

## CASE OFFICER'S REPORT

**Application Reference:** 14/12109/OUT  
**Date of Inspection:** 21/11/13  
**Date site notice posted:** 21/11/13  
**Date of press notice:** 28/11/13

### **POLICIES**

- **National Planning Policy Framework**
  - Section 4 – Promoting Sustainable Transport
  - Section 6 – Delivering a wide choice of quality homes
  - Section 7 – Requiring good design
  - Section 11 – Conserving and Enhancing the Natural Environment
- **Planning Practice Guidance (relevant extracts)**
- **Wiltshire Core Strategy**
  - Core Policy 1 – Settlement Strategy
  - Core Policy 2 – Delivery Strategy
  - Core Policy 7 – Bradford on Avon Community Strategy
  - Core Policy 43 – Providing Affordable Homes
  - Core Policy 44 – Rural Exceptions Sites
  - Core Policy 48 – Supporting Rural Life
  - Core Policy 50 – Biodiversity and Geodiversity
  - Core Policy 51 – Landscape
  - Core Policy 52 – Green Infrastructure
  - Core Policy 57 – Ensuring Quality High Design and Place Shaping
  - Core Policy 58 – Ensuring the Conservation of the Historic Environment
  - Core Policy 60 – Sustainable Transport
  - Core Policy 61 – Transport and New Development
- **Supplementary Planning Guidance**
  - Local Transport Plan 2011-2026 Car Parking Strategy (March 2011) – minimum residential parking standards.
  - West Wiltshire Leisure and Recreation DPD (February 2009)
- **Emerging Holt Neighbourhood Plan**

Above the various tiers of planning policy and guidance is the over-arching statutory requirement under the Planning (Listed Buildings and Conservation Areas) Act 1990 to give **special regard** to the desirability of preserving listed buildings or their setting (S16) and to the desirability of preserving the character and appearance of the conservation area (S72).

### **ISSUES**

- Principle of the new housing development
- Is this a sustainable development?
- Impact on the surrounding landscape of Holt
- Impact on the amenity of adjoining neighbours and future occupiers of the development
- Impact upon the highway
- Impact on ecology
- Impact on archaeology

- Heritage Assessment
- Impact upon the environment
- Quality of agricultural land
- Drainage/SUDS
- S106 Contributions
  - Recreation provision
  - Education provision
  - Affordable housing contributions
  - Transport provision

## REPRESENTATIONS

- **Wiltshire Council Spatial Planning Officer** – Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The principle of development of 98 dwellings at this site would not be in accordance with the adopted development plan as the proposal is situated outside of the extant village policy limits for Holt. On the basis of the information presented within the application, there would appear to be no material considerations which would warrant a departure from the development plan.
- **Wiltshire Council Highways Officer** – The application is accompanied by a Transport Assessment which addresses the impact of the proposal on the adjoining highway network. This shows that there will not be an unacceptable impact and I agree with that conclusion. The proposed site access complies with current standards. In view of the above there is no highway objection to this application.
- **Wiltshire Council Landscape Officer** – No comments received to date of determination.
- **Wiltshire Council Public Transportation** – an extra bus in the network would be required and it is suggested that figure of £100K per year for 1-5 years (then possible annual increments reductions from years 6 (£80K) yr7 (£60K) yr8 (£40K); yr9 (£20K); yr10 (£10K) – to be discussed). With new housing developments there is a requirement for bus stops and raised kerbs. Scanning the Travel Plan (C/14/12109), it is note some provision with a bus shelter on the south side of the development but there would be a requirement for a second shelter with raised kerbing on the north side although this doesn't have to be directly opposite the proposed one and could be sited at a site deemed fit by the Parish Council/affected householders. This can be provided by s106.
- **Wiltshire Council Transport Planning** - I note the framework travel plan and the development of a subsequent detailed travel plan in due course, which must be approved in writing by the Local Planning Authority. Whilst there is currently no town cycle network for Holt, there are aspirations to create an off-road cycle route between Holt and Bradford-on-Avon and I therefore believe it to be reasonable that the developer should pay a contribution towards this facility. In addition, signage towards the nearby cycle routes would be of significant benefit to the new and existing residents of Holt and as such I recommend the following being include as part of any consent granted;
  - The developer must pay a £100,000 contribution towards the development of an off-road cycle route between Holt and Bradford-on-Avon.
  - The developer must pay a £3,000 contribution towards new and improved cycle signage in the vicinity of Holt, directing cyclists to and on the nearby cycle routes.
  - The detailed travel plan must be submitted to and approved in writing by the local planning authority.
- **Wiltshire Council Ecologist** – No objections to the development subject to conditions (see full comments on file for list of recommended conditions).
- **Wiltshire Council Public Protection Officer** – No objections to the development subject to condition to include the submission of a construction phase noise management plan, a dust

management plan, a construction hours condition and that no construction waste etc. is burnt at the site.

- **Wiltshire Council Environmental Services** – In order to make the development acceptable in planning terms the following provision levels are necessary:
  - Equipped Play Space
  - Casual Play Space
  - A contribution of £6,248 will be sought towards the expansion of Holt Cemetery
  - Commuted sum of £36,168 to go towards:
    - The provision of new pool changing facilities at Bradford on Avon Swimming Pool or
    - The upgrading of Indoor Sports Facilities in the vicinity of the development such as Holt Sports Pavilion.

A formal objection is currently in place until the above provision levels have been satisfactorily met and agreed by means of a s106 agreement.

