

25 August 2023

The Savills logo consists of the word "savills" in a lowercase, sans-serif font, colored red, set against a solid yellow rectangular background.

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Dear Ron,

Land at Lotmead Farm, Swindon
Section 73 Application to Vary Conditions of Outline Planning Permission S/OUT/19/0582
Application ref. S/23/0438
On behalf of Countryside Sovereign Swindon LLP

Introduction and Overview

Further to recent discussions with yourself, I write to you on behalf of Countryside Sovereign Swindon LLP ('the Applicant' / 'CSS') with updated information in relation to our client's live Section 73 application which seeks the variation of planning conditions attached to Outline Planning Permission ref. S/OUT/19/0582 ('the Outline Permission') dated 30th March 2021 relating to development at the Lotmead Site of the New Eastern Villages, Swindon ('the site'). The Section 73 application was validated on 11th May 2023 and given the reference S/23/0438.

The purpose of this letter (which is an updated version of the cover letter submitted at the outset of the application and, therefore, supersedes the previous version) is to address comments and queries you have raised during post-submission correspondence and meetings, as well as providing overall planning justification for the proposals. **This letter has been reviewed from a legal perspective by Charles Banner KC, who has endorsed its contents.**

To date, comments have been received from the following consultees confirming they have no objections to the proposals: Environment Agency, Historic England, Natural England, National Highways, Transport Development Management, Contaminated Land Officer, Network Rail and South Marston Parish Council.

Comments from the Local Lead Flood Authority ('LLFA') were received on 27th July 2023. The applicant's team have reviewed these comments and prepared an itemised response which is provided alongside this cover letter (see *Section 73 Response to LLFA Comments*, Revision 1 dated 16/08/23), however, we do not consider that the LLFA's comments raise any new substantive issues that are not already addressed within our evidence.

Also enclosed is a *Section 73 Response to the Canal Trust Comments* (Revision 1 dated 16/08/23). The response confirms that the applicant and the application are not seeking to amend the safeguarded canal corridor, and therefore, we trust this positively addresses their concerns.

A response to Shrivvenham Parish Council's comments, clarifying the application scope, was provided on 28th June 2023. Again, we trust that this positively addresses their concerns.

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The letter provides a summary of where submitted plans and documents are **NEW**, have been **UPADTED/EXPANDED**, or remain **UNCHANGED** or **SUPERSEDED** from the original submission. The key purposes of this letter are as follows:

- A. To set out the challenges associated to delivery of the Outline Permission; i.e. why change is needed **[EXPANDED]**;
- B. To set out the changes proposed, including proposed rewording of the affected conditions **[EXPANDED]**;
- C. To provide an assessment of the planning justification for the proposals in the context of the Planning and Compulsory Purchase Act (2004) **[NEW]**;
- D. To explain the benefits resulting from the proposed changes **[EXPANDED]**; and
- E. To comment on the subject of precedent **[NEW]**.

Throughout, we also explain the information that is submitted as part of this application and how it relates to other approved and live applications on the site **[EXPANDED]**.

Enclosed within this application are the following documents and plans:

Documents for approval:

- Revised Flood Risk Assessment Addendum (ref. 22006-HYD-P0-XX-RP-C-0006) **[UPDATED]**;
- Strategic Site Wide Surface Water Drainage Strategy (ref. 22006-HYD-P0-XX-DR-C-2220 REV P07) **[UPDATED]**;
- Phasing Plan - Overarching (ref. 0767-1004 Revision D, approved under application ref. S/COND/22/0411 in November 2022) **[UNCHANGED]**;
- Phasing Plan - Strategic Foul and Drainage Infrastructure (ref. 0767-1002 Revision D, approved under application ref. S/COND/22/0411 in November 2022) **[UNCHANGED]**;
- Phasing Plan - Movement (ref. 0767-1001 Revision D, approved under application ref. S/COND/22/0411 in November 2022) **[UNCHANGED]**;
- Phasing Plan - Spine Road and Housing Parcels (ref. 0767-1000 Revision C, approved under application ref. S/COND/22/0411 in November 2022) **[UNCHANGED]**;
- Phasing Plan - Green Infrastructure (ref. 0767-1003 Revision C, approved under application ref. S/COND/22/0411 in November 2022) **[UNCHANGED]**;
- Wanborough Green Character Area Design Code (dated January 2023, also submitted under application ref. S/COND/23/0100) **[UNCHANGED]**;
- Preliminary Drainage Strategy Sheet 1 of 4 (ref. 22006-HYD-P1-XX-DR-C-2200 REV P07) **[UPDATED]**;
- Preliminary Drainage Strategy Sheet 2 of 4 (ref. 22006-HYD-P1-XX-DR-C-2201 REV P07) **[UPDATED]**;
- Preliminary Drainage Strategy Sheet 3 of 4 (ref. 22006-HYD-P1-XX-DR-C-2202 REV P06) **[UPDATED]**; and
- Preliminary Drainage Strategy Sheet 4 of 4 (ref. 22006-HYD-P1-XX-DR-C-2203 REV P05) **[UPDATED]**.

