b>	<b>34</b>

- 13.7. The table shows the delivery of affordable homes offered at three smaller developments recently proposed in Tisbury, with details taken from the relevant planning applications (or where marked \* calculated on the basis of Wiltshire Core Policy 43:

Application	Location	Status	Affordable %	Affordable No.
PL/2022/00855	Old Sports Centre	Granted	46%	6
PL/2021/06242	Tisbury Motors, SP3 6HF	Pending	30%	3*
PL/2020/01931	Trellis House, SP3 6JR	Pending	100%	8
<b>Total</b>			<b>55%</b>	<b>17</b>

<sup>66</sup> Neighbourhood Plan, Policy BL.7, BL.1, paragraphs 113 and 118 (Appendix E)

<sup>67</sup> Aecom, Affordable Housing Needs Assessment, table 5-3 (S18)

- 13.8. Taking all of the above sites together, the total number of affordable homes proposed or delivered is 51 homes of 121, giving an affordable housing percentage of 42%.
- 13.9. The current proposal would offer delivery of 12% affordable homes or 10 units.
- 13.10. Based on tables shown above, the Parish Council consider:
- that there has already been strong supply of affordable homes through the Wyndham Estate;
  - that there is a demonstrable pipeline of small brownfield sites;
  - that small developments offer promising levels of affordable home provision;
  - that were the 86 homes proposed by the appellant to be delivered through alternative small brownfield sites in Tisbury over the course of the Neighbourhood Plan's lifespan, then approximately 32 affordable homes would be delivered.
- 13.11. The Parish Council also notes the importance that the Framework attaches to the promotion of small sites, particularly as they are often built-out relatively quickly and its target that 10% of all new housing should be delivered through small sites.<sup>68</sup>

### Questions on the Viability Model

- 13.12. To help make the most efficient use of Inquiry time, the Parish Council would be happy in principle for this matter to be resolved by agreement between the appellant and Wiltshire Council.
- 13.13. The Parish Council understands that discussions have already taken place between the appellant and Wiltshire Council's District Valuation service with a view to agreeing a statement of common ground.
- 13.14. For reasons which the Parish Council understands, Wiltshire Council has not been in a position either to give the Parish Council sight of the District Valuation Service's own viability assessment or to brief the Parish Council on the outcome of current discussions.
- 13.15. The Parish Council has therefore only had the opportunity to consider the appellant's Affordable Housing Viability Statement.
- 13.16. There are however some matters, set out in this section, where the Parish Council would like to satisfy itself that the agreed viability assessment is robust. It would therefore appreciate the opportunity to agree answers to these questions and to test the assumptions behind the viability model with the appellant and the Council.
- 13.17. To make the most efficient use of Inquiry time, the Council proposes that these matters should be resolved before the Inquiry date and would appreciate the opportunity to agree a process with the appellant and Wiltshire Council which can achieve this through the Statement of Common Ground process.
- 13.18. On the basis of a limited review, the Parish Council considers that the following questions create uncertainty over the reliability of the appellant's calculation:
- inclusion of a sum of £740,000 under "construction costs" with the heading "Cookery School" relating to<sup>69</sup> acquisition costs relating to land occupied by the existing Cookery School in circumstances where:

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<sup>68</sup> Framework, paragraph 69

<sup>69</sup> Affordable Housing Viability Assessment, paragraph 5.3 and page 31

- Planning Practice Guidance states that “*where viability assessment is used to inform decision making under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan.*”<sup>70</sup>
- the price stated as paid for the land in question on 25<sup>th</sup> July, 2016 was £130,000<sup>71</sup>
- remediation and piling Costs of £750,000 and £200,000 respectively are included, but not referred to in the supporting Remediation Method Statement or indeed any other submitted documentation seen by the Parish Council. Costs for the four alternative options recommended in the Remediation Method Statement are not given;
- new-build sales data:-
  - no local new-build sale data are included on the basis that these are not available. This is surprising in view of the sale within the past 10 years of 90 new homes on the nearby Wyndham estate;
  - no allowance appears to have been made for Tisbury’s village setting or location within an AONB. Instead, data is taken from large edge-of-town estates in Salisbury and Shaftesbury;
- the current valuation of storage space appears inflated by its choice of reference sites. The valuation of £45,000 per acre for storage space uses reference sites in the M4 corridor, with good road access, and in many cases which are close to major distribution centres such as Swindon and Newbury. This approach conflicts with paragraph 6.29 of the Planning Statement, which states that “*The business and employment use of the Station Works site has been in steady decline for many decades, this despite its reasonably central location to the village. The relative distance from Tisbury to the main road network, combined with narrow and often winding lanes accessing the village, mean that the site no longer satisfies modern locational requirements for many businesses, particularly those requiring supply and distribution of goods.*”
- The valuation of £75 per square foot for office space is based on average office space in significant settlements with good road connections. It does not take account of the investment required to bring the existing vacant offices to an acceptable standard and does not indicate for how long they have remained vacant.