- **Wiltshire Council Archaeologist** – There is not enough evidence to support the conclusions in the Desk-Based Assessment and I consider further evaluation is necessary before determination of the application.
- **Environment Agency** – No objections to the development subject to conditions and informatives (see full comments on file for list of recommended conditions).
- **Rights of Way Team** – The developer has acknowledged that footpath HOLT56 runs through this site on the Draft Development Framework. It appears that they are proposing to accommodate the existing line rather than divert it. As the line runs very close to the edge of the housing and straight past a pond, the developer must contact us to check where the legal line runs in order to avoid obstructing the footpath (a public highway). It should be noted that the legal line of a footpath is sometimes different from what can be seen on the ground. Unless we can be sure that the proposal will not obstruct the highway we will have to object at the next stage of the planning process.
- **Drainage** – Further investigation is required to adequately assess the surface water drainage of the site and the flood risk potential.
- **Broughton Gifford Parish Council** – Objects to the application. Broughton Gifford Parish Council considered this application, being close to its boundary and with the potential impact on its parish and residents. The Parish Council strongly objects on the grounds that there is insufficient infrastructure (including lack of local school places and other facilities) to support the proposed additional population and also the unacceptable impact any additional traffic would have on the immediate area.
- **Holt Parish Council** – Objects to the application. In summary, Holt Parish Council believe that this proposed development constitutes an unbalanced level of growth and oversupply of both commercial and affordable housing for a settlement of this size. The HNP adequately addresses the housing and commercial growth need of the village negating the need to bring forward ribbon development in an unplanned manner.
- **Wessex Water** – New connections for water supply can be provided to serve new development proposals. Minor off site reinforcement may be needed to ensure that sufficient capacity is available to maintain satisfactory service levels of water supply. Water mains can be requisitioned from Wessex Water. Dwellings greater than 2 storeys should provide private boosting. Separate systems of drainage will be required to serve development proposals. Wessex water will adopt sewers under a formal agreement subject to satisfactory engineering proposals.
- **Wiltshire Fire and Rescue Service** – Standards advice and guidance in relation to fire prevention

in the new properties etc.

- **Wiltshire Council Senior Premises Officer (Education)** – No objection subject to education contributions.
  - It's based upon the maximum 98 units proposed, as no mix has been supplied, 30% affordable housing level has been assumed.
  - This works out as 29 units, which our standard 30% affordable housing discount reduces by 9.
  - So there are 91 qualifying properties.
  - They generate a need for 28 primary and 20 secondary places.
  - The designated area schools are Holt CE primary and at secondary level, the John of Gaunt School in Trowbridge.
  - Primary – Holt CE has a capacity in permanent accommodation of 120 places. As at the October 2014 headcount there were 161 pupils on roll, so the school is already full. Current forecasts suggest that numbers will drop a little – Apr 15 = 147, Apr 16 = 154, Apr 17 = 154 and Apr 18 = 147. However, at all times the school is expected to exceed its capacity.
  - A 2 class extension project for the school is getting underway.
  - In view of this, we require a full developer contribution towards the 28 additional primary places that the development generates a need for.
  - The current capital cost multiplier is £16,768 per primary place.
  - Secondary – John of Gaunt has an 11 – 16 PAN capacity in permanent accommodation of 1024 places. As at the October 2014 headcount there were 1100 pupils in years 7 -11 on roll. Current forecasts indicate that the school's numbers will rise fairly steadily, peaking in 2023 at 1407. At all times during the forecasting period the 11 -16s on roll will exceed the 11 -16 PAN permanent capacity quoted.
  - As a result, we require a full developer contribution towards the 20 secondary places that the development generates a need for.
  - The current capital cost multiplier is £19,084 per secondary place.
  - Our recently updated and Cabinet approved S106 Methodology now also covers the expansion of Early Years provision where this is needed. I am therefore copying this e mail to my EY colleague Angela Brennan, who would make an assessment, and the developer may wish to contact her direct.
  - As the application is for outline permission only, standard caveats apply i.e. our assessment is specific to the site location, housing number and mix supplied, and any changes to any of these would necessitate a new assessment. Assessments use the pupil data, forecasts, capacities and details of other known housing in a designated area as at the time they are made, so were an application to be revised/replaced, this could affect the outcome of our assessment at the later time. Contributions are to be secured by an S106 to which standard payment terms will apply. In this case, payment would be required in a lump sum on or prior to commencement of development. Capital cost multipliers are updated annually, and so those quoted are valid for agreements signed and completed in 2014/15 as per our Standard S106 Methodology.
- **Affordable Housing** – Assuming the site is permitted and not brought forward as an exceptions site the requirements of CP43 would need to be met. Under the Wiltshire Core Strategy policy CP43, an affordable housing provision of 40% (net) would, therefore, be sought based on current demonstrable need. Tenure split required would be 70% Affordable Rent and 30% Shared Ownership homes - all to be provided on site. The affordable housing would need to be provided at nil subsidy, built to at least the minimum sizes and design quality standards of the Homes & Community Agency/to meet Housing Quality Indicators and Sustainable Code Level 4. The completed units would be transferred to a Registered Provider, approved by the Council, at nil

subsidy and secured via a SI06 Agreement.

- **Public Arts Officer** - In the event of planning permission being awarded an indicative figure for a public art contribution of a site of this size would be £300 per dwelling. For 98 dwellings this would be £29,400 commuted to the Council's arts service to manage the art and design process and programme.
- **Letters of Objection** – Around 80 odd objections to the development have been received. A summary of the concerns with the development are as follows:
  - Contrary to policy
  - Flooding and sewerage problems
  - Already traffic problems in the village
  - Holt has seen several developments over the years already, do we need more?
  - Pressure on local amenities
  - Loss of greenfield site
  - Noise and air pollution from traffic
  - School is already at capacity
  - It would elongate the village
  - Holt has a NP in progress which has brownfield allocations
  - Ribbon development outside of policy limits
  - Old Tannery site should be development, not this
  - Neighbourhood plan should be taken into account
  - Village cannot sustain such a population increase
  - Density of development is too great compared to the village
  - Overload the existing utility structure in the villages
  - Affordable housing provision can be met through the Tannery site development
  - Loss of school amenity space if forced to expand with classroom construction
  - Public transport is severely lacking
  - Community adhesion would be jeopardised.
  - Harmful to ecology
  - The development does not safeguard the countryside
  - Loss of village character
  - Just because it is a SHLAA site doesn't mean it should be developed upon
  - "Anywhere Ville" development with no character
  - Problems with proposed access
  - A new roundabout would be required at the entrance with Melksham Road
  - Neighbourhood plan is more advanced than Gladman's claim
  - Applicants have ignored existing housing proposals in the village that aim to meet identified needs
  - Overdevelopment of the site
  - Poorly thought-out scheme
  - Unsustainable development
  - Commercial gain of Gladman's only
  - Holt should remain a village – this development will urbanise the village
  - Brownfield sites should be developed over greenfield ones i.e. Midlands, The Tannery
  - The village has expanded in the past but the bus service has in fact declined
  - Conflicts with CP 1, 2 and 7
  - Nearly 1km from village centre – ribbon development – poorly connected to centre
  - Lack of pavements
  - Access to centre of village and school likely to be by car due to unsafe walking routes
  - Overlooking from proposed development
  - Construction noise over a 4 year period

