

Case Officer:	Samuel Dix		
Applicant:	Hollins Strategic Land LLP		
Proposal:	Outline planning application for the erection of up to 65 no. dwellings with associated works and access on land at Lower Lane, Milton Malsor, Northamptonshire.		
Ward:	Harpole & Grange		
Councillors:	Cllr Ann Addison & Cllr Karen Cooper		
Reason for Referral:	Major development		
Expiry Date:	30 October 2020	Committee Date:	29 October 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The proposed development is the erection of 65 dwellings on land to the east of Lower Road, Milton Malsor along with large areas of public open space and various off-site highway improvements in and around Milton Malsor. All matters other than access are reserved for future determination.

Consultations

The following consultees have raised **objections** to the application:

- Milton Malsor Parish Council
- SNC Environmental Health

The following consultees have raised **no objections and/or commented** on the application:

- Local Highway Authority
- Lead Local Flood Authority
- Building Control
- NCC Archaeology
- SNC Ecology
- SNC Planning Policy
- Northants Police
- SNC Recreation & Leisure
- NCC Key Services
- NHS Clinical Commissioning Group
- SNC Strategic Housing

53 letters of objection have been received and 1 letter of support has been received.

Conclusion

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

The key issues arising from the application details are:

- Principle of Development;
- Landscape and visual impacts;
- Noise;
- Highway safety;
- Drainage;
- Archaeology;
- Impact on protected species;
- Agricultural land quality;
- Impact on local infrastructure and section 106 matters.

The report looks into the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the following reasons:

1. The principle of development of this scale and outside the settlement confines of Milton Malsor is contrary to the adopted Development Plan;
2. The development would result in the loss of a large open and undeveloped field that forms part of the rural setting of Milton Malsor.
3. The impacts of the development on local infrastructure cannot be appropriately mitigated in the absence of a completed s106 legal agreement.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

If approved, this development is liable to pay the Community Infrastructure Levy as set out in the South Northamptonshire Council Charging Schedule. Advice is available here – <https://www.southnorthants.gov.uk/info/174/community-infrastructure-levy-cil>

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site comprises a single agricultural field some 5Ha in size located on the north-eastern edge of Milton Malsor, between Lower Road to the west and the Northampton loop of the West Coastline Mainline to the east. Its southern edge is bordered by a 20th century housing estate on Stockwell Road whilst to the north lies further agricultural fields.
- 1.2. The site is open and almost entirely featureless other than hedging along its borders. It is laid to grass and rises away from Lower Road towards the railway.
- 1.3. Milton Malsor itself is a relatively compact village with a historic core surrounded by more modern housing. Lower Road, from which the application site is accessed, is the main thoroughfare into the village from the north, with the road turning into High Street a short way to the south of the application site.

2. CONSTRAINTS

- 2.1. The application site lies outside the village confines of Milton Malsor established in the adopted Part 2 Local Plan. It is therefore open countryside. It is within 2km of 4no. local wildlife sites and within an area of archaeological interest.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1 The proposed development is the erection of 65 dwellings on land to the east of Lower Road, Milton Malsor along with large areas of public open space and various off-site highway improvements in and around Milton Malsor. All matters other than access are reserved for future determination.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly relevant to the proposal.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. No pre-application discussions have taken place with regard to this proposal.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site and by advertisement in the local newspaper. The final date for comments was 3rd June although comments received after this date and before finalising this report have also been taken into account.

- 6.2. Letters of objection have been received from 53 households in the village and immediate area. 1 letter of support has been received from a resident of Northampton citing the suitability of the site for development and lack of other rural housing available.

- 6.3. Other comments raised by third parties are summarised as follows:

- Lack of sufficient infrastructure in the village to serve the development;
- Disproportionate increase in the size of the village;
- Sufficient housing is being delivered elsewhere;
- Drainage issues on Lower Road;
- Development would set a precedent for further development around the village;
- Unacceptable increase in vehicle movements including on narrow village roads;
- The development would adversely affect elderly residents of sheltered housing;
- Loss of land for farming.

- 6.4. The comments received can be viewed in full on the Council's website, via the online Planning Register.

7. RESPONSE TO CONSULTATION

- 7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. MILTON MALSOR PARISH COUNCIL: **object** on the grounds of development outside the village confines; rural nature of the village; inability of the village to sustain further development; five-year land supply makes application unnecessary; 2005 Parish Plan identified need for starter/affordable housing not market housing; alternative sites in the village are preferred; single access will lead to traffic problems; sewer capacity; flooding on Lower Road; proximity to sheltered housing; development is not in proportion.