## 14. Matter 8 – Public Footpath FP16

- 14.1. The Parish Council will present conclusions put forward by the appellant regarding the future of public right of way FP16, which currently crosses over the railway at the “Chantry Crossing” to the North-east of Tisbury Station and climbs the down at the North-east end of the proposal site.
- 14.2. The Planning Statement<sup>72</sup> and Statement of Community Involvement<sup>73</sup> both indicate that the appellant’s proposed access scheme will make it necessary to seal off the proposal site

<sup>70</sup> Planning Practice Guidance – Viability, Paragraph: 014 Reference ID: 10-014-20190509

<sup>71</sup> Land Registry Title - WT224589 (S19)

<sup>72</sup> Planning Statement, paragraph 3.16

<sup>73</sup> Statement of Community Involvement, Appendix [A] – notes of meeting on 26th April 2021 (S12)

- and prohibit access to the Chantry Footpath which would shorten the return walking distance from this part of the proposal site to Tisbury village by over 1 kilometre.
- 14.3. The Parish Council's agrees that this footpath would represent a very strong desire line for residents of the estate. It considers that to satisfy Network Rail (who will inevitably be concerned about the risk that residents will find a way through any boundary treatment and use the footpath to cross the railway track) the appellant will have no choice but to seek the closure of this footpath and the Statement of Community Involvement records this objective.<sup>74</sup>
- 14.4. In the Parish Council's view this particular footpath plays an important role for three reasons:
- first, because it is important to the local footpath network, being the only footpath connecting Tisbury village with the South and paths which lead to the Iron Age Hill Fort at Withyslade and the surrounding countryside of the AONB;
  - second, because its setting is especially valued, commanding a unique panorama of Tisbury shortly to the South of its starting point; and
  - third, because it forms one of only three setting-off points from the railway station for walkers travelling by train who wish to enjoy the AONB.
- 14.5. The closure of this right of way, if that is what is proposed, would in the Parish Council's view, represent an additional reason for rejection of the development proposal.

## 15. Matter 9 - Enabling Infrastructure

- 15.1. As part of the masterplanning process, the Neighbourhood Plan states that work must take place in collaboration with Network Rail to secure agreement on an integrated plan for the proposal site which takes into account proposed enhancements at Tisbury Station (including a second platform and additional parking) and the provision of convenient pedestrian access across the railway<sup>75</sup>.
- 15.2. In the Parish Council's view a stand-alone scheme for the Station Works site, developed ahead of and in isolation from the railway enhancement, and without provision of direct access to Tisbury village, would result in a built form and site layout which would be permanently mis-aligned, and would prove impossible to integrate into its surroundings.
- 15.3. The Planning Statement states "*there are no specific plans or timescales for future infrastructure improvements at Tisbury railway station, either in the development plan, or in any rail infrastructure plan that the applicant is aware of*".<sup>76</sup>
- 15.4. In the Parish Council's view provision of a direct pedestrian and cycle link to and from Tisbury is important to both the sustainability of the Station Works site for housing and to the Neighbourhood Plan, which was predicated on Network Rail's commitment to upgrading the line and station at Tisbury and installing a safe railway crossing to serve the site.
- 15.5. The Parish Council considers that the engagement presented by the appellant, in the form of the meeting with Network Rail on 26<sup>th</sup> April 2021, appears to have had as its sole objective the validation of the "stand-alone" access scheme which the appellant has put