- Neighbourhood plan has been ignored

## **ASSESSMENT:**

### **Site Description**

The application concerns a single agricultural field currently used for equestrian purposes (show jumping). The field is approximately 3.7 ha in size and is located to the east of the village of Holt. The site is generally flat with the lowest point being 49 AOD in the south west corner rising to 54 AOD on the eastern boundary. There is a Public Right of Way that crosses the south western corner of the site. The site is bound to the north by the B3107 (Melksham Road), to the east by existing equestrian fields, to the south by agricultural fields/pasture land and to the west by the built up area of Holt.

The site is surrounded by some field hedging however in places it is not complete and therefore, clear views are offered into the site from a number of vantage points. In terms of planning constraints, there are no landscape or heritage designations that cover the site. There are no TPOs on the site and the field is entirely located within the Flood Zone 1. The site is located outside of the defined Limits of Development for the village of Holt and therefore, in planning policy terms is considered to be in the open countryside.

### **Proposal**

The application is for outline planning permission for a residential development of up to 98 dwellings with associated landscaping and open space.

The areas left for future determination under a reserved matters application include the appearance of buildings, layout of the proposed development, scale of buildings proposed and landscaping details. Access is not a reserved matter.

An indicative layout plan has been provided with the application which shows the access coming off Great Parks and then branching into a number of smaller cul-de-sacs. It shows that roughly 2.8 ha of the site would be developed. The southern part of the site comprising approximately 0.9 ha is indicated to contain the attenuation pond, the equipped and casual play space. The existing PRoW that runs across the south western corner of the site is to be retained.

The application is supported by several technical documents which include a Transport Assessment and Travel Plan, a Landscape and Visual Impact Assessment, Arboricultural Assessment, Ecological Appraisal, Socio-Economic Sustainability Assessment, Agricultural Land Use Assessment, Flood Risk Assessment and Foul Drainage Analysis, Design and Access Statement and Framework Plan, Statement of Community Involvement, Planning Statement and Draft s106 Heads of Terms, Sustainability Assessment, Air Quality Screening Report, Noise Screening Report, Ground Conditions Desk Study, Archaeological Assessment, Sustainable Energy Statement and a Utilities and Infrastructure Assessment.

### **Principle of the Development**

The starting point for the determination of this application under section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the decision be made in accordance with the development plan, unless material considerations indicate otherwise. The primacy of the development plan is enshrined in the NPPF and reaffirmed at paragraphs 11,12, 17, 150 and 196 where emphasis is placed upon the importance of a plan led system. The development plan for Wiltshire is the adopted Wiltshire Core Strategy 2015 (WCS). This is a newly adopted document, approved by full Council on the 20<sup>th</sup> January and has been thoroughly scrutinised through the examination process and found to be legally compliant, sound and in conformity with the NPPF. It contains relevant up to date policies, a spatial strategy and spatial vision, all of which are designed to achieve sustainable development objectives within Wiltshire.

Core Policy 1 of the WCS identifies the most sustainable locations for growth within Wiltshire on the basis of a settlement hierarchy, with the focus on the principal settlements and market towns. Under Core Policy 7 Holt is defined as a large village. Development is limited to meet that of local needs in large and small villages. Core Policy 2, the delivery strategy, in line with Core Policy 1, seeks to deliver development in Wiltshire between 2006 and 2026 in the most sustainable manner by making provision for at least 42,000 homes, distributed across the three housing market areas. The aim of this policy is to ensure development occurs in the most sustainable locations in conformity with the distribution set out within Core Policy 2. Within the development limits of Principal Settlements, Market Towns and Large Villages there is presumption in favour of sustainable development. As far as large villages are concerned development will predominately take the form of small housing sites within settlement boundaries. For the purposes of this application the WCS defines small housing sites on page 23 as sites involving less than 10 dwellings (i.e. not a major application and certainly not a housing site of 98 dwellings).

Core Policy 2 confirms that the underlying principles of the Delivery Strategy are to ensure that communities have a better balance of jobs, services, facilities and homes. The WCS at paragraph 4.15 states that exceptions to this approach would only be considered through a subsequent DPD, the neighbourhood plan process or specific exception policies in the plan (e.g. Core Policy 48). The WCS identifies sufficient land of the right type and in the right place for housing in larger, more sustainable settlements than Holt.

It clearly follows on from this that development of the nature and scale proposed in this application on greenfield sites beyond the settlement limits of Holt is not permitted by the WCS. Furthermore, the village of Holt itself has no strategic allocations in the WCS nor is this site being brought forward at this stage as part of a DPD or neighbourhood plan. The scale of development proposed at the site runs counter to the spatial strategy and vision of the plan and is manifestly in conflict with Core Policies 1, 2 and 7 of the WCS. Furthermore, the site does not meet any of the exceptions policies contained in the development plan, namely Core Policy 48 – Supporting Rural Life and Core Policy 44 – Rural Exceptions Sites (affordable housing).

In terms of housing land supply, the Council contends that it has established a 5 year supply and no shortfall has been demonstrated. Accordingly, paragraph 14 of the NPPF is not engaged on the basis that the relevant policies pertaining to the supply of housing are not out of date under paragraph 49. The matters relevant to 5 year housing land supply were thoroughly tested by the Core Strategy Inspector where clear conclusions were reached. None of these conclusions have to date been found to be erroneous or misplaced. The Planning Practice Guidance (paragraph 033 Reference ID: 3-033020140306) confirms that *“up to date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining individual applications and appeals”*, the Council considers therefore that the WCS Inspector’s conclusions should be afforded full weight in the determination of the application.

