

Report 3: Agenda Item 12: To receive an update on recent planning and related matters in relation to the Malmesbury Neighbourhood Plan, including the Filands, Whychurch Farm, Aldi and Park Road applications and consider proposed next steps.

1. Background: The agreement of planning application 19/11569 Land South of Filands in May 2020 by Wiltshire Council's Strategic Planning Committee because Wiltshire Council was unable to demonstrate a 5 year supply of land for housing dealt a major blow to the Malmesbury Neighbourhood Plan.

This report is intended to provide a short update on the response by Malmesbury Town Council to this decision and the current status of a number of related strategic planning matters around Malmesbury. Proposals in respect of future action are at 3.0 below.

2. Situation:

2.1. Filands South: 71 houses 19/11569. The decision to agree this proposal was also a major blow to the future of neighbourhood planning in Wiltshire. Following the decision we opened communication with other town and parish councils in Wiltshire with Neighbourhood Plans. Thirty three town and parish councils, representing over 50% of Wiltshire residents have now joined together in an informal grouping called WALPA – the Wiltshire Area Localism and Planning Alliance. This is currently chaired by myself; Councillor Power is also a member of the Steering Group.

The creation of the Alliance has been warmly welcomed by the Planning Officer team at Wiltshire Council. Its second meeting with the senior Wiltshire Council Planning team this Friday 27th November. This meeting will be opened to representatives of all town and parish councils in Wiltshire. At this meeting we expect to hear the results of the latest Wiltshire Council 5 year land supply review. This information is critical to how planning decisions will progress over the next twelve months.

WALPA has had less success generating united action by our Wiltshire MP's to shore up the position of Neighbourhood Plans. The main step required to achieve this is the reversal of recent changes to the National Policy Planning Framework. It appears unlikely this will be easily agreed. In this respect the governments much criticised proposals for the Future of Planning, launched in August 2020 are unhelpful – they anticipate a reduced role for Neighbourhood Planning in the future and are a strong indication of the current governments regard for Neighbourhood Planning, and we are set for at least 3 years of planning uncertainty and turmoil. WALPA did raise the profile of the consultation on the Future of Planning White Paper in Wiltshire and helped influence a strongly negative response to major elements of the proposals in October 2020.

2. Subsequent Planning Developments:

The outcome of the Filands decision has, as predicted, led to a number of speculative planning applications in Malmesbury. They are all arguing a presumption in favour of acceptance as sustainable developments in the context of current planning rules and the Wiltshire Council 5 year land supply shortfall. All are being strongly opposed by Malmesbury Town Council. Our arguments in support of this position have been informed through our discussions with other WALPA councils. Our position, at its simplest, is that these applications are not sustainable when Malmesbury is already going to exceed its agreed delivery requirement by over 50%. The current application situation is as follows:

2.1 Park Road 1: 50 houses 19/05898. This application has been re-submitted and changed from an entry level application, (which premise we had successfully challenged), to a general housing application based on the Wiltshire Council land supply situation.

2.2 Park Road 2: 26 houses 20/08341. Has been made as a general application based on the Wiltshire Council land supply situation.

2.3 Whychurch Farm: 68 houses. 20/05470/106. This is currently a first stage application seeking a change in use from educational use (established in 2013) to create the opportunity for general residential use. However, through significant effort, Malmesbury Town Council has identified qualifying educational uses – a nursery - for at least part of this site, which is supported by Wiltshire Education Department. There is now a good prospect this application will be refused in whole or in part. This decision is awaited.

2.4 Backbridge: 201 houses. 16/06401. This development is included within the Malmesbury Neighbourhood Plan and acceptable in principle. However, the application, submitted in July 2016 has only slowly progressing through iterations. Many issues raised by Malmesbury Town Council on the detail of the proposals, the final permission and the associated s106 are still outstanding. After enquiry in early 2020 MTC was advised the application was 'at an advanced stage in its determination'. No further information has been received since. Delays in progressing this development have a significant impact on Malmesbury Town Council's ability to plan and its income. It is galling that this development did not, as of November 2019, count as part of Wiltshire Council's 5 year land supply.

2.5 Aldi: Supermarket 18/06980. This development is now approved and s106 agreements have been finalised. Malmesbury Town Team was not successful in its submission for an s106 contribution to help offset the negative impact this new supermarket will have on Malmesbury High Street.

It has since transpired that an officer report on the submission was withheld from Malmesbury Town Team and Councillors contrary to the terms of the Environmental Information Regulations 2004. However, this report has now been supplied by Wiltshire Council and is being reviewed, in the first instance, by Malmesbury Town Team for accuracy and reasonableness.

In a further development Malmesbury Town Council has been advised that an officer's confirmation in September 2020 that Malmesbury Town Council would receive a CiL payment of £85,657 as a consequence of the Aldi development was incorrect. This CiL payment will instead be allocated to St Paul Without Parish based on the location of the store. Malmesbury Town Council is seeking further information and advice from Wiltshire Council on this matter. There is a further concern in that we are now aware the quantum and allocation of CiL to Malmesbury Town Council was accepted as fact at the time the report on the Malmesbury Town Team submission was written in July 2019 and appears to have supported the recommendation to reject the Malmesbury Town Team submission.

2.6 Malmesbury Neighbourhood Plan review

The Malmesbury Neighbourhood Plan was made in 2015. It is now over 5 years old. A review process has been started.

In the ordinary course of events a Neighbourhood Plan would be expected to be taken into account in planning matters for its duration - in our case to 2026. However, following the 2019 changes to the NPPF, a Neighbourhood Plan must be less than 2 years old to carry its full weight if the planning authority has a less than a 5 year supply of land. Malmesbury Town Council has been promised help by Wiltshire Council to undertake a fast track review of its Neighbourhood Plan. No details of this

help has yet been supplied. In the meantime, the minimum time period required to undertake a qualifying review of a Neighbourhood Plan is currently advised to be 15.5 months. The ability to progress a review is further complicated by there not being a current Wiltshire Local Plan. This is particularly frustrating as the indications being received are that Malmesbury has already exceeded any likely housing requirements being identified in the current development phase of the next Wiltshire Local Plan, which will run through to 2036.

The reality is that to meet the NPPF requirements the Malmesbury Neighbourhood Plan would be need to be under continuous review. There is not the volunteer or other resources available to support this. It is not feasible.

As indicated above, while Wiltshire Council cannot demonstrate a 5 year supply of land the only robust sustainable defence to the current and further speculative planning applications is by changes to the NPPF by government.

3.0 Proposal

3.1 To note the above report.

3.2 To take all reasonable steps to work directly and in alliance with other councils in Wiltshire to ensure the maximum possible support for Neighbourhood Planning in Wiltshire through the actions of Wiltshire Council and by seeking appropriate changes to the NPPF and planning law by government.

3.3 To continue to seek the support of our MP and all Wiltshire MP's to press for changes to the NPPF.

3.4 To continue to robustly challenge planning applications that are contrary to the housing needs identified in the Malmesbury Neighbourhood Plan.

3.5 In respect of **Aldi: Supermarket 18/06980**, to seek to clarify the situation concerning the CiL payment and the process followed in this and the decision making concerning the Town Team s106 submission in the light of the new information that has now been made available following Wiltshire Council's delayed release of information, so as to allow the consideration of options open to Malmesbury Town Council in these matters, if any.