<sup>74</sup> Statement of Community Involvement, Appendix [A] – notes of meeting on 26th April 2021 (S12)

<sup>75</sup> Neighbourhood Plan, various including page 4, paragraph 117 and Policy TR.2

<sup>76</sup> Planning Statement, paragraph 6.19



- forward (and had continuously promoted for the proposal site) rather than representing a genuine attempt to achieve an integrated development contemplated by the Neighbourhood Plan.
- 15.6. During 2022 the Qualifying Body held a number of meetings with Network Rail as part of its evidence-gathering work to support the renewal of the Neighbourhood Plan in 2023. The principal objective of these meetings was to confirm that there remains a strong prospect that the rail enhancement at Tisbury will be completed within the lifespan of the Neighbourhood Plan to 2036. Initial contact was made with Network Rail Wessex in mid-July, and seven meetings were held between 28<sup>th</sup> July, 2022 and 14<sup>th</sup> December 2022, which were joined from November by a representative from Wiltshire Council. The outcome of this process is summarised in the notes of the most recent meeting.<sup>77</sup>
- 15.7. In setting out the conclusions from these meetings, the Parish Council will first draw upon the published statements made in Network Rail Wessex's West of England Line Study 2020:
- Under the heading "Next Steps", Network Rail Wessex states: *"there is a real and current problem associated with performance and reliability, on the West of England Line, that the reduction in single track sections through the delivery of additional loops and double track extensions can help to improve. It is also clear that capacity is required now, both at the west end of the line into Exeter and between Yeovil and Salisbury to accommodate the overcrowding that can be experienced and begin to meet expected demand. It is therefore recommended that discussions with DfT through the Programme Board for access into the RNEP are taken forward as soon as appropriate."*<sup>78</sup>
  - The Network Rail study organises proposed enhancement into three packages, recommending that *"in the short-term the Package 1 outputs should be progressed through the current Railway Network Enhancement Pipeline (RNEP) to initiate a Strategic Outline Business Case (SOBC). This could be coupled with Package 2 if full diversionary capability is seen as a priority."*<sup>79</sup> Enhancements proposed for Tisbury, including the conversion of the railway to dual track, restoration of a "down" platform and construction of a railway crossing form part of "Package 1"<sup>80</sup>.
  - The study sets out its key conclusions on page 54, describes the work required for Tisbury in some detail at page 64 and includes a helpful table at page 62 showing the performance benefits.
- 15.8. Second, the Parish Council will set out the conclusions which can be drawn from the seven meetings held with Network Rail Wessex between 28<sup>th</sup> July and 14<sup>th</sup> December, 2022<sup>81</sup>, which are as follows:
- as DfT funding was not available following the 2020 Comprehensive Spending Review, Network Rail instead secured investment from the Western Gateway Sub National Transport Board (the "WGB"), which is funded by the Department for Transport for 3 years from 2023/4 to promote projects which can deliver significant benefits to communities in the West of England;

<sup>77</sup> Notes of Meeting with Network Rail and Wiltshire Council – 14th December 2022 (S21)

<sup>78</sup> Network Rail, West of England Line Study 2020, page 80 (S20)

<sup>79</sup> Network Rail, West of England Line Study 2020, page 76 (S20)

<sup>80</sup> Network Rail, West of England Line Study 2020, page 73 (S20)

<sup>81</sup> Notes of Meeting, Network Rail Wessex, Wiltshire Council, Tisbury & West Tisbury Neighbourhood Plan, 14<sup>th</sup> December, 2022 (S21)