In terms of the housing requirement for Bradford upon Avon Community Area this is set out most recently in the Housing Supply Paper dated February 2015 to accompany the site allocations DPD. This states that the requirement up to 2026 for the Bradford upon Avon Community Area (excluding the town itself) is 76 houses which should easily be met by windfall development and planned Neighbourhood Plan allocations at Holt. However, it is also worth noting that the Core Strategy retains West Wiltshire District Local Plan Policy CF41 (Holt Area of Opportunity). Core Policy 7 and its supporting text state (at paragraph 5.36):

*“An ‘area of opportunity’ in Holt (designated in the West Wiltshire District Plan) will be retained as it continues to offer a suitable location for mixed use development in accordance with Core Policy 1. Development of this site should be delivered through a comprehensive master planning process, and should be focused on providing live/work or local employment opportunities to help reduce the need for*

*commuting.”*

The council and the parish council have been in regular exchange with the consortium leading the Tannery regeneration proposals. Indeed references in the Inspector's report on the examination of the Core Strategy suggest that the site has potential to be delivered in the plan period up to 2026 (paragraph 200/201); however, this may involve a review of the settlement boundary. Consequently there appears to be limited need, if any, for additional housing sites at Holt. If there were additional sites to be considered, they should be tested through the emerging Wiltshire Housing Site Allocations DPD and/or the Holt Neighbourhood Plan in the spirit of NPPF paragraph 12; and Core Policy 2 of the WCS.

In terms of settlement boundaries it is appreciated that the Inspector concluded that these need to be reviewed. The Inspector's 10<sup>th</sup> procedural letter states, in referring to the settlement boundaries as defined in the adopted Local Plan, that *'...some of these were adopted some years ago, for example the Kennet Local plan (2004), and it cannot be argued with great strength that the settlement boundaries contained therein are up-to-date for the purposes of the Core Strategy plan period.'* The applicant has claimed as a result of this that the settlement boundaries are out of date and therefore, no weight can be attached to them. This is not how the Council would view the situation. In order to secure Wiltshire's Housing requirements it is appreciated that some, or all of the current Limits of Development will need to be reviewed in settlements where housing allocations are stipulated.

The Council is undertaking a review of boundaries through a subsequent Site Allocations DPD, which is anticipated to be adopted in 2016, to address this matter. The Core Strategy Inspector concluded that the Site Allocations DPD is the appropriate vehicle to review settlement boundaries as the proper planned led approach. There is no evidence to suggest that the housing targets for Wiltshire will not be met with the current settlement boundaries in place. As such, the Council does not consider the settlement boundaries to be out of date for the purposes of delivering Wiltshire's housing needs. In the meantime, the Wiltshire Core Strategy and all saved local plan policies carry the full legal status of the development plan for the area. This approach is backed up by an inspector's decision at Mendip District Council (APP/Q3305/A/14/2224843 - Land at Green Pits Lane, Nunney, Somerset).

It is also worth noting however, that informal consultation has occurred with Parish Councils, which has indicated at this stage that the settlement boundary for Holt will not be re-drawn to include this parcel of land. Further to this, the Core Strategy makes it clear at paragraph 4.15 that the *"relaxation of settlement boundaries will only be supported where it has been formally reviewed through a subsequent DPD or a community-led neighbourhood plan..."*

In summary, the site is located in open countryside outside the limits of development defined for Holt in the Wiltshire Core Strategy. The proposal would therefore conflict with Core Policies 1, 2, 7 and 48 of the Wiltshire Core Strategy (Adopted January 2015) which seeks to properly plan for sustainable development of housing sites in Wiltshire to deliver the identified needs in the Community Areas through a Site Allocation DPD and/or Neighbourhood plan. This strategy is supported by the Wiltshire Core Strategy Inspector and the Secretary of State in several appeal decisions and the site has not been brought forward through either of these processes. Furthermore, on the basis of the information presented within the application, there would appear to be no material considerations which would warrant a departure from the development plan. It should therefore be refused.

### **Sustainability**

The NPPF states that there should be a *"presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking."* It goes on to state at Paragraph 8 that in order *"...to achieve sustainable development, economic, social and environmental gains*

*should be sought jointly and simultaneously through the planning system.*” As such, weight should be attached to all three legs of sustainability in the overall balance on concluding whether the site is sustainable or not taking account of the primacy of the development plan (the WCS) which represents the most up to date assessment of what constitutes sustainable development in Wiltshire.

### Social

Paragraph 7 of the NPPF states that planning has a social role to perform; to *“support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of the present and future generations; and by creating a high quality built environment, with accessible local services that reflects the community’s needs and supports its health, social and cultural well-being...”*

The WCS has taken account of the needs of the Bradford upon Avon Community Area (which includes the village of Holt) in terms of housing supply. It is considered that the mechanism under Core Policy 2 for housing delivery in Holt would meet the needs of present and future generations of the settlement by allowing small scale development to occur appropriate to the size of the settlement. Furthermore, Core Policy 2 of the WCS is not a rigid policy but more aspirational. It does allow, if necessary or sought for, further growth to occur at Holt through the neighbourhood planning process or as part of a site allocations DPD. Holt is currently in the process of producing a neighbourhood plan which includes housing allocations to meet identified need which better accords with the above quote from the NPPF. The applicants have failed to take account of these proposed allocations in the emerging Holt Neighbourhood Plan. Furthermore, the effectiveness of housing delivery to meet the needs of Holt has been confirmed by the Core Strategy Inspector in his report where he concludes at paragraph 202 that *“With due regard to the consideration of alternatives and the modifications recommended, the CS does take a justified approach towards the Bradford on Avon Community Area and will be effective in terms of delivery.”*

In addition to this, Holt only has a limited number of services which are sufficient to meet the needs of the current village. Additional growth can occur at Holt on a small scale (10 dwellings or less) as this has been considered the appropriate level of growth to occur in line with the level of services Holt has to offer. To permit 98 houses as an extension to the village would not produce a development that is commensurate to the services the village has to offer. In terms of services the village has a primary school, 2 pubs and a shop/post office, village hall, recreation ground and a cafe. To access a range of higher order services which the village does not have to offer (e.g. supermarket, secondary school, doctor’s surgery, dentist, and bank) would require out-commuting most likely by the private car. Therefore not resulting in a high quality development that has locally accessible services. This would not accord with Core Policy 61 (Transport and New Development) of the WCS which states that *“new development should be located and designed to reduce the need to travel, particularly by private car and to encourage the use of sustainable travel alternatives.”* In order to encourage a modal shift away from the private car the Council has devised its settlement strategy accordingly to ensure, anything above limited housing growth, (limited housing growth being 10 dwellings or less) occurs only at centres where there are more realistic opportunities for this to happen (e.g. Trowbridge or Melksham). Allowing 98 houses at Holt would undermine the settlement strategy set out in Core Policies 1 and 2 and would manifestly conflict with the aims of the Core Policy 61.