CONSULTEES

- 7.3. NCC HIGHWAYS: **no objections** subject to s106 contributions concerning public transport contributions and highway improvements.
- 7.4. SNC BUILDING CONTROL: **no objections**
- 7.5. SNC RECREATION & LEISURE: **comment** regarding the optimal configuration of open space within and around the development.
- 7.6. NORTHANTS POLICE: **comment** regarding matters of layout that would be considered at reserved matters stage.
- 7.7. ARCHEOLOGY: **no objections** having previously requested investigation be carried out as part of the application rather than secured by condition. Following the receipt of an initial findings report, confirmation that archaeology does not represent an over-riding constraint to development and further investigation and monitoring can be secured by condition.
- 7.8. SNC PLANNING POLICY: **comment** - SNC's 2020 Housing Land Availability Study illustrates that the Council is delivering its requirement for housing in the rural areas as detailed under Policy S3 of the JCS and that it has an 8.26 year housing land supply. This robust figure ensures that the development plan is not absent, silent or out-of-date (NPPF paragraph 11) and as such these current proposals must have regard to and be considered against its policies.

The application site is located outside of the village confines of Milton Malsor as drawn in the Local Plan. As such and for the purposes of the Development Plan the application site is located in the Open Countryside, a location where planning policy only supports development in a limited number of circumstances. With regards to the West Northamptonshire Joint Core Strategy these are Policies S1, S10 and R1. In respect of the Part 2 Local Plan, which identifies Milton Malsor as a Secondary Village B, the circumstances in which development may be appropriate are set out in policies LH2-LH9 of the Plan.

If these current proposals are to receive support as part of this planning application, it will need to be demonstrated that there are material considerations sufficient, in accordance with Paragraph 38(6), to overcome any conflict with the Development Plan.

- 7.9. SNC STRATEGIC HOUSING: **comment** - The development proposes 50% of units will be affordable which is compliant with policy LH8 of the emerging Part 2 Local Plan and policy H2 of the JCS. No details of a tenure split have been provided. This

should be agreed at this stage and secured through a S106 agreement. The split should be in line with policy LH8 of the emerging Part 2 Local Plan. At least 5% of the proposed units should be bungalows. Subject to the above being secured in a s106 agreement and notwithstanding whether the location is acceptable in principle for development, support could be offered to the application.

- 7.10. NCC KEY SERVICES: **Comments** that s106 obligations will be required towards enhancing the provision of education infrastructure. Depending on final dwelling mix, this is estimated to be **£258,180** for primary education and **£299,000** for secondary (*officer note: secondary contributions should come from CIL*). A libraries contribution of **£15,535** is also requested alongside 2no. fire hydrants installed on the site.
- 7.11. LEAD LOCAL FLOOD AUTHORITY: **No objections** subject to conditions concerning detailed surface water drainage design.
- 7.12. NHS NORTHAMPTONSHIRE CCG: **Comments** that s106 obligations will be required towards accommodating approximately 158 additional patients from the development, which based on costs per square metre of creating additional capacity would result in a requirement for a contribution of **£33,046.30**.
- 7.13. SNC ENVIRONMENTAL HEALTH: **Object** on the basis that a satisfactory living environment in respect of noise from the nearby railway has not been demonstrated, particularly in terms of achieving appropriate amenity in a 'windows open' scenario.
- 7.14. SNC ECOLOGY: **No objections** – based on the findings of the submitted ecology survey it is unlikely the development will have a significant impact on protected species or habitats if the mitigation identified are followed. This should therefore be secured by condition.
- 7.15. The comments received can be viewed in full on the Council's website, via the online Planning Register.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Development Plan comprises the West Northamptonshire Joint Core Strategy Local Plan (Part 1) which was formally adopted by the Joint Strategic Planning Committee on 15th December 2014 and which provides the strategic planning policy framework for the District to 2029, and the recently adopted South Northamptonshire Local Plan (Part 2). The relevant planning policies of South Northamptonshire's statutory Development Plan are set out below:

WEST NORTHAMPTONSHIRE JOINT CORE STRATEGY 2014 (JCS 2014)

- SA – Presumption in Favour of Sustainable Development
- S1 – Distribution of Development
- S10 – Sustainable Development Principles
- S11 – Low Carbon and Renewable Energy
- C1 – Changing Behaviour and Achieving Modal Shift
- C2 – New Developments
- H1 – Housing Density and Mix and Type of Dwellings
- H2 – Affordable Housing
- H4 – Sustainable Housing
- BN2 – Biodiversity

- BN5 – The Historic Environment and Landscape
- BN7 – Flood Risk
- INF1 – Approach to Infrastructure Delivery
- INF2 – Contributions to Infrastructure Requirements
- R1 – Spatial Strategy for the Rural Areas

SOUTH NORTHAMPTONSHIRE PART 2 LOCAL PLAN (Part 2 LP)

- SS1 – The settlement hierarchy
- SS2 – General development and design principles
- LH1 – Development within town and village confines
- LH8 – Affordable housing
- LH10 – Housing mix and type
- SDP2 – Health facilities and wellbeing
- INF1 – Infrastructure delivery and funding
- INF 3 – Education Facilities
- INF4 – Electric vehicle charging points
- GS1 – Open space, sport and recreation
- HE2 – Scheduled ancient monuments and archaeology
- NE5 – Biodiversity and geodiversity
- NE6 – SSSIs and Protected Species

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Housing Land supply report 2020
- West Northants Strategic Housing Market Assessment (SHMA) 2010
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)
- South Northamptonshire Design Guide
- SNC Corporate Priorities - to ensure the District is “Protected, Green & Clean”, is a place which supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”
- Milton Malsor Parish Plan 2005 (NB. a Neighbourhood Plan area has also been designated for Milton Malsor although there is no pre-submission document to which weight can be given).
- Ministry of Agriculture, Food, and Fisheries - Agricultural Land Classification of England and Wales: Revised criteria for grading the quality of agricultural land (ALC011)(1988).