- with sponsorship from the WGB, Network Rail will complete a Strategic Outline Business Case (SOBC), for enhancement of the West of England Line, focusing on Package 1, for which preparatory work will start in January 2023 and which is scheduled to report before December 2023;
- the SOBC will present the business case for Package 1 in view of its strategic benefits, which will include:
  - strategic, economic, financial, commercial and management assessments;
  - a timetable analysis; and
  - a detailed engineering intervention assessment, enabling Network Rail's initial "optimism bias" in project forecasting of 66% to be significantly reduced;
- in the view of both Network Rail Wessex and Wiltshire Council "Package 1" would deliver significant benefits in terms of capacity, reliability and performance, including to Wiltshire residents, justifying its prioritisation;
- Network Rail Wessex recognises that a safe, direct pedestrian and cycle crossing of the line at Tisbury across to the Station Works site is an essential part of "Package 1" and that integration of Network Rail's works, including the provision of the crossing and enhanced parking facilities, with regeneration of the Station Works site would support development and enable the existing pedestrian level crossing (the "Chantry Crossing") to be retired, which Network Rail are keen to achieve on safety grounds;
- to this end, Network Rail Wessex considers an additional Network Rail contribution of £250,000 may be available to bring forward provision of the new railway crossing in advance of other Package 1 components subject to partnership funding commitments from other sources;
- for its part, Wiltshire Council indicates that a decision has been made to put forward the rail crossing at Tisbury for inclusion in the next update of the Wiltshire Council's Infrastructure Delivery Plan ("IDP") due for publication as part of the Infrastructure Funding Statement dated 31st December, 2022, subject to approval by Cabinet, meaning that it will be eligible to receive partnership funding from Wiltshire Council's strategic Community Infrastructure Levy (Infrastructure Development); and
- Network Rail Wessex has indicated it would be prepared to consider entering into a Statement of Common Ground with Wiltshire Council, and Tisbury Parish Council reflecting the above understanding, similar to that recently agreed between Network Rail and Eastleigh Borough Council in connection with the preparation of its Local Plan.

15.9. The Parish Council will therefore present that the approach taken by both Network Rail and Wiltshire Council are consistent with strategy embodied in the West of England Line Study 2020 and set out in the Neighbourhood Plan, that integrated development of the Station Works site in conjunction with the railway enhancement at Tisbury, within the lifespan of the Neighbourhood Plan to 2036 as contemplated by the Plan's policies, is both feasible and desirable in view of the design & access benefits, economic benefits and optimal use of brownfield land which it will achieve.

## 16. Matter 10 - Deliverability

- 16.1. The Parish Council will present that deliverability will be important when considering the current proposal in view of the heightened risks which it presents:
- as a result of the proposed access scheme, referred to in Appendix A;
  - through its lack of integration with railway enhancement;
  - through the poor history of engagement with Wiltshire Council, Network Rail, the Parish Council and other stakeholders, and the absence of an agreed masterplan; and
  - through the risks resulting from the scale, mass and density issues referred to in Appendix B.
- 16.2. To the Parish Council's knowledge, the proposal is not being put forward by a developer with a track record of delivering schemes locally to time and budget, and collaborating with other parties on complex build projects. Instead, the Council understands that the stated objective of the appellant is to secure planning consent with a view to selling the land on. In the Parish Council's view, there is no guarantee that a new landowner purchasing the site would not wish to pursue a substantially different scheme.
- 16.3. Of more concern is the questionable deliverability of the proposed care home, dealt with above and in Appendix C, as this has been presented by the appellant as a significant benefit of the proposal and would become the only source of employment at the site.
- 16.4. Given the lack of viability of the care home proposal, the Parish Council can see no reason why a new landowner would not wish to enjoy the permitted right granted in General Permitted Development Order (2015) Schedule 2 Part 3 Class V to re-designate the proposed care home building for use as private residential apartments without requiring further planning consent, meaning that all employment uses at the site would be extinguished.

## 17. Matter 11 – The Neighbourhood Plan

- 17.1. The Parish Council and Tisbury's community have for many years acknowledged that the Station Works site presents significant challenges on account of its layout, history of contamination, integration with the railway and access difficulties.
- 17.2. The Parish Council considers that establishing a sustainable future for the site was the primary objective of the neighbourhood planning process which led to the making of the Tisbury and West Tisbury Neighbourhood Plan, and that this is reflected in the process of community engagement and consultation which took place between designation of the Qualifying Body in 2015 and the date on which the Neighbourhood Plan was made in November 2019.
- 17.3. In seeking a strategy for the Station Works site, the Parish Council considers that the local community correctly took into account:
- past failures to offer the site for development, as represented by previous failed planning applications;
  - the complex site-specific issues including its layout, the need for decontamination, access issues, viability and the need to integrate with and support future enhancements;