With regards to out-commuting, the application site is not located within reasonable walking or cycling distances of wider facilities, including employment, secondary education, leisure and retail centres. The Chartered Institution of Highways and Transportation's (IHT's) states 2km is the maximum commutable distance for walking in to access services and jobs. Primary employment and service areas are beyond this distance. Furthermore, outside of the village the pavements do not continue. Cycling is considered desirable for journeys of around 5km. Although this would include the employment areas of Melksham and Trowbridge the trips would have to be undertaken on main roads rather than designated cycle routes. The

surrounding road network outside of the village is mostly unlit, narrow and windy, with national speed limits being applicable. Such routes are not considered to be attractive enough to encourage a modal shift away from the private car. Therefore, although within reasonable cycling distance it would not be considered a likely alternative. Furthermore, a large number of locals have highlighted the issues surrounding the impracticalities of cycling and walking within the locale stressing how much reliance the villagers have on the use of the private car.

Bus services are also very limited for the purposes of getting to and from work and do not offer a practical alternative to car travel. It is noted the No. 69 Bus would be the most viable service for getting to the larger settlements of Melksham and Trowbridge for employment/services purposes. However, this service is still limited and will therefore not provide an attractive option. For example, by taking a normal working day to be 08:30-17:00 or 09:00-17:30, it would just be feasible to make it to and from your place of work using this bus service, but it would not provide much allowance for running late for whatever reason or for picking up some shopping for example, on the way home. The last bus from Melksham to Holt departs at 18:05 and from Trowbridge 17:35. Furthermore, these services depart from the respective town centres which are not necessarily where the large employers are based (e.g. Bowerhill Industrial Estate in Melksham and the Canal Road Trading Estate in Trowbridge). It is concluded that the limited bus service on offer is hardly likely to encourage a modal shift away from the private car. The argument put forward by the applicant to state that a greater population in the village would help support services such as the buses is a speculative argument at best. The Council would add to this that several housing developments have occurred in Holt in more recent times which has made no difference on the service provided, in fact, the bus service has steadily been in decline.

Furthermore, an addition of 98 houses could well put a strain on the existing limited services within the village e.g. the Primary School which is already overcapacity and is forecast to be so for the foreseeable future. This would not be conducive to supporting the community's health and well-being. Under appeal APP/Y3940/A/13/2192250 (Marsh Road, Hilperton), the Inspector states at paragraph 24 that *"significant urban growth outside the VPL (village policy limits) would be likely to stretch the limited village services and facilities of Hilperton."* The appealed development in Hilperton was for far fewer dwellings to that which is proposed under this application. Taking the same line of argument, the problems are only going to be exacerbated in a village where a greater number of housing is proposed. Furthermore, a recent appeal decision at Park Road in Malmesbury reference APP/Y3940/A/13/2200503 – pursuant to a 77 house scheme) also highlights at paragraph 21 the need to consider the impact upon existing infrastructure when assessing the sustainability of a proposed development site.

The same appeal also stated in paragraph 21 that a *"sustainable" form of development is not simply to do with matters of transportation, but includes an assessment of its impact upon existing infrastructure, and the extent to which it accords with the spatial vision for the area.*" This decision stresses the importance for development to accord with the spatial vision of an area (in this case, the WCS) which again affirms the primacy of the development plan. It further stresses the importance of the impact on existing infrastructure. Holt is a village that is not capable of sustainably accommodating 98 new dwellings which is why the spatial vision for this part of Wiltshire has precluded it from development of this scale. This point has also been highlighted by a large number of residents who have stated that the existing infrastructure in Holt is not capable of absorbing an influx of population on this scale; most notably, the village primary school.

The report by Rural Solutions Limited has sought to emphasise the economic and social benefits of the scheme in the context of sustainable development. However, on review of this document it has taken no account of the WCS or its policies or strategy designed to promote sustainable development. Although written some time ago in August 2014 (which pre-dates the WCS adoption) the WCS was still an emerging document and therefore, should have been referenced. However, the benefits relied upon in this document

are largely unquantifiable and the document is highly selective in its approach to the NPPF. The document fails to take account of the NPPF's requirement for a plan led approach. Furthermore, it states that Holt is in fact a thriving, successful community which has viable services and facilities, the vitality of which is not at risk or under threat of decline. The demonstration of potential or emerging threats at some unknown time in the future, based upon an ageing population and imbalance in the housing market does not present clear and actual analysis of the vitality and viability of Holt, its services or facilities. It is the Council's view that this document should be attached little weight in the context of a material consideration in the socio-economic context of this application and in light of the primacy of the development plan.

The WCS represents the most up to date assessment of sustainability within the context of Wiltshire and how this can be achieved. The WCS has taken account of the NPPF as a whole in the formation of its sustainability objectives and this has been endorsed by the Core Strategy Inspector. The WCS clearly identifies Holt as a village not capable of sustaining such a level of growth as it would represent unsustainable development within the context of Wiltshire. The benefits relied upon in this report do not outweigh the significant conflict this development would have with the development plan.

#### Economic

In paragraph 7 the NPPF states that planning also has an economic role to perform in achieving sustainable development, stating that the planning system should help in *"building a strong, responsive and competitive economy, by ensuring sufficient land of the right type is available in the right places at the right time to support growth and innovation..."*

The applicant has relied upon temporary construction jobs as an economic gain of the proposal which has been outlined in the Socio-Economic Report and being temporary, means there will be no long term economic gains for the community. This report goes on to suggest that upon occupation of the development the scheme should support £2,288,515 level of spending annually. The Council would content however, that a 98-house extension to the village would not have a significant economic impact on local services. The economic benefits relied upon by the applicant are unquantified. In other words, there is no quantifiable way of knowing how much of the average household spend would be done so in the village of Holt. Therefore, significant material weight cannot be attached to this figure in the planning balance.

