



MALMESBURY TOWN COUNCIL

Minutes of the **Planning & Environment Committee Meeting**
Held in Malmesbury Town Hall on Tues 22nd April 2025 at 7.00 p.m.

Present: Cllrs: J Slade (Chair), R Sanderson (Vice Chair) P Exton, I Wallis,
K Drake, R P Jones

Also present: Lisa Dent (Dep Town Clerk), 1 member of the public

PE/25/056 To receive Declarations of Interest in accordance with the Council's Code of Conduct.

None received.

PE/25/057 To receive apologies for absence.

None received.

PE/25/058 Public Questions in respect of items included in this agenda

None requested. Member of public was in attendance concerning a planning application, it was resolved to vary the order of business and bring the application forward as the first item, see PE/25/062 (PL/2024/07298 2A Pool Gastons Road).

PE/25/059 To approve minutes of meeting held on 1st April 2025

The minutes were adopted and signed as a correct record, following one amendment:- date of meeting amended to 1st April 2025 from 11th March 2025.

PE/25/060 To receive and note income and expenditure report

The report was noted.

PE/25/061 To review street naming historical list, new submissions and order of priority

Dep Town Clerk advised the following community groups had been contacted to ask if they would like to submit suggestions:-Civic Society, Conservation Group, Royal British Legion, Warden and Freemen, Carnival Committee, HEALS of Malmesbury, Malmesbury Primary and senior school, St Josephs school, River Valleys Trust, Malmesbury Abbey, Own Team, Riverside, Athelstan Museum, Thomas Hobbes Society, Malmesbury St Paul Without Parish Council, Twinning Association.

Some suggestions have been received which were included on the revised list. It was clarified that Street Naming department at Wiltshire Council may request several submissions and there may be unused names. This is followed up to keep the list accurate. It was agreed to continue with the convention that street naming using surnames will apply to those who have deceased. Priority will be agreed at the time of request.

PE/25/062 To resolve comment on planning applications received since the last meeting

PL/2024/07298 – 2A Pool Gastons Road, Malmesbury, SN16 0DG

Following discussion regarding positive revisions made to this application, it was resolved to submit : No Objection.

One member of the public left the meeting at 19:25 p.m.

It was resolved to vary the order of business and bring forward:-

Notice of Appeal: Lagan Homes and White Lion Land (Malmesbury) Ltd

Following discussion of the history of planning to the site and the Appeal being made subject to non-determination, the committee discussed many areas of concern including historical flooding to the site, proposed flood betterment and drainage measures, concerns of emergency access and section 106 agreement being unclear. It was agreed to submit a written statement (see Appendix 1).

PL/2025/01059 – 14 Orwell Close, Malmesbury, SN16 9UB

Objection: Malmesbury Town Council is in agreement with Wiltshire Council Highways department concerning parking to this application.

PL/2025/02634 – Harpers Lane allotments (treeworks)

No objection.

PL/2025/03072 – La Ruche, 15 Dark Lane, Malmesbury

No objection.

PL/2025/03379 – Wynard Mill, Baskerville, Malmesbury (treeworks)

No objection.

PL/2025/02246 – 3 Old Alexander Road, Malmesbury

No objection.

PL/2025/02897 - - Land on the south side of Burnivale (treeworks)

No objection.

PL/2025/02425 – Land North East of Junction 17 of the M4, Chippenham

Objection : Although outside of Malmesbury, Malmesbury Town Council believes this application will impact on the nearby road network and objects to this application, registering the following concerns:-

Development of “greenfield” land in the northern and western segments of Junction 17 will result in a detrimental impact on the rural character, ecology and landscape. The increase in traffic volume will result in further noise pollution.

The application site is in open countryside that is not identified within the existing Wiltshire Core Strategy or the new Draft LP for employment allocation. It is also not identified for development in the Local Plan Sustainability Appraisal Report Annex 2.4 Chippenham sites assessment. We do not support land use allocation through ad-hoc decision making.

Use Classes will lead to vast warehousing space and few jobs (there are unoccupied, developments to the south of Junction 17) and there appears to be no benefit to the local area economy. The proposed site is not adjacent to a settlement and the proposal does not support farming, or diversify or support any existing rural based businesses.

There are serious highway consequences of the proposal on both the major highway routes and on the local highway network. In particular, the application will have a significant adverse impact on the A429, the Junction at Scotland Hill and J17. This proposal will result in additional traffic and congestion.

PL/2025/03567 – 15A Burnham Road, Malmesbury SN16 0BQ (treeworks)

No objection.