- the site's history as a commercial site and the need to secure community support for its redevelopment, and in particular its use in part for housing rather than commercial employment;
  - the need to regenerate the site in a way which can sustain Tisbury's future economic and employment growth in the longer term;
  - the need to integrate with and benefit from future railway expansion over the lifetime of the Neighbourhood Plan to 2036.
- 17.4. The Council will present that the Plan addresses these challenges through a strategic approach involving masterplanning, which it considers was entirely rational given the site's history.
- 17.5. The Parish Council considers that the Neighbourhood Plan was positively prepared and that its policies show a high level of care and diligence in their preparation. In the Council's view, the provisions made by the Neighbourhood Plan for the Station Works site are the product of reflection, consultation and ultimately judgement, made over a sustained period.
- 17.6. Had the Neighbourhood Plan not existed, the Parish Council considers that proposals to develop the site would not have been forthcoming, a point which is implicitly acknowledged by the appellant's Statement of Case<sup>82</sup>.
- 17.7. In its strategy for the Station Works site, the Parish Council considers that the Neighbourhood Plan fulfils the government's strategy to use neighbourhood planning as an important tool to promote sustainable development and build the right homes of the right type in the right places.
- 17.8. The foundation for the government's policy is presented in the Localism Act and by paragraph 29 of the Framework which states:
- "Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan."
- 17.9. It is further elaborated by paragraph 001 of the Planning Practice Guidance which sets out the policy objective as follows:
- "Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided, and grant planning permission for the new buildings they want to see go ahead. Neighbourhood planning provides a powerful set of tools for local people to plan for the types of development to meet their community's needs and where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area."
- 17.10. The Parish Council concludes that the government remains committed to the view that the above should be more than statements of aspiration, but that neighbourhood plans, once made part of the development plan, should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question and that the provisions of the Framework<sup>83</sup> which support and promote neighbourhood planning should carry great weight.

<sup>82</sup> Appellant Statement of case paragraphs 3.3, 4.3, 4.5, 5.2, 5.4, 7.2

<sup>83</sup> Framework, paragraph 29 and National Planning Practice Guidance – Neighbourhood Planning.

- 17.11. The Parish Council considers that the Neighbourhood Plan remains closely aligned to the government's objectives as set out in the Framework because it:
- helps to address the housing land supply shortfall by seeking to unlock a locally strategic brownfield site, by adjusting the settlement boundary to incorporate it, by allocating it and by bringing together a set of strategies which can enable it to be brought forward sustainably over the lifespan of the Plan;
  - establishes a vision and strategy for the site's development which is achievable over the Plan's lifespan and, importantly, has secured overwhelming community support; and
  - is being maintained through evidence gathering to support the planned renewal of the Neighbourhood Plan in 2023, including through commissioning of an up-to-date Affordable Housing Needs Assessment in May 2022.
- 17.12. The Parish Council therefore considers that the Neighbourhood Plan's policies are very relevant in determining the current application.
- 17.13. By contrast, the Parish Council considers that the current application represents an alternative use for the site which the appellant wishes to promote in preference to that set out in the Neighbourhood Plan, and has developed without engagement with the Parish Council, the Qualifying Body, community or other stakeholders until a very late stage.
- 17.14. The alternative approach promoted in this instance involves a number of deviations from the approach set out in the Neighbourhood Plan:
- first, it does not provide for a mixed development of dwellings and commercial units (fundamental to the Neighbourhood Plan) but allocates the site for residential use only;
  - second, it asks for consent for a significant uplift to 86 dwellings, where the Neighbourhood Plan's "estimated capacity" was 60, plus commercial space, with the exact mix to be determined as part of a comprehensive masterplanning process;
  - third, it involves the promotion of an alternative access scheme which the Neighbourhood Plan has neither contemplated nor planned; and
  - fourth, that it is put forward without the benefit of a masterplan which ensures that the site's various access issues and the integration with railway enhancement have been addressed in a coherent way, with the agreement of the stakeholders involved.
- 17.15. The deviations from the Neighbourhood Plan set out above are, in the Parish Council's view significant, both in their scale and also as they affect the Plan's key objective and the main reason why it was developed.
- 17.16. In the Parish Council's view, the Planning Statement and the Design and Access Statement are virtually silent as to the rationale for such a significant change of direction and contain only limited evidence as to why the alternative scheme might be either necessary or desirable.
- 17.17. The Parish Council was not consulted about the possibility of altering the Plan's allocation and this would have required a process of robust evidence gathering as well as community engagement. It was first informed about the precise nature of the development proposal on 6<sup>th</sup> April 2021<sup>84</sup>, some two years after the appellant states that design work had commenced<sup>85</sup>, four months after the appellant's proposed scheme had been submitted to