Furthermore, the applicant has relied upon s106 contributions as an economic benefit of the scheme. However, these contributions are required to mitigate the impacts of the development and therefore, cannot be considered economic benefits of a scheme. Additionally Council Tax revenue has been quoted which is not a material planning consideration and in any event the additional revenue is required to absolve the cost of new housing and residents in Wiltshire. The New Homes Bonus is a material planning consideration however, although a factor in favour of granting permission it only carries limited weight in the planning balance.

In summary, when weighing up the economic advantages of this scheme they are largely unquantifiable, or necessary to make the development acceptable in planning terms or in relation to construction, a short term benefit. In terms of a material consideration in the planning balance it is not considered that the economic advantages of the scheme outweigh the significant conflict with development plan policy and the NPPF.

#### Environmental

Paragraph 7 of the NPPF also states that planning has an environmental role to perform in achieving sustainable development, stating that the planning system should help in *"contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy."* It is clear from the above statement that the planning system

has a duty to move towards a low carbon economy and address issues of climate change. A development of 98 houses in this location would, as outlined earlier, lead to a high level of out-commuting and dependency on private vehicles, and consequently cannot be considered to be an environmentally sustainable form of development.

### **Landscape and Visual Impact**

It is accepted that the development site itself can be built with the environment in mind (e.g. code for sustainable homes, SUDS, attenuation ponds, renewable energies etc). However, bringing this site forward for development would not be consistent with the policies (Core Policy 51) in the development plan or the NPPF that seek to protect and enhance our natural built and historic environment.

Policy CP51 seeks to conserve and where possible enhance the locally distinctive character of settlements and their landscape settings. The Wiltshire Landscape Character Assessment 2005 (WLCA) is one of the key documents used to implement this policy. It places Holt in the following landscape type - 12b Open Clay Vale. This document states that there are still some highly rural, tranquil areas within the Open Clay Vales. The Council considers this area to part of that. The assessment includes a number of perceived threats that the area is likely to succumb to unless sensitive management of development takes place. The key threats relevant to this area of Wiltshire are the following:

- Pressure for further expansion of settlement and new development threatening the character of the small villages and scattered farmsteads.
- Increasing road use which will further diminish the rural tranquillity of the vale landscape.
- Pressure to upgrade roads through additional kerbing and signage to accommodate an increase in traffic volume.

The WLCA states the following as the strategy for Open Clay Vales.

*“The strategy for the Open Clay Vales Landscape Type is to **conserve** the elements that contribute to the rural, tranquil landscape; the rivers, streams and open water, the meadows and riverside tree lines, the brick and stone villages and farmsteads and to **improve** elements in decline such as the hedgerows and hedgerow trees, and the visual influence of the large settlement edges and major transport corridors.”*

The Council is able to demonstrate a 5 year supply of housing and as such, it is not considered appropriate to unnecessarily release greenfield sites for development that does not form part of a DPD or community-led neighbourhood plan. If this were to be the case then there would be a clear breach of policy CP 51 as this development will not conserve the important elements of the Open Clay Vale Landscape Type. The development will also provide no enhancement to the character or visual qualities of the area and is an incongruous intrusion into the locally valued countryside. The negative impacts of the proposed scheme cannot be adequately mitigated because of the fundamental detrimental impacts on the character of the site. Furthermore, the amount and scale of development represents a disproportionate and inappropriate addition to the settlement of Holt village. It is also noted that Core Policy 7 highlights as a key issue for the Bradford on Avon Community Area that all development will need to be planned so that it conserves and enhances the high quality built and natural environment of the Community Area. As such the proposal is manifestly in conflict with Core Policies 7 and 51 of the WCS as the development neither conserves nor enhances the landscape character of the area.

It is appreciated that the site does not form part of any formal landscape designations. However, it is important to note that paragraph 109 of the NPPF does not seek to protect only designated landscapes but also valued landscapes. Just because a sight is not designated it does not mean that it is not valued or that

it shouldn't be protected. This is a conclusion drawn by the inspector in the Irchester Decision (Appeal ref: APP/H2835/A/14/2215925 – a scheme pursuant to 149 dwellings). This proposal site clearly forms part of a valued landscape to the community of Holt. The value of this landscape placed upon it by the local community should therefore be weighed in the planning balance against other material considerations. Furthermore, paragraph 17 of the NPPF makes it clear that planning should recognise the intrinsic character and beauty of the countryside.

The proposal would have an adverse impact on the character and appearance of the area by significantly expanding the built-up area of the settlement into the surrounding rural landscape. This would be highly visible, particularly from viewpoints to the north and south, and would conflict with a core principle of the NPPF to take account of the intrinsic character and beauty of the countryside and with policy CP51 of the Wiltshire Core Strategy.

### **Impact on the Highway**

The application is accompanied by a Transport Assessment which addresses the impact of the proposal on the adjoining highway network. This shows that there will not be an unacceptable impact in highways safety terms. The Council's Highways Department agree with these conclusions. The proposed site access complies with current standards. In view of the above there is no highway safety objection to this application. Although, general sustainability principles are brought into question as the development will most likely be a car dependent one which would be counter to Core Policy 60 and 61. These policies seek to ensure new development is located in accessible locations and designed to reduce the need to travel by the private car. Development of this scale has specifically been precluded from villages such as Holt as there is not a realistic chance of the aims of these policies being achieved unlike the larger settlements of say Melksham and Trowbridge.

### **Impact on Neighbour Amenity**

The application is for outline planning permission and therefore, layouts are only indicative at this stage. However, in principle, it is considered that the site is large enough to accommodate 98 houses in a layout that would not give rise to amenity issues between the new dwellings. Furthermore, the site is capable of accommodating 98 houses without the new houses affecting the amenity of existing housing on the western edge of the site. However, this would be an issue to address at the reserved matters stage.

### **Impact on Archaeology**

A desk based study was submitted with the application that concluded that there was a low potential for archaeological remains to be present at the site but that if there were, it would be of only local interest at best. However, there is not enough evidence to support the conclusions in the Desk-Based Assessment and it is therefore considered that further evaluation is necessary before determination of the application. In the absence of such information the Council will be maintaining an objection on the grounds of insufficient information on archaeological grounds.