9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of Development;
- Visual and landscape impacts, including effects on the character and form of the village;
- Noise;

- Highway safety;
- Drainage;
- Archaeology;
- Impact on protected species;
- Agricultural land quality;
- Impact on local infrastructure and section 106 matters.

Principle of Development

Policy Context

- 9.2. The adopted Development Plan for South Northamptonshire comprises the West Northamptonshire Joint Core Strategy (JCS 2014) and the Local Plan Part 2 (LPP2 2020).
- 9.3. The JCS 2014 – this Plan was adopted in December 2014. Spatial Objectives 1, 3, 11 and 12 are amongst those that provide direction to the policies of the JCS. These seek to provide a range of housing in sustainable locations; to reduce the need to travel and promote sustainable travel modes; to ensure all residents have access to a home that they can afford and that meets their needs; and state that housing development will be focused at the most sustainable location of Northampton, supported by Daventry, Towcester and Brackley in their roles as rural service centres. Limited development will take place in the rural areas to provide for local needs and to support local services. Alongside this is the objective to protect and support rural communities to ensure they thrive and remain vital. The JCS policies most important for determining the acceptability in principle of development are policies SA, S1, S3, S10 and R1.
- 9.4. The LPP2 2020 – this plan was adopted in July 2020 and replaces Saved Policies from the 1997 Local Plan. The LPP2 establishes a new settlement hierarchy and settlement confines for the District as well as a range of general development management policies used to determine proposals. Policy SS1 establishes that Milton Malsor is a Secondary Village (B) which is less sustainable than a category A Secondary Village by virtue of relatively fewer services and facilities. The most important policies in the LPP2 for determining the acceptability in principle of development are Policies SS1 and LH1.
- 9.5. Housing Land Supply – the Council’s April 2020 Housing Land Availability Study sets out that South Northamptonshire can demonstrate a supply of 8.26 years of deliverable housing sites, taking into account previous oversupply and excluding the Northampton Related Development Area (NRDA). The report further sets out that even if previous oversupply is not taken into account, a supply of 5.18 years can still be demonstrated excluding the NRDA.

Assessment

- 9.6. The JCS 2014 is now over 5 years old. Accordingly, a review of the JCS policies was undertaken in accordance with the Town and Country (Local Planning) (England) Regulations 2012 (as amended). This review identified that many of the policies in the JCS remain up to date and consistent with the NPPF. It is on that basis that they should continue to be given full weight as part of the development plan for the purposes of decision making. This includes policies S1 and R1 and, importantly, Policy S3 which should continue to be used for the purposes of 5-year housing land supply calculations until such time as the West Northants Strategic Plan is produced.

- 9.7. Policy S1 sets out the general distribution of growth across West Northamptonshire, with development in rural areas being limited with an emphasis on enhancing and maintaining character and vitality, shortening journeys and facilitating access to jobs and services, strengthening rural enterprise and linkages between settlements, and respecting tranquillity.
- 9.8. Policy R1 addresses the specific distribution of rural growth, which is to be informed by settlement hierarchies established in Part 2 Local Plans. In all cases development in the rural areas will be required to provide an appropriate mix, including affordable housing; to not affect open land of particular significance to the form and character of the village; to preserve areas of historic and environmental importance; to protect residents' amenities; to be of an appropriate scale; to promote sustainable development and to be within existing confines unless there are particular or exceptional circumstances. R1 goes on to say that once the requirement for the rural areas has been met development will only be permitted where specific criteria apply.
- 9.9. The proposed development is not considered to comply with the general requirements of Policy R1 for two principal reasons. Firstly, a development of up to 65 dwellings is not considered to be of an appropriate scale to the existing settlement, bearing in mind its position in the adopted settlement hierarchy. In policy terms Secondary Service villages are capable of accommodating 'limited' development although the distinction between category A and category B village is deliberately made to identify those villages that are more suitable for this. There is no firm guidance as to what an appropriate scale may be but, in this instance, officers are of the view that up to 65 dwellings is not of an appropriate scale relative to Milton Malsor. Secondly, the site is not within the existing confines of the village and is therefore directly in conflict with R1(g), with no exceptional circumstances having been demonstrated to justify this. It is acknowledged that the development would, to some extent, maintain the vitality of Milton Malsor and contribute indirectly towards the local economy but its benefits in this regard are not exceptional as the same could be said of any development.
- 9.10. The application equally does not meet any of the criteria for further rural housing identified in sections (i)-(v) of Policy R1. No environmental improvements will result from the development and it is not required to support the retention of a local service under threat.
- 9.11. For similar reasons the proposed development is also in conflict with the Part 2 Local Plan. None of the specific criteria of Policy LH1 concerning development outside existing settlement confines apply to the application. Policy SS1 confirms that new development will be directed towards the most sustainable locations in accordance with the District's settlement hierarchy. As outlined above; Milton Malsor is a Category B Secondary Service Village that is not considered to be a sustainable location for up to 65 dwellings, regardless of whether these are within or outside the settlement confines.
- 9.12. The applicant offers an alternative position in respect of the principle of development that is based on two arguments. Firstly, they consider that the Council's stated housing land supply position is incorrect and as such the relevant policies outlined above are 'out of date' and, applying a presumption in favour of sustainable development, that the site is a sustainable location that will also minimise journey times due to its proximity to Northampton. Secondly, even if this is not the case, the applicant considers that the benefits of the development in respect of open space creation, significant affordable housing provision (noting the fact that no such housing has been delivered in Milton Malsor in recent years), and delivering local road improvements that have been identified locally as highway safety priorities, are