PE/25/063 Update on standing items

Triangle junction

A bollard to the War Memorial had been damaged by a vehicle and this has been repaired free of charge by Sweetnam and Bradley. They also assessed the other bollards and they have recommended repairs, further information/costing will be obtained.

Market Cross

The programme of minor works were completed. The contractors Minerva Stone have been given details of the next programme of works and they will be providing a quotation alongside 2 other specialist contractors. R Chivers (Highways Engineer) has advised the landscaping works around the Market Cross, identified as necessary to protect the structure in the survey) may be suitable for LHFIG group. Dep Town Clerk will follow this up.

Wheeler Way

This has been referred to Cllr Gavin Grant to obtain an update.

Dual Recycling Bins

It was noted the delivery of the bins has been delayed till after Easter.

Closing comment. Miller Homes site will be taken to Appeal. It was agreed to liaise with Malmesbury St Paul Without as they are the main consultee, for a possible joint submission and also to consider Rule Six participation.

The meeting was closed at 8.35 p.m.



MALMESBURY TOWN COUNCIL

Malmesbury Town Council
Town Hall
Cross Hayes
Malmesbury
SN16 9BZ
25th April 2025

APPEAL SITE: Land Off Park Road, Malmesbury, Wilts

APPELLANTS NAME: Lagan Homes and White Lion Land (Malmesbury) Ltd

PLANNING APPLICATION REF: PL/2023/0779

APPEAL START DATE: 24 March 2025

PROPOSED DEVELOPMENT: Reserved Matters Application pursuant of Outline Permission 19/05898/OUT (Outline application for up to 50 residential units, internal road, parking, open space and associated works, with all matters reserved other than access) relating to Appearance, Landscaping, Layout and Scale

INSPECTORATE REFERENCE: APP/Y3940/W/25/3361710

Written Submission by Malmesbury Town Council

1. Malmesbury Town Council believes that the decision by the Applicant to Appeal on the grounds of non-determination is premature. Our position is that this application should be returned for further consideration by the Wiltshire Council Northern Area Planning Committee.
2. In the absence of such a decision our position is that this Reserved Matters application is not in accordance with the Outline Planning Permission given on Appeal and is materially lacking in essential information. On this basis it should be rejected.
3. The Inspector will be aware that elected representatives of Wiltshire Council's planning committee retain strong objections to development in this location because of the history of the effect of flooding at the entrance to the location. For the avoidance of doubt this view is shared and endorsed by Malmesbury Town Council. The local experience since this application was made is that the flood risk and frequency of associated road closures at the entrance to the site is increasing.
4. Malmesbury Town Council does not agree that Wiltshire Council's position in the Statement of Common Ground between it and the Applicant is a fair or accurate description of the position reached in the consideration of the Reserved Matters application. Our position is that elected representatives have not been given the information they reasonably require or requested to make an informed decision on the merits of the Reserved Matters application and that the failings identified in our submission should be addressed within the Reserved Matters decision-making process.
5. The Reserved Matters application was received on the 12th September 2023. However, so much has had to be worked through with it, (see the Urban Planning and Drainage team reports in the Planning Officer's report for examples), that the Application was only a position to be considered by elected representatives over a year later. However, the Reserved Matters application was still riddled with missing information, unexplained changes and inconsistencies that elected representatives were given no option but to raise substantial reasonable questions and concerns. Unfortunately these were not capable of immediate answer.
6. Conditions 2 and 3 made by the Inspector (Decision 26 Sept 2022) were:
 - a. 2. Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.

- b. 3. The development hereby permitted shall take place not later than one year from the date of approval of the last of the reserved matters to be approved.
7. We are confident the Appeal Inspector would have expected more progress towards development by now. It is our view that this is due to the Applicant failing to make robust enough progress on matters reasonably of concern to elected representatives and the local community in the timescale determined by the Appeal Inspector.
 8. At the point the applicant moved to appeal on grounds of non-determination the Northern Area Planning Committee was seeking further information on the operation of the s106 agreement as a result of the change, in particular, to the Land Use Parameter Plan. This was a perfectly reasonable request which could and should have been dealt with quickly by the Appellant and Wiltshire Council's officers, and certainly in much less time than has now elapsed moving to Appeal.
 9. The first postponement of decision was because the Committee wished to see more information on key matters relating to the proposed development than had been provided in the Reserved Matters application than had been supplied by the applicant or by the Planning Officer.
 10. This is not surprising. This is a highly controversial development because of the repeating flooding that blocks access and egress at the proposed main entrance to the site and matters relating to this, the design and layout of the site, the drainage solutions, emergency egress and access routes and site sustainability; these have all been major features throughout the decision-making process.
 11. It is also a fact that local confidence in Wiltshire Council's planning function is low and there is a strong local desire to see increased transparency and evidence in decision making. Malmesbury Town Council invested in a flood expert to advise on the effect the proposed development could have on flooding and some recommendations of our flood expert were carried through into the Outline Appeal conditioning, notably the need to manage water arriving into the site. During the Reserved Matters consideration process our expert has asked for but not been given the information to corroborate the claims made for the proposed solution. On this basis we have no confidence that the drainage solutions meet Condition 10 of the Outline Appeal decision.
 12. We also believe that the Inspector's expectation in his conclusion – point 89 has not been met:

‘Both the developments themselves and existing development would be safe from the effects of flooding subject to conditions and suitable details coming forward at reserved matters stages’

It is our position that suitable details – such as to achieve the confidence of elected representatives and the wider community have not come forward at the Reserved Matters stage. Therefore, because this such an exceptional and controversial development application, we would ask the Inspector to instruct Wiltshire Council to have the proposals independently audited and this audit result communicated to elected representatives and Malmesbury Town Council.

13. In parallel we are very concerned that democratic oversight of this Reserved Matters application has been closed down. The Reserved Matters application was to consider ‘Reserved Matters Application pursuant of Outline Permission 19/05898/OUT (Outline application for up to 50 residential units, internal road, parking, open space and associated works, with all matters reserved other than access) relating to Appearance, Landscaping, Layout and Scale’.
14. We would not challenge the Legal Advice presented by the Applicant or Wiltshire Council that the discharge of conditions is generally a delegated matter. However, it would be perverse to accept that this means any outcome from the actual or proposed discharge of conditions that affect or could affect Appearance, Landscaping, Layout and Scale cannot be considered by elected representatives in their deliberation of Reserved Matters.

15. Putting aside the fundamental concern elected representatives and Malmesbury Town Council have about drainage and flooding affecting this location, all that has been happening in the Northern Area Planning Committee is a wish by the elected representatives to fulfil their responsibilities.

In particular:

16. It appears the Land Use Parameter Plan conditioned by the Appeal Inspector has changed:

17. Condition 4 is clear:

a. The development hereby permitted shall be carried out in accordance with the following approved plans unless otherwise varied by details submitted to and approved in writing by the local planning authority in accordance with the conditions of this planning permission:

- Drawing No 17021(90) 200 Rev B, Site Location Plan, received 11 February 2021.
- Drawing No 17021 (90) 201 Rev A, Land Use Parameter Plan, dated May 2019.

18. At Outline application and then in the Outline Application Appeal, the drainage solutions were in the Red Line site development boundary. Now they are in the Blue Line area.

19. It may be this has been accepted in writing by the local planning authority in accordance with the conditions of this planning permission. If it has, our position is that this action should not have been made without referring it to elected representatives as part of the Reserved Matters consideration. However, this change does not appear, for example, in the Officers report. This talks exclusively about the Red Line area. In the alternative, if it has not been accepted in writing by Wiltshire Council there can be no doubt it should be referred back to Wiltshire Council to take a decision after further consultation or that a formal decision is taken in this Appeal after hearing argument.

20. However, what should not be in doubt – or cut off prematurely – is the opportunity for elected representatives to be able to consider this and the other substantial changes in the Application and the effect they have singularly or together on, for example, Appearance, Landscaping, Layout and Scale.

21. There is a similar concern with the Emergency Access proposals. It is absolutely reasonable for the elected representatives to understand what the proposals mean for Appearance, Landscaping, Layout and Scale of the proposals (for example the gates being used, the surfacing being proposed for the trackway, the interface with the Public Open Space and the design and operation of the gateway into Park Lane.

22. There is also a red flag here. The Environment Agency have raised important questions about the Applicants Emergency Proposals:

Environment Agency submission: Page 7 and 8 of the Officer Report:

‘We can accept that this route is above the design flood level and the Discharge of Condition flooding document indicates that it will be reinforced and controlled by residents with a coded access.

Whilst emergency planning is outside of our statutory remit, we recommend that the Emergency Planners and Emergency Services comment on whether the proposed surfacing and manner to restrict the use of the access (coded lock) is a sustainable option for access/egress for the lifetime of the development (100 years).’

23. There is no doubt that the Applicants proposals are peculiarly complicated and may be impossible to manage over time, as this extract from the Emergency Access proposal illustrates:

‘Vehicular access to the emergency access link will be controlled by coded keypads securing the fences at either end of the route to which all future residents will be provided with the code. This code will be changed on a regular basis, with residents provided with any updated codes. To prevent unauthorised use of this emergency access outside of periods of flooding on Park Road, the residents’ codes will only be useable once the site’s Management Plan Manager has entered a master unlock code to which only they (and any appointed deputies, and the emergency services) will have knowledge of.’