### **Heritage Assessment**

Above the various tiers of planning policy and guidance is the over-arching statutory requirement under the Planning (Listed Buildings and Conservation Areas) Act 1990 to give **special regard** to the desirability of preserving the listed buildings or their setting (S16) and to the desirability of preserving the character and appearance of the conservation area (S72).

In this case the site is located just less than 450m away from the Holt Conservation Area. Given the intervening modern housing and infrastructure that exists between the development site and the Conservation Area there will be no intervisibility between it and the development site. As such, it is not considered that there will be an impact to the setting of the Holt Conservation Area or its significance as a

designated heritage asset.

The nearest listed building to the site is Oxen Leaze Farm which is a Grade II building. However, this dwelling is located 250m away from the development site itself with intervening hedging and topography. Furthermore, its principal elevations have a north-south orientation and therefore, direct views towards the site from the dwelling would not be afforded. On this basis it is considered that the proposal will not have a significant impact upon the setting of the listed building or its special interest. In addition to this, modern equestrian buildings do lie within the immediate setting of the dwelling. No other listed buildings are considered to be affected by the proposal given the significant separation distance and the intervening modern built form between them and the proposal site.

Whilst the applicants have failed to carry out any detailed heritage assessment of these nearby assets in accordance with paragraph 128 of the NPPF the Council is minded not to cite this as a reason for refusal based upon its own conclusions on the impact.

### **Impact on Ecology**

An appropriate ecological appraisal has been carried out by the applicants. The conclusions of this have not been challenged by the Council's Ecologist and therefore, no objections have been raised. A number of conditions have been requested by the Council's Ecologist should the application be approved. In the event of an approval, these conditions would be imposed.

### **Agricultural Land Quality**

The NPPF states in paragraph 112 that Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. The site is all Grade 3 agricultural land and as such not the best and most versatile grades 1 and 2, although some could be 3a. Overall, its loss to housing would not be grounds for refusing the application.

### **Impact to the Environment**

A Ground Conditions Desk Study was submitted with the application and the Council's Public Protection Team has no reason to disagree with its conclusions. They have no objections to the development subject to conditions which have been set out earlier in the report. In the event the application is approved these conditions will be imposed.

In addition to this the Environment Agency is requesting a number of conditions which have also been outlined earlier in the report. In the event the application is approved these conditions can also be imposed.

With these conditions in place the concerns of Wiltshire Council Public Protection and the Environment Agency will have been adequately addressed and any objections lifted.

### **Drainage/SUDS**

The proposed drainage plans have been assessed by the Council's Drainage Engineer. It is considered that insufficient assessment has been undertaken to prove that the proposed drainage plans would be effective in terms of flood prevention at the existing site and the wider catchment area. It is also unclear whether the proposal to connect to the Wessex Water Drainage system to discharge foul water is technically feasible. However, it is noted from the comments provided by Wessex Water that they have stated that subject to necessary upgrades/engineering proposals it would be achievable. At present the Council has insufficient information to assess the drainage implications of the development, namely, the storm water drainage. As such, an objection on the grounds of lack of information is recommended.

### **Section 106 Obligations**

Until the Council has adopted CIL (expected mid-May 2015) all contributions are still to be sought via a s106 agreement. The legal tests for when you can use a s106 agreement are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. The tests are:

1. necessary to make the development acceptable in planning terms
2. directly related to the development; and
3. Fairly and reasonably related in scale and kind to the development.

Recreation Provision

Policy LP4 of the West Wiltshire Leisure and Recreation DPD (February 2009) sets out the requirements for the provision of casual and equipped play space within new housing developments. The proposed quantum of both Open Space and Play space are sufficient to meet the terms of this policy. The Land will need to be secured and maintained in perpetuity; Wiltshire Council will not adopt the Open Space and Play Area.

Furthermore, the Sport England Facilities Calculator estimates the amount of demand a given population creates for swimming pools, sports halls, indoor bowls and artificial turf pitches taking into account known local (in this case West Wiltshire) levels of physical activity and converts this demand on indoor leisure facilities into a financial contribution. For this development, working on 2.3 people per dwelling the Calculator recommends the following contribution based on 98 dwellings:

A contribution of £36,168 will be required to go towards:

- The provision of new pool changing facilities at Bradford on Avon Swimming Pool or
- The upgrading of Indoor Sports Facilities in the vicinity of the development such as Holt Sports Pavilion.

A formal objection is currently in place, until the above provision levels have been satisfactorily met and agreed by means of a s106 agreement.

Holt Cemetery

A contribution of £6,248 will be sought towards the expansion of Holt Cemetery. This is requested in relation to Core Policy 3 of the WCS.

A formal objection is currently in place, until the above provision levels have been satisfactorily met and agreed by means of a s106 agreement.

Education Provision

The development will create the need for 28 primary school and 20 secondary school places. Core Policy 3 of the WCS requires all new development to provide the necessary off-site infrastructure requirements arising from a proposal. Education is listed as essential infrastructure and as such, contributions will be required for Holt Primary School and John O Gaunt Secondary School at the following rate.

<b>Primary</b>	28 places required at £16,768 per place	£469,504
<b>Secondary</b>	20 places required at £19,084 per place	£381,680
<b>Total</b>		£851,184

As such, the Council places a holding objection on the development until the above provision levels have been satisfactorily met and agreed by means of a s106 agreement.

Affordable Housing

A holding objection is in place until it has been agreed by means of a s106 agreement that 40% of the proposed dwellings will be made available as affordable housing units.

#### Highways Improvements

The Council's Transport Planning Team has requested developer contributions of £100,000 to go towards the development of an off-road cycle route between Holt and Bradford-on-Avon. They have also requested a £3,000 contribution towards new and improved cycle signage in the vicinity of Holt, directing cyclists to and on the nearby cycle routes. However, it is not considered that this meets the 3 tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended.

#### Public Transportation

The Council's Public Transportation Unit has requested s106 monies to go towards the provision of a new bus. This would be in the region of £100k per annum for a period of 5 years. However, it is not considered that this meets the 3 tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended. Rather it is more an aspirational request.