material considerations that would justify a departure from Development Plan in this instance. These matters are weighed carefully in the planning balance below.

Conclusion

9.13. The Council can demonstrate a five-year housing land supply and as such all relevant Development Plan policies are considered up to date and paragraph 11(d) of the NPPF does not apply.

9.14. Paragraph 12 of the NPPF reiterates Section 38(6) of the Planning & Compulsory Purchase Act (2004) by stating that where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. In this case there must be material planning considerations sufficient to outweigh any identified conflict if the application is to be granted planning permission. The following are considered to be relevant material considerations to weigh in this balance:

- National Planning Policy in the NPPF, in particular the Government's objective in paragraph 59 to significantly boost the supply of homes (an objective that is likely to continue in the future as per "Planning for the Future", the recent Government white paper).
- The requirement in paragraph 73 of the NPPF to identify specific and deliverable sites to provide for a **minimum** (Officer emphasis) of 5 years' worth of housing against their strategic requirement.
- The development will provide 50% affordable housing – a matter to be given considerable weight in light of ongoing shortages in affordable housing across the District. In particular, the committee should note that the Strategic Housing team have observed that Milton Malsor itself has not delivered any new affordable stock in recent years.
- Biodiversity net gains can be delivered on a site that presently has only limited natural value.
- The applicants have agreed to improvements to public transport facilities and to a range of offsite highways improvements on Lower Road and Towcester Road that have been identified in the 2005 Parish Plan as important for improving highway safety in the area. Alongside the general access arrangements for the site, these off-site works have been subject to a Road Safety Audit and are supported by the Local Highway Authority. This is to be given moderate weight as the works are considered to be aspirational rather than critical infrastructure that could only be facilitated by the development.
- The development will incorporate a large area of new publicly accessible open space in a location that is not presently available for recreation or leisure. This is to only be given moderate weight as the benefits of this will mostly be to the new development itself rather than the wider village, which already has a provision of open space as well as network of rights of way around the surrounding countryside.

9.15. The final weighing up of the planning balance is considered further in Paragraph 11 of this report. However, in respect of the acceptability in principle of the development, Officers are of the view that even when taken cumulatively, these

material considerations do not outweigh the explicit in-principle conflict with the Development Plan.

Visual and landscape impacts, including effects on the character and form of the village

- 9.16. JCS Policy R1 requires development to not affect open land which is of particular significance to the form and character of the village; to preserve and enhance areas of historic or environmental importance including those identified in Village Design Statements and to be of an appropriate scale to the settlement. Policy S1 (criteria D) requires development in the rural areas to be limited, with the emphasis on respecting the quality of tranquillity and enhancing and maintaining the distinctive character of rural communities.
- 9.17. Policy SS2 of the Part 2 Local Plan requires development to maintain the individual identity of villages and to not result in the unacceptable loss of undeveloped land, open spaces and locally important views of particular significance to the form and character of a settlement and to integrate with its surroundings and the character of the area.

Assessment

- 9.18. The application is in outline with layout and scale reserved for future determination. Nevertheless, it was accompanied with an indicative masterplan that demonstrated how up to 65 dwellings could be arranged on the site by way of long spine road running through the site with various loops and crescents running off this. The developable area would be supplemented with extensive areas of open green space to the east and north.
- 9.19. The proposal was also supported by a Landscape Visual Impact Assessment that concluded the indicative development would have a limited impact in landscape terms as the development would be viewed against the existing backdrop of dwellings on Stockwell Road and is nevertheless naturally screened from the surrounding area by the railway line to the north and farm buildings to the west. The LVIA also considered the fact the wider landscape is not designated for any particular value and that the site is typical of any undeveloped land on the edge of a rural village.
- 9.20. Officers were of the view that the indicative form of the development was out of keeping with the character of the existing village particularly due to the single long access emphasising the development's extrusion into open countryside as well as the fact the indicative layout brought development in closer proximity to the railway line to the east than the surrounding area.
- 9.21. Subsequently a revised parameters plan has been provided that does not specify a detailed internal road layout but restricts the eastwards extent of development to be consistent with Stockwell Road and effectively widens the frontage along Lower Road so that the majority of the open space is to the rear of the site closest to the railway line. A revised LVIA concluded that the landscape and visual impacts of this form of development would be the same.
- 9.22. Officers consider that the revised parameters plan results in a form of development that would be more in keeping with the compact nature of Milton Malsor and its historic evolution, particularly in terms of the development now retaining the same gap to the railway as adjoining housing. However, the development would still result in the loss of undeveloped land that forms the rural setting of Milton Malsor, a matter exacerbated by the size of the proposals.