<sup>84</sup> Statement of Community Involvement, paragraph 6.8 (S10)

<sup>85</sup> Statement of Community Involvement, paragraph 3.2 (S10)

Wiltshire Council for pre-application advice and just under a month after Wiltshire Council had issued its final pre-application assessment<sup>86</sup>.

17.18. The Parish Council considers that cumulatively these deviations are so marked:

- that they would create a site substantially different from the community's vision, as embodied by the Plan; and
- that they would upset the balance established by the Neighbourhood Plan and frustrate its key policy on the Station Works site to the extent that it would undermine public confidence in the Plan as a whole.

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<sup>86</sup> Wiltshire Council letter to Intelligent Land, reference 20/11563/PREAPP dated 11<sup>th</sup> March 2021 (S11)



## 18. Conclusions

- 18.1. Regrettably, the Parish Council's conclusion is that each of the deviations referred to in the previous section has in turn led to unexpected results which would create significant harms, not provided for by the Neighbourhood Plan and not contemplated by Tisbury's community; whose adverse impacts when considered together, would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework taken as a whole<sup>87</sup>.
- 18.2. It considers that net benefits of the proposal (having taken the impacts into account) do not satisfy the public benefit tests which the Framework prescribes must be satisfied to justify major development within an Area of Outstanding Natural Beauty<sup>88</sup>.
- 18.3. The Parish Council remains committed to the Neighbourhood Plan and the objective to unlock the Station Works site as the plan seeks to do. It regrets the decision of the appellant to set the Neighbourhood Plan<sup>89</sup> aside, seek its own way forward and not to engage with other stakeholders whilst formulating its plans, but does not consider that this needs to be the end of the story.
- 18.4. It therefore remains committed to support the appellant in developing a sustainable and policy-compliant proposal for the site, through the establishment of a sub-committee of councillors as set out in the Neighbourhood Plan, and commits to work with the appellant to secure funding for the enabling infrastructure necessary for the site to realise its potential and deliver for the community. That, in its view, is what the Neighbourhood Plan seeks to achieve.

### Ministerial Statement

- 18.5. Notwithstanding the above, the Parish Council considers it important to note the significant material change in circumstances relevant to this appeal arising from the written Ministerial Statement of 6th December, 2022 issued by Michael Gove, Secretary of State for Levelling Up, Housing and Communities<sup>90</sup>. The following elements of this statement are of specific importance to the current appeal:
  - How housing figures should be calculated - *"It will be up to local authorities, working with their communities, to determine how many homes can actually be built, taking into account what should be protected in each area - be that our precious Green Belt or national parks, the character or an area, or heritage assets. It will also be up to them to increase the proportion of affordable housing if they wish."*
  - How the Planning Inspectorate should approach decision making - *"My changes will instruct the Planning Inspectorate that they should no longer override sensible local decision making, which is sensitive to and reflects local constraints and concerns. Overall this amounts to a rebalancing of the relationship between local councils and the Planning Inspectorate, and will give local communities a greater say in what is built in their neighbourhood."*
  - How site constraints should be considered - *"local planning authorities will be able to plan for fewer houses if building is constrained by important factors such as national parks, heritage restrictions, and areas of high flood risk."*

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<sup>87</sup> Framework, paragraph 11

<sup>88</sup> Framework, paragraphs 11, 176, and 177.