They have also requested the developer pay contributions to the provision of a bus shelter on the northern and southern side of the Melksham Road near to the development site. There are currently bus stops serving the site at around 120m away from the proposed development. Given the proximity of the site to existing bus stops it is not considered to be a reasonable request. As such, it would not meet the 3 tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended.

#### Public Art

The Council's Public Arts Officer has requested a public art contribution of £300 per dwelling. For 98 dwellings this would be £29,400 commuted to the Council's arts service to manage the art and design process and programme. This is requested under Core Policy 3 of the WCS. Planning Practice Guidance states that "*Planning obligations should not be sought – on for instance, public art – which are clearly not necessary to make a development acceptable in planning terms.*" (Paragraph: 005 Reference ID: 23b-005-20140306). This request for money does not meet the 3 tests set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 and therefore, cannot be asked for. However, an appropriate condition can be sought to ensure public art is integrated into the development which would accord with the terms of Core Policy 3 of the WCS.

#### **Planning Balance/Conclusions**

In assessing this planning application the Council is aware that if development accords with an up-to-date Local Plan it should be approved, and that proposed development that conflicts should be refused unless other material considerations indicate otherwise.

The Council is also aware that at the heart of the NPPF there is a presumption in favour of sustainable development requiring local planning authorities to approve development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole;
- or specific policies in the Framework indicate development should be restricted

In the case of this application, the Council has an up to date local plan which demonstrates that Wiltshire has a 5 year housing land supply. As such, full weight can be attached to all the policies contained within it. Therefore, paragraph 14 is not engaged under paragraph 49 of the NPPF. Consequently, this application should be determined in accordance with the Development Plan unless other materials considerations indicate otherwise, under section 38(6) of the Planning and Compulsory Purchase Act 2004.

The Council has considered all other material considerations including any benefits that could be brought to the locality that would outweigh any adverse impact that the proposed development would have. In this case, the applicants have argued that a proposal of 98 houses would bring significant economic benefits to the services of the village and help maintain and enhance the vitality of the Holt community. Further to this the appellants state that significant benefits would be brought about by the delivery of affordable and market housing within the village boosting the supply across the county.

However, whilst it is recognised that all housing development could potentially provide some local economic benefit both during construction and on occupation of the dwellings this benefit is unquantified. It is also considered that the delivery of affordable housing would have a positive impact upon the village. However, the Council has at present a Core Strategy, which is afforded full weight as the statutory development plan covering Wiltshire. The Council contends that as it has a 5 year supply of deliverable housing there is no benefit in bringing this site forward for development as it conflicts with the spatial strategy of the WCS and conflicts with the policies referred to below, giving rise to significant harm. The development is considered to be contrary to Core Policies 1, 2, 3, 7, 51, 57, 60 61 and 67 of the WCS in relation to the spatial strategy, the sustainability objectives and causes significant landscape harm as well outstanding issues that have not been properly assessed, namely, archaeology and drainage.

In conclusion, the adverse impacts of the scheme manifestly outweigh any of the benefits stipulated by the applicant. There are also no other material considerations presented by the applicant that would warrant a departure from the statutory development plan. Accordingly, the application is recommended for refusal on sustainability grounds, landscape grounds and lack of information to properly assess the archaeology and drainage implications of the development.

## **RECOMMENDATION:**

Refuse

### **Sustainability**

The site is located in open countryside outside the limits of development defined for Holt in the Wiltshire Core Strategy. The proposal would therefore conflict with Core Policies 1, 2, 7 and 48 of the Wiltshire Core Strategy (Adopted January 2015) which seeks to properly plan for sustainable development of housing sites in Wiltshire.

The proposal conflicts with the Council's plan-led approach to the delivery of new housing sites outside of the identified Limits of Development, as set out in Core Policy 2 of the Wiltshire Core Strategy which seeks to provide new housing sites to deliver the identified needs in a community area through a Site Allocation DPD and/or Neighbourhood plan. This strategy is supported by the Wiltshire Core Strategy Inspector and the Secretary of State in several appeal decisions and the site has not been brought forward through either of these processes.

### **Landscape**

The proposal would have an adverse impact on the character and appearance of the area by significantly expanding the built-up area of the settlement into the surrounding rural landscape. This would be highly visible, particularly from viewpoints to the north and south, and would conflict with a core principle of the NPPF to take account of the intrinsic character and beauty of the countryside and with policy CP51 of the Wiltshire Core Strategy.

### **Archaeology**

There is not enough evidence to support the conclusions in the Desk-Based Assessment carried out at the site. Further evaluation is necessary which has not been supplied by the date of determination of this application. The Council is therefore unable to properly assess the impact on any potential archaeological remains on the site which would be contrary to paragraph 128 of the NPPF.

### **Drainage**

The proposal by reason of the inadequate conflicting information in regard to facilitating a robust assessment of surface water drainage and flood risk assessment are contrary to policies CP 3 and CP 67 of the Wiltshire Core Strategy (Adopted January 2015) and the National Planning Policy Framework 2012.

### **S106**

The proposal does not provide for the delivery of the necessary infrastructure (e.g. affordable housing, education provision, open space, recreation and cemetery provision) required to mitigate the direct impacts of the development and fails to comply with Core Policy 3 of the Wiltshire Core Strategy, Policy LP4 of the West Wiltshire Leisure and Recreation DPD (February 2009), Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the National Planning Policy Framework.

### **INFORMATIVE**

Reason for refusal 6 relates to the failure of the applicant to secure affordable housing & financial contributions for the site. The Council acknowledges that draft heads of terms were submitted with the application. Had the application been approved the draft heads of terms are considered to be broadly in line with the Council's requirements. Should the applicant wish to appeal the Council's decision they are requested to contact the Council to agree heads of terms and resolve this reason for refusal prior to the submission of appeal statements.

### **INFORMATIVE:**

As the proposal is in clear conflict with the policies of the up to date development plan, for the reasons set out above, the applicant is advised that the Council believes that any appeal against this decision would have no reasonable prospect of succeeding.

Accordingly, the applicant is advised that if an appeal is submitted the Council will be making an application for a full award of its costs incurred in dealing with the appeal, based on substantive grounds. The applicant's attention is drawn to paragraph 053 Ref ID: 16-053-20140306 in Planning Practice Guidance which sets out government guidance on this matter.