Conclusion

- 9.23. The parameters of the development have been revised to be more in keeping with the existing settlement and visual impacts are likely to be restricted to the immediate locality and not prominent within the wider landscape. However, the development would result in the irreversible loss of a presently open and undeveloped field that forms part of the rural setting to Milton Malsor, contrary to Policy R1(b) of the JCS and SS2 of the Part 2 Local Plan.

Noise

Policy context

- 9.24. Policy SS2(f) of the Part 2 Local Plan requires development to provide a good standard of amenity for its future occupiers in terms of various matters including noise.

Assessment

- 9.25. The proposed development is situated in reasonable proximity to both the Northampton loop of the West Coast Mainline and also a motocross track, which each represent a potential source of noise to future occupiers of the development.
- 9.26. Environmental Health have reviewed the applicant's noise assessment and advised that the modelling predicted that noise from the railway meant that adequate internal amenity for some of the site would only be achievable in a 'windows closed' scenario. Alternative ventilation in the form of trickle vents or similar would therefore be required. Without this, the exceedance during the day-time would be 10db and 13db at night time.
- 9.27. The Planning Practice Guidance and Note 7 to Table 4 of paragraph 7.7.2 of BS 8233:2014 (Guidance on Sound Insulation & Noise Reduction for Buildings) each allow Local Planning Authorities discretion in accepting such situations where the need or desirability for development justifies it. In this instance, there is considered to be no such justification and, as such, the development is potentially contrary to Policy SS2(f) as it will not result in a good standard of amenity in noise terms as some residents will only be able to achieve this by keeping windows shut.
- 9.28. The original noise report was, however, based on the original parameters plan that resulted in development being closer to the railway. An updated noise report has been prepared based on the revised parameters plan that appears to show a satisfactory 'windows open' environment could be delivered if development in this form is proposed and appropriately laid out. Confirmation from the Environmental Protection team will be reported to the committee by way of written updates.

Conclusion

- 9.29. The development as originally proposed would have potentially been contrary to Policy SS2(f) in respect of residential amenity due to the nearby proximity of the railway, with certain parts of the site only achieving the required standards in a 'windows closed' scenario. This matter has potentially been resolved by way of a revised parameters plan, which has sited housing further away from the railway line and noise assessment though, the results of which will be reported to committee in written updates.

Highway Safety

Policy context

- 9.30. Policy C2 of the JCS 2014 requires development to mitigate its impacts on highway safety. Policy SS2 of the Part 2 Local Plan requires development to include a safe and suitable means of access for all people including pedestrians, cyclists and those using vehicles.
- 9.31. The NPPF also requires provision of a safe and suitable access for all users. Paragraph 109 however makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Officer emphasis).

Assessment

- 9.32. The application is supported by a Transport Statement (TS). Vehicles are proposed to access the site from a priority 'give-way' junction with Lower Road at the western edge of the site. Visibility splays in each direction of at least 2.4m by 43m are capable of being provided, which is adequate for the prevailing 30mph speed limit for oncoming vehicles travelling in either direction on Lower Road. The applicant has also carried out a swept path analysis that demonstrates the proposed access provides for suitable manoeuvrability of a refuse vehicle.
- 9.33. Traffic generation is forecast using TRICS trip rates with the TS concluding that the development will result in an extra 46 two-way trips in the weekday morning peak period, and 45 extra trips during the PM peak period. This is equivalent to one additional vehicle every 80 seconds during the busiest period.
- 9.34. The applicant also proposes certain off-site highway works to further mitigate the traffic impacts of the proposed development and enhance the overall 'offer' of the development to the local community. These include traffic calming and a pedestrian crossing on Lower End Road and additional safety markings on Towcester Road on the approach to the village. An upgrade to the local bus stop will also be delivered by the development. The off-site works have been subject to a Road Safety Audit that led to minor design amendments and confirms they will be an appropriate addition to the surrounding road network.
- 9.35. It is acknowledged that there are number of concerns regarding traffic and highway safety as a result of the development from local residents. However, as the development meets all required technical standards in terms of access with no objection from the Local Highway Authority, and will also provide off-site improvements, it is not considered that there are significant highway issues with the development and certainly none that are 'severe' enough to warrant refusal under paragraph 109 of the NPPF.

Conclusion

- 9.36. In light of Highway Authority advice, there is no evidence to demonstrate that a safe and suitable access cannot be achieved and that the development would result in significant or severe impacts on the highway network or an unacceptable impact on highway safety. Therefore the proposal complies with the relevant policies and paragraphs 108-109 of the NPPF.