24. Malmesbury Town Council is concerned that this proposed solution will break-down and it will be required to become involved with the management of the Emergency Access. It reasonably wants to know how this arrangement will be sustained for 100 years.
25. Given the changes between the Outline Application and the Reserved Matters Application, for example the evolving Drainage Solutions, the evolving LEMP and the evolving Emergency Route, we have major concerns about the functionality of the s106 agreement. It is absolutely right the Section 106 agreement generated through the Appeal process should be reviewed for suitability by elected representatives given there have been such substantial changes. As noted above, the action taken by the Applicant seems intended to close down this oversight process.

Malmesbury Town Council has the following observations and questions:

26. We have noted above that the Blue Line area is not mentioned directly by the Officer in his Reserved Matters report. Neither is it referenced in the s106. On the other hand we have the draft LEMP.
27. The only reference to the Blue Line area in the Officer’s Report is in quoted the Public Open response which says:

I have calculated the Public Open Space requirement for the 42 dwellings as per the formula set out in the S106 agreement, the requirement is 2505m² and I am satisfied that this has been met with the proposals shown within the blue line ownership boundary and that this is in accordance with the S106.

28. However, this is not substantiated and as far as we can see shown in any publicly available map or other document. For example, Public Open Space is not included in the detailed LEMP drawings and there is no reference to the Blue Line area in the s106. This talks only about Land, Landscape Plan and Open Space, defined as
- a. "Land" means that land off Park Road Malmesbury Wiltshire shown edged red on Plan 1 and also falling within title number VVT265488
 - b. "Landscape Plan" means a landscape plan to be provided by the Owner for the laying out construction and landscaping of the Open Space including the documents listed in Schedule 4
 - c. "Open Space" means that part of the Land having a minimum area calculated using the following formula:
 - per 1 (one) bed Residential Unit = 30 (thirty) sqm
 - per 2 (two) bed Residential Unit = 48 (forty eight) sqm
 - per 3 (three) bed Residential Unit = 66 (sixty six) sqm and
 - per 4 (four)+ bed Residential Unit = 84 (eighty four) sqm in a location to be agreed in writing between the Owner and the Council to include in addition that part of the Land required for ecological mitigation

In addition, Schedule 3 of the s106 only refers to “Open Space” as defined above, not the Blue Line area and talks about a Management Company

29. Schedule 4 of the s106 refers to Documents:

1. Owners' landscape proposals document
2. Wiltshire Council's Standard Specification for adoption of Open Space
3. Plans

Our assumption is that the Owner’s landscape proposals document refers to the LEMP and the plans in the LEMP as conditioned in Condition 7 of the Inspector’s Outline decision.

30. From the above, it is clear there is significant ambiguity and potential mismatch across the arrangements presented in Reserved Matters application, which are increased by the change in the drainage arrangements and de-facto expansion of the proposed Red Line developed area and the s106 drafted for the Outline Appeal.

31. In a nutshell, the elected representatives and Malmesbury Town Council want to know how exactly the Blue Land, now including physical infrastructure essential to support the operation of the development in perpetuity, (i.e. the SUDS drainage solution, the emergency access facilities and the Open Space, is intended to operate and how will it be managed?

32. For example, we know that s106 agreements can be changed within a short period of time – we have experienced this recently with the loss of education land on the Filands Developments starting from N/11/04126/OUT, and this is directly anticipated in the current s106, Clause 7, which says: ‘Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.’

33. This is very likely to cause uncertainty and continued speculation for the future, in particular, of the Blue Line area. For example, the LEMP is Conditioned to operate in ‘perpetuity’ and the SUDS drainage solution, the Emergency Access route and gateways and Open Space must be expected to be permanent features for the lifetime of the development. It is therefore reasonable to ask whether the proposed operating arrangements for the proposed development are suitable and how the s106, as available to the elected representatives at the time of the Reserved Matters hearing, will operate across the Blue Line area in relation to the SUDS drainage solution, the Emergency Access Track, Open Space, the gateway into Park Lane and the LEMP? It is our position that much clearer, firmer agreements are required than represented by the current s106, or, in fact, any s106 status agreement, and these new agreements should be developed by the Applicant and Wiltshire Council.

34. There are important additional details concerning the LEMP. For example, if the Open Space definition in the s106 is correct, how is the LEMP to be sustained should the owner of the Blue Land no longer wish to operate it and/or close access to the Blue Land?