<sup>89</sup> Neighbourhood Plan Action BL.7, page 40 reproduced at Appendix E

<sup>90</sup> Ministerial Statement HCWS415, 6<sup>th</sup> December, 2022 (S5)

- Neighbourhood Plans - *"I will increase community protections afforded by a neighbourhood plan against developer appeals – increasing those protections from two years to five years. The power of local and neighbourhood plans will be enhanced by the Bill, and this will be underpinned further through this commitment. Adopting a plan will be the best form of community action - and protection. "*
  - Density - *"local authorities will not be expected to build developments at densities that would be wholly out of character with existing areas or which would lead to a significant change of character, for example, new blocks of high-rise flats which are entirely inappropriate in a low-rise neighbourhood."*
- 18.6. The Secretary of State also states *"The effect of these changes will be to make absolutely clear that Local Housing Need should always be a starting point – but no more than that – and importantly, that areas will not be expected to meet this need where they are subject to genuine constraints."*, and *"These reforms will help to deliver enough of the right homes in the right places and will do that by promoting development that is beautiful, that comes with the right infrastructure, that is done democratically with local communities rather than to them, that protects and improves our environment, and that leaves us with better neighbourhoods than before."*
- 18.7. As this Statement of Case was prepared prior to the release of the Ministerial Statement the Parish Council may need additional time to consider the impact of the Secretary of State's statement on the Parish Council's overall Statement of Case and will address these issues, as necessary in further submissions.

### Reasons for Dismissal

- 18.8. Based on the evidence set out in this Statement of Case and its appendices, the Parish Council is of the view that the appeal should be dismissed. The proposed reasons for dismissal are summarised in Appendix G.
- 18.9. Parish Council is firmly of the opinion that the appeal should be dismissed on the basis of the reasons and evidence set out in this Statement of Case, but should the Inspector be minded to approve the application, the Parish Council would need additional time to assess whether conditions would be relevant and to propose any conditions that it considered appropriate.

## 19. Contents of the Document Pack

Ref.	Document	Pack	No
S1	Cranborne Chase Partnership Plan 2019-2024	S	1
S2	Application Form registered by Wiltshire Council on 13 <sup>th</sup> October, 2021	S	2
S3	Remarks by Unitary Councillor for the Division to the Southern Area Planning Committee, 10 <sup>th</sup> November, 2022	S	3
S4	Letter to members of parliament from the Secretary of State for Levelling up Housing & Communities, 5 <sup>th</sup> December 2022 "Levelling Up and Regeneration Bill - Planning and Local Control in England"	S	4
S5	Ministerial Statement HCWS415	S	5
S6	Report of the Independent Examiner on the Neighbourhood Plan	S	6
S7	Tisbury Conservation Area Appraisal and Management Plan, 2009	S	7
S8	Tisbury Community Homes A4 brochure "Proposals for the Station Works Site"	S	8
S9	Wiltshire Council, Housing Land Supply Statement, Base Date April 2021	S	9
S10	Appellant Statement of Community Involvement	S	10
S11	Appellant Statement of Community Involvement – Appendix C – Pre-application Response	S	11
S12	Appellant Statement of Community Involvement – Appendix A – Network Rail	S	12
S13	Intelligent Land, submission to Regulation 14 Consultation on the Tisbury Neighbourhood Plan, 8 <sup>th</sup> September 2017	S	13
S14	Affordable Housing Viability Statement	S	14
S15	Wiltshire Level 1 Strategic Flood Risk Assessment, May 2019	S	15
S16	Wiltshire Level 1 Strategic Flood Risk Assessment, May 2019 – Appendix C – Flood Zone 3b	S	16
S17	Cranborne Chase AONB letter to Wiltshire Council, 30 <sup>th</sup> November, 2021	S	17