Drainage

Policy context

- 9.37. JCS policy BH7 requires appropriate flood risk assessment to be completed and for development not to result in an increased risk of flooding to existing or proposed properties. Policy SS2 of the Part 2 Local Plan also requires development to be adequately serviced with infrastructure and to consider flood risk.

Assessment

- 9.38. The application is accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy.
- 9.39. The site is within Flood Zone 1 and the FRA considers that the site is not at significant risk of flooding from any sources. The primary source of what flood risk there is comes from surface water, with low to medium levels of risk across the site currently, which are largely a result of its sloping topography. The FRA correctly identified that post-development this risk would be resolved by way of positive drainage.
- 9.40. The surface water drainage strategy for the development indicatively utilises an attenuation basin located towards the western end (and lowest point) of the site, which would subsequently discharge at a restricted rate to a culverted watercourse beneath Lower Road. Alternatively the applicant has demonstrated a feasible connection to a short length of Anglian Water sewer that discharges to a Main River to the north of the site.
- 9.41. The Lead Local Flood Authority have been consulted and, having sought clarification that no third party land (excluding highway land) would be required to make the necessary drainage connections, raise no objections subject to conditions requiring a detailed design of the drainage system to be approved in due course.

Conclusions

- 9.42. Having regard to the submitted information and the responses from technical consultees there is no evidence to suggest that this development would be at risk from flooding or increase flood risk elsewhere. Nor is there evidence to suggest that the site cannot be adequately drained. There is therefore no conflict with the policies mentioned above or the policies of the NPPF.

Archaeology

Policy context

- 9.43. Policy HE2 of the Part 2 Local Plan and Policy BN5 of the JCS explains that development will not be permitted if it harms archaeological remains, with proposals that potentially have an impact in this regard required to be assessed with an appropriate desk-based assessment and, where necessary, a field assessment. This requirement is reiterated in paragraph 189 of the NPPF.

Assessment

- 9.44. The application was originally supported only by a desk-top assessment and geophysical survey which, upon consultation with the County Archaeologist, was considered insufficient to properly assess the likelihood of archaeological remains. In particular, the County Archaeologist highlighted the fact that geophysical surveys carried out for the nearby Rail Central development had failed to identify features of archaeological interest that were eventually uncovered. In this context, Officers considered it reasonable to seek intrusive investigation on the site ahead of determination.

- 9.45. Excavation was subsequently undertaken that, in addition to ridge and furrow features identified in the original survey, also found linear features likely to be the remains of prehistoric field boundaries. This is not considered to represent an overriding constraint to development but conditions will be required to ensure that adequate further investigation and recording would eventually take place.

Conclusion

- 9.46. Subject to standard archaeological conditions regarding further investigation and recording, the development would not have an unacceptable impact on archaeological remains and is therefore consistent with the relevant policies and NPPF.

Impact on protected species

Legislative context

- 9.47. The Conservation of Habitats and Species Regulations 2017 provide for the designation and protection of 'European sites' and 'European protected species' (EPS). Under the Regulations, competent authorities such as the Council have a general duty to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.48. In terms of EPS, the Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in the Regulations, or pick, collect, cut, uproot, destroy, or trade in the plants listed therein. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of 3 strict legal derogation tests:
- a. Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - b. That there is no satisfactory alternative.
 - c. That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Policy Context

- 9.49. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity. Paragraph 175 states that planning authorities should refuse planning permission if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for and should support development whose primary objective is to conserve or enhance biodiversity. Opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.50. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the

development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on nature conservation.

- 9.51. National Planning Practice Guidance (PPG) states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.
- 9.52. Policy NE3 of the Part 2 LP seeks to conserve and wherever possible enhance green infrastructure . Policy NE4 seeks to protect and integrate existing trees and hedgerows wherever possible and requires new planting schemes to use native or similar species and varieties to maximise benefits to the local landscape and wildlife. Policy NE5 requires that proposals aim to conserve and enhance biodiversity and geodiversity in order to provide measurable net gains. Development proposals will not be permitted where they would result in significant harm to biodiversity or geodiversity, including protected species and sites of international, national and local significance, ancient woodland, and species and habitats of principal importance identified in the United Kingdom Post-2010 Biodiversity Framework.
- 9.53. Policy BN2 of the JCS 2014 states that development that will maintain and enhance existing designations and assets or deliver a net gain in biodiversity will be supported. Development that has the potential to harm sites of ecological importance will be subject to an ecological assessment and required to demonstrate: 1) the methods used to conserve biodiversity in its design and construction and operation 2) how habitat conservation, enhancement and creation can be achieved through linking habitats 3) how designated sites, protected species and priority habitats will be safeguarded. In cases where it can be shown that there is no reasonable alternative to development that is likely to prejudice the integrity of an existing wildlife site or protected habitat appropriate mitigation measures including compensation will be expected in proportion to the asset that will be lost. Where mitigation or compensation cannot be agreed with the relevant authority development will not be permitted.