35. In addition, if the Open Space is a sub-part of the LEMP, how or where is the Open Space to be created? As noted above – and we apologise if we have missed it in the iterations - we cannot see a clear proposal for Public Open Space.

36. The development of the LEMP itself is a key example of a major problem with this Reserved Matters application.

37. The LEMP was conditioned to be agreed by the Inspector before the submission of the reserved matters application:

- a. 7. Prior to the submission of the first reserved matters application a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the local planning authority.
38. This didn't happen. In fact, the iterations of the LEMP in the public domain, including the iteration of the LEMP (October 2024) relevant to the Reserved Matters hearing, contains a crude unstated amend of this condition. It says:
39. "The first reserved matters application shall include, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and approved in writing by, the local planning authority."
40. We think this apparent attempt to dissemble is a serious matter. It appears an effort is being made to cover the failure to meet Condition 7 of the Outline Appeal Conditions from public scrutiny. It, at least, gives justification for this Appeal to be dismissed and allowing the democratic oversight process to continue.
41. In addition the LEMP does not fulfil Condition 7. In particular:
- a. It does not deliver the space 'in perpetuity' Instead, at 2.1, it describes itself as a 30-year plan: 'This LEMP will extend for a period of 30 years'.
 - b. In para 2.9 it says that 'Management of the off-site land will be secured through a Section 106 agreement.' However, as indicated above, there is currently no supporting s106 agreement we can see. The s106 agreement from the Outline Appeal refers only to the 'Open Space', which is defined as a much more restricted space than the area covered by the LEMP and the combined Red and Blue Line areas. An effective s106 is required. For the avoidance of doubt our submission, based on recent direct experience, is that an s106 agreement does not meet the needs to deliver a solution that is conditioned to work in perpetuity.
 - c. The s106 relating to the Open Space specifies the creation of a Management Company. The LEMP, para 2.7, suggests either 'the Developer of an appointed management company'. Clarity is required.
 - d. The LEMP does not include or address the provision of Public Open Space as defined in the Outline Appeal s106 and elsewhere.
42. All these issues must be addressed. This is not with-standing the suggestion by the Landscape Officer as summarised by Officer's Report that the LEMP was agreed in late 2024 as finally iterated is acceptable. There is clearly work to do on the LEMP and the legal framework associate with it. These clearly relate to Appearance, Landscaping, Layout and Scale. The interest of the elected representatives is wholly acceptable.
43. The failure to complete the LEMP as conditioned and to attempt to hide this in the iterations of the LEMP – and in particular the version which would naturally be reviewed in consideration of the Reserved Matters - should also finally put paid to the Applicant's grounds of appeal for non-determination.
44. It is relevant for this Appeal that it appears this amended proposed LEMP only received some degree of sign-off by Officers at least 12 months later than conditioned. It might also be argued this invalidates the whole Reserved Matters application but this is a matter for the Inspector to decide.
45. The fact is that the basis of the appeal is for non-determination of decision making over what was, essentially, a developing three meeting eight-week decision making process created by reasonable requests for information on major points concerning changes to the Appearance, Landscaping, Layout and Scale. This is in stark contrast to delays of at least 12 months caused by the Applicant. It must also be concluded that the provision of complete and proper information in the Reserved

Matters application in the timescale expected by the Appeal Inspector would have reduced the detail of information the elected representatives reasonably sought in order to fulfil their democratic and expected responsibilities.

46. We would therefore respectfully ask the Inspector to dismiss this Appeal. The reality is that the Applicant has dragged out the Reserved Matters process as it has struggled to meet the reasonable timescales and requirements set by the decision-making of the Appeal Inspector and we are still left with a less than whole Reserved Matters application. As we have shown, there are major matters to determine in the extent of the developed area, the status and operation of the Blue Line land, the s106 agreement, the Open Space, the LEMP and the emergency access provisions. The elected representatives and the local community, as represented by Malmesbury Town Council, are also not satisfied that the drainage solutions are robust, workable or beneficial and, most importantly meet Condition 10 of the Outline Appeal conditions. This also has to be demonstrated.
47. If the Appeal is not dismissed, in the alternative it should be returned to Wiltshire Council so that all these matters can be dealt with by the Applicant in conjunction with Wiltshire Council officers so that the elected representatives serving on the Northern Area Planning Committee can complete their assessment on this Reserved Matters application with all the information they reasonably require.



James Slade

Chair – Planning and Environment Committee

james.slade@malmesbury.gov.uk

Malmesbury Town Council - Tel: 01666 822143