Ref.	Document	Pack	No
S18	Aecom, Affordable Housing Needs Assessment	S	18
S19	Land Registry Title - WT224589	S	19
S20	Network Rail, West of England Line Study 2020	S	20
S21	Notes of Meeting with Network Rail and Wiltshire Council – 14th December, 2022	S	21
S22	Officer Report to the Southern Area Planning Committee, 10 <sup>th</sup> November 2022	S	22
S23	Minutes of the Southern Area Planning Committee, 10 <sup>th</sup> November 2022	S	23
S24	Tisbury Parish Council Statement to the Southern Area Planning Committee, 10 <sup>th</sup> November 2022	S	24
A1	Tisbury & West Tisbury Neighbourhood Plan Site Assessment, July 2017	A	1
A2	Tisbury & West Tisbury Neighbourhood Plan Site Assessment, July 2017, Appendix [A]	A	2
A3	Tisbury & West Tisbury Neighbourhood Development Plan Renewal 2022 – Stage 1 Community Engagement Report	A	3
A4	Officer Report, Planning Application S2003/2547	A	4
A5	TRICS Good Practice Guide 2021	A	5
A6	Highway Officer Report dated 22 <sup>nd</sup> July, 2022	A	6
A7	Timeline of Coronavirus lockdowns March 2020 to March 2021, prepared by the Institute for Government	A	7
A8	Technical Note prepared by Halcrow Ltd. dated 12 <sup>th</sup> November, 2003	A	8
A9	More Choice, Greater Voice, Nigel Appleton, 2008	A	9
A10	Explaining Road Transport Emissions – a Non-Technical Guide	A	10
A11	Campbell Reith letter to Simon Trueick at Intelligent Land on 5 <sup>th</sup> July, 2022	A	11
A12	Environment Agency response to Wiltshire Council published 19 <sup>th</sup> May, 2022	A	12

Ref.	Document	Pack	No
A13	Environment Agency response to Wiltshire Council, 18 <sup>th</sup> August 2022	A	13
A14	Flood Event – 21 <sup>st</sup> October, 2021	A	14
B1	Wiltshire Site Allocations Plan, Submission Draft Plan, Community Area Topic Paper for Tisbury, dated May 2018	B	1
B2	Nadder Community Land Trust, Community Vision for the former Sports Centre site, October 2021	B	2
B3	Wiltshire Housing Site Allocations Plan, adopted February 2020	B	3
B4	Planning Application PL/2021/00855 Planning Statement	B	4
B5	Wiltshire Local Plan – Emerging Spatial Strategy, published January 2021	B	5
B6	Wiltshire Local Plan – Empowering Rural Communities, published January 2021	B	6
B7	Wiltshire Local Plan Rural Live Q&A Events Responses, published February 2021	B	7
B8	Neighbourhood Plan, Regulation 16 Submission Version	B	8
B9	Senior Urban Design Officer's Report	B	9
B10	Officer Report, Planning Application S2002/1367	B	10
B11	Noise Impact Assessment	B	11
B12	Heritage Statement	B	12
B13	Illustrative Layout Plan – Application S2003-2547	B	13
B14	Proposed Site Layout – Application S2002-1367	B	14
B15	Strategic Housing and Economic Land Availability Assessment, Methodology, August 2017	B	15
B16	Saved Salisbury District Local Plan – Appendix IV – Open Space Standards	B	16
C1	Supported Housing: National Statement Of Expectations, Department of Levelling Up, Housing and Communities and the Department of Work and Pensions, October 2020	C	1

Ref.	Document	Pack	No
C2	Wiltshire's Older People Accommodation Development Strategy – revised version, December 2010	C	2
C3	Wiltshire Council Case Officer's Report to the Southern Area Planning Committee dated 10 <sup>th</sup> November, 2022	C	3
C4	Alfred Radio, "Castle Hill House 'Mothballed' Due To Shortages And Cost Hikes", 11 <sup>th</sup> November, 2022	C	4
C5	Alfred Radio, "End of the Line for Pepperell House", 27th July, 2022	C	5
C6	Workforce Intelligence Summary Care homes without nursing in the adult social care sector 2021/22, Skills for Care	C	6
C7	ONS, Care homes and estimating the self-funding population, England: 2021 to 2022	C	7
C8	UK Government – National Minimum Wage Rates	C	8
C9	Statement by Dr. Adam Smith, 26 <sup>th</sup> November, 2022	C	9
C10	Representation by Dr. Smith to the planning consultation, 17 <sup>th</sup> November, 2021	C	10
C11	Officer Report – Application S2003/2547	C	11
C12	House of Commons Select Committee, Communities and Local Government Committee, Housing for older people, 2018	C	12
C13	Kent County Council, "Older People's Care Home Design Principles", 2015	C	13
C14	Tisbury Parish Housing Needs Survey 2019	C	14