Assessment

- 9.54. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are present on or near the proposed site. , The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is large and undeveloped with various hedgerows around its perimeter. It therefore has the potential to be suitable habitat for a variety of species including EPS; such as bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.
- 9.55. In order to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 the LPA must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.56. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

9.57. The application is supported by a detailed protected species survey which concluded that the baseline biodiversity value of the site is low, comprising mostly an arable field. The proposals include the retention of the majority of hedgerows around the site as well as various other habitat enhancements. It is therefore considered the site could achieve a net gain in biodiversity. The Council's ecologist agrees with this and therefore raises no objection to the development subject to conditions ensuring appropriate ecological mitigation is indeed brought forward.

Conclusion

9.58. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any EPS found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Agricultural land quality

Policy context

9.59. Policy SS2(h) of the Part 2 Local Plan states that development should not result in the loss of the best and most versatile agricultural land or valued soils (those classed as Grade 1, 2 or 3a).

Assessment

9.60. The application is supported by an agricultural land classification report that identified the majority of the site to be of Grade 3b quality although around a third of the site comprises Grade 2 quality land, which would be considered best and most versatile. However, the report concludes that the area in question may need to be farmed "as if Grade 3b land" due to it being a relatively narrow strip within a larger field of lesser quality

9.61. The portion of the site that is of Grade 2 quality is mostly contiguous with the area that is proposed to be put to new public open space within the development. However, this would still entail its loss from agriculture, contrary to Policy SS2(h).

9.62. Clarity was sought from the applicant as to why the portion of Grade 2 land would need to be farmed "as if it were Grade 3b land". In response, the applicant's agricultural consultant cited the "pattern limitation" that should be considered in determining land quality, as outlined in the relevant 1988 guidance from the Ministry of Agriculture, Fisheries and Food (MAFF). In essence this explains that variability in quality within a field may in itself represent a constraint on the true grade of land when it is being farmed. The "pattern limitation" manifests in complicating soil management and uneven crop growth, maturation or quality. As a result, minority proportions of fields that are nominally of a higher grade cannot be practically used for purposes requiring a higher quality of soil and therefore may effectively be deemed not to be best and most versatile.

Conclusion

9.63. Officers have no reason to doubt this explanation as to the "pattern limitation" grading of the land quality on the site. Therefore, whilst in literal terms the development would result in the loss of some best and most versatile agricultural land, the size, shape, and relationship of the land in question is such that the

purpose of Policy SS2(h) will not be prejudiced. The application is therefore acceptable in respect of agricultural land quality.

Impact on local infrastructure and section 106 matters

Policy context

9.64. Policies INF1 and INF2 of the JCS as well as Policy INF1 of the Part 2 Local Plan require new development to be supported by appropriate infrastructure.

Assessment

9.65. The application would have an effect on the following infrastructure, which may need to be improved and/or enhanced as a result of the development:

- Early Years – the County Council were unable to determine what the current capacity is and likely impact of this development on demand for Early Year places. However, should there be an identified lack of capacity to absorb the proposed development then a contribution should be secured based on Department for Education cost multipliers for Early Years.
- Primary Education provision – Milton Parochial Primary School would most likely serve the development. However, the school is currently operating close to the recommended Department for Education's capacity thresholds, with several year groups at full capacity or above and continued high demand for places expected to continue based on trend and birth rate data alone. Based on the DfE's cost multipliers and assuming an average dwelling mix, a contribution of **£258,180** would be required to mitigate the impacts of the development.
- Library provision – the County Council have requested a contribution of **£15,535**, which is required to contribute towards improvement, enhancement or expansion of library facilities to serve the development.
- Public Transport – the development proposes the upgrade of bus stop facilities within the village (most likely new shelters and signage), which would need to be included in a s106 agreement. A contribution of **£65,000** (£1,000 per dwelling) would be required to facilitate the upgrade of public transport services according to the Local Highway Authority. A one month travel card for each dwelling would also need to be provided.
- Off-site highway improvements – the development proposes traffic calming and other improvements off-site that would need to be secured in the section 106 agreement.
- Affordable Housing Provision – the development would need to provide on-site affordable housing at 50% with a split between 70% social/affordable rent and 30% intermediate tenures.
- Healthcare Provision – NHS Northamptonshire Clinical Commissioning Group have requested a contribution of **£33,046.30** as the nearest medical practices (Towcester & Brook Medical Centres) are at the limit of their capacity with population from the proposed development likely to lead to new patients being refused. The requested contribution is based on a predicted number of patients (158), anticipated appointment rates, use of consulting rooms, and build costs per square metre of new health facilities.

- Refuse and recycling provision (£70 per dwelling for provision of bins – index linked).
- Financial contribution to provision and maintenance of off-site playing fields.
- Provision and maintenance of on-site play and open space facilities.

Conclusion

9.66. The development would result in the need for improvements and enhancements to local infrastructure in order to mitigate its impact. Financial contributions to this effect would need to be included in a s106 that has not been prepared and executed given the recommendation that planning permission is refused. Without any such agreement the application does not comply with the relevant policies concerning infrastructure and, as such, its absence is recommended as an additional reason for refusal should the committee resolve to refuse permission.

HUMAN RIGHTS AND EQUALITIES

9.67. Due regard has been taken to South Northamptonshire Council's equality duty as contained within the Equalities Act 2010.

9.68. There may be implications under Article 8 and Article 1 of the First Protocol of the Human Rights Act 1998 regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

10. COMMUNITY INFRASTRUCTURE LEVY

10.1 The CIL is a set charge that must be paid if planning permission is granted for a new house (or houses) or for a home extension or retail development of over 100 sqm. The CIL helps to fund a range of infrastructure that is needed as a result of new development (e.g. road schemes, schools and community facilities). Reliefs and exemptions are available.

10.2 This development, if approved, is liable to pay the Community Infrastructure Levy as set out in the South Northamptonshire Council Charging Schedule.

10.3 For further information relating to CIL please visit:
<http://www.southnorthants.gov.uk/7143.htm>).

11. PLANNING BALANCE AND CONCLUSION

11.1. The benefits of the proposed development may be summarised as:

- Provision of market housing to assist with the Government's objective to significantly boost the supply of homes.
- A policy compliant level of affordable housing of 50% meaning up to 33 affordable dwellings to meet the District's identified need, including within Milton Malsor where limited affordable housing has been delivered recently.
- Off-site highway improvements to improve local road safety;

- Provision of a significant amount of newly-accessible public open space, together with the above mentioned housing and highway improvements contributing towards the social dimension of sustainable development.
- Generic economic benefits in respect of construction and supply-chain logistics as well as retaining local spend, contributing to the economic dimension of sustainable development.
- Biodiversity net gains, contributing to the environmental dimension of sustainable development.

11.2. Matters weighing against the proposal may be summarised as:

- The development is entirely located outside the settlement confines of Milton Malsor, directly in conflict with Policy LH1 of the Part 2 Local Plan and Policy R1 of the JCS.
- The quantum of development is not considered to be appropriate to the existing settlement of Milton Malsor, which is a category B Secondary Service village, directly in conflict with Policy SS1 of the Part 2 Local Plan and Policy R1 of the JCS.
- The development will result in the loss of an undeveloped and open field that contributes to the rural setting of Milton Malsor.
- The Council can demonstrate a five-year housing land supply, demonstrating that the strategic needs of the District are being met by its urban-focussed strategy and existing rural commitments without the need for additional sites (although it should be borne in mind that the requirement to demonstrate a five-year supply is a minimum requirement).

11.3. In conclusion it is considered that the benefits of the development are not sufficient to outweigh the identified conflict with the Development Plan. As such, there are no material considerations that weigh in favour of the proposals to the extent that a departure from the Development Plan is justified in accordance with Paragraph 12 of the NPPF.

12. RECOMMENDATION

REFUSAL FOR THE REASONS SET OUT BELOW

Further Recommendation - In the event that the planning committee refuse to grant planning permission the Assistant Director for Planning and Economy seeks delegated authority to agree the content of a S106 Agreement in the event that an appeal is received.

REASONS FOR REFUSAL

1. The application sites lies outside the settlement confines of Milton Malsor as designated in the adopted South Northamptonshire Local Plan (Part 2) and is therefore in open countryside. The adopted Development Plan seeks to focus new development within the settlement boundaries of settlements and be of an appropriate scale to the existing settlement. The development proposed would therefore conflict with an up to date and adopted Development Plan, in particular Policy R1(e) and R1(g) of the adopted West Northamptonshire Joint Core Strategy 2014 and Policies SS1 and LH1 of the adopted South Northamptonshire Local Plan (Part 2). In addition, to permit the development would conflict with paragraphs 12

and 47 of the National Planning Policy Framework.

2. A development of the scale proposed would comprise a substantial new development that would erode the rural setting of Milton Malsor and adversely change the character of the village. The development would therefore conflict with Policy R1(b) of the 2014 West Northamptonshire Joint Core Strategy, Policy SS2 of the South Northamptonshire Local Plan (Part 2), and paragraph 170 of the NPPF.

3. Policies INF1 and INF2 of the West Northamptonshire Joint Core Strategy 2014 are concerned with infrastructure and developer contributions, and state that 'developers will be expected, in negotiation with the Local Planning Authority to make provision for related infrastructure and community facilities the need for which arises from the development'. This is consistent with the National Planning Policy Framework. In the absence of a signed legal undertaking the Council cannot be satisfied that the development proposal would make sufficient provision to mitigate the impacts of the development on existing community services and infrastructure serving the development including early years and primary education infrastructure; affordable housing; public open space and facilities (including maintenance); public transport and off site highway improvements; refuse/recycling infrastructure; libraries and primary healthcare infrastructure. The application is therefore contrary to Policies H2, INF1 and INF2 of the West Northamptonshire Joint Core Strategy 2014, Policies LH8, INF1 and GS1 of the South Northamptonshire Local Plan (Part 2) and the adopted Supplementary Planning Document 'Developer Contributions' (December 2010).

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