Supporting / illustrative information (not for approval):

- Strategic Site Wide Surface Water Drainage Strategy (with Masterplan Overlay) (ref. 22006-HYD-P0-XX-DR-C-2221 REV P02) **[UNCHANGED]**;
- Strategic Site Wide Surface Water Drainage Strategy (with Green Parameter Plan Overlay) (ref. 22006-HYD-P0-XX-DR-C-2222 REV P03) **[UNCHANGED]**;
- EIA Strategy Note (dated March 2023) **[UNCHANGED]**;
- EIA Statement of Compliance (dated May 2023) **[UNCHANGED]**;

- Density Plan Overlay – Drainage Strategy pursuant to Original FRA Addendum (ref. DPO 02 REV P5) [NEW];
- Density Plan Overlay – Drainage Strategy pursuant to Revised FRA Addendum (ref. DPO 03 REV P7) [NEW];
- Indicative Site Wide Surface Water Drainage Strategy (ref. 22006-HYD-P1-XX-DR-C-2211 REV P011) [NEW];
- Site Wide Constraints Plan (ref. 2600 Rev P02, as referenced on Density Plan Overlay pursuant to Original FRA Addendum) [NEW];
- Site Wide Constraints Plan (ref. 2600 Rev P04, as referenced on Density Plan Overlay pursuant to Revised FRA Addendum) [NEW];
- Section 73 Response to LLFA Comments (Revision 1 dated 16/08/23) [NEW];
- Section 73 Response to the Canal Trust Comments (Revision 1 dated 16/08/23) [NEW];
- Phase 1 Drainage Section (ref. 22006-HYD-P1-XX-DR-C-2710 REV P02) [NEW];
- Notes of 18th January Meeting between SBC, LLFA, CSS and Savills (dated 19/01/23) [NEW].

An EIA Statement of Compliance (May 2023) [UNCHANGED] has been prepared and submitted as part of the application.

A tracked changes version of the Revised Flood Risk Assessment Addendum (ref. 22006-HYD-P0-XX-RP-C-0004) [SUPERSEDED], showing the proposed changes to the Original Flood Risk Assessment Addendum, was submitted as part of the original application. Please let us know you would like an updated version to be provided.

Under separate reference, a deed of variation to enable the existing Section 106 agreement to apply to this variation and any future Section 73 applications was agreed in July 2023.

A. Challenges within the Existing Permission

Background – The Outline Permission

The Outline Permission, obtained by Ainscough Strategic Land Ltd prior to CSS’s acquisition of the site, grants consent for the redevelopment of the site to provide up to 2,500 homes; up to 1,780sqm of community/retail; up to 1,780sqm of community/retail uses; up to 2,500sqm of employment use; sports hub; playing pitches; 2no. 2 form entry primary schools; green infrastructure; indicative primary access road corridors to A420; improvements to Wanborough Road and associated works (ref. S/OUT/19/0582).

This outline application was EIA development and included an Environmental Statement.

Conditions 4 (Approved Plans) and 5 (Illustrative Masterplan) lists a series of parameter plans. Condition 5 requires that all proposals are in “*broad accord*ance” with the approved Illustrative Masterplan. The Illustrative Masterplan includes retention of existing watercourses and a limited number of “*Secondary Drainage Features*” adjacent to but outside of residential parcels. These features then connect to “*Land safeguarded for Tertiary Drainage Features*”, which are effectively large drainage basins located within the non-developable areas of open space.

Conditions 40 to 48 relate to drainage, flood risk and other matters associated with the Environment Agency (‘EA’). More specifically, Conditions 41 (Compliance with Flood Risk Assessment), 42 (River Crossing Details, 43 (River Corridor Survey) and 46 (Strategic Surface Water Management Scheme) all reference an *Addendum to March 2019 Flood Risk Assessment* (ref. 27970/4003/TN001, dated 22 August 2019), as a document that must be accorded with the future drainage design.

This “Original” Addendum was produced late in the determination of the outline application, in response to comments raised by the LLFA and the EA. Section 3 of this “Original” Addendum includes new requirements for future detailed drainage design, which were not proposed in any earlier documentation submitted within the application. In particular, it notes:

- *“Shallow above ground conveyance features will be prioritised throughout the development (where feasible) ... ”*
- *“Plot scale ‘source control’ SuDS features such as raingardens, permeable paving, green roofs or swales, will be prioritised in the first instance ... ”*
- *“SuDS drainage features will be prioritised in the following hierarchy:*
 - *Primary – plot scale ‘source control features such as raingardens, permeable paving etc;*
 - *Secondary – under drained swales providing conveyance and attenuation storage;*
 - *Tertiary – attenuation basins or ponds providing attenuation storage.”*

Although a number of pre-commencement conditions have been discharged and there is currently a live Reserved Matters application for Phase 1 (ref. S/RES/22/1736), development under the Outline Permission is yet to commence.

Acquisition and Technical Review

Following CSS’s acquisition of the site, CSS commissioned a proving layout and strategic drainage strategy, which followed the principles set by the Outline Permission.

This work identified that the requirements of the “Original” Addendum (introduced by Section 3) were not fully considered as part of the outline application. The implications of accommodating the “Original” Addendum’s requirements are set out below.

Firstly, the requirement to prioritise plot scale source control features (in comparison to large basins in open space) is very land hungry and would require substantial land take within the net developable area (NDA) areas on both the Land Use Parameter Plan and the Illustrative Masterplan. Whilst drainage features within residential parcels is not precluded by the Land Use Parameter Plan and the Illustrative Masterplan, it has a significant effect on residential capacity. This “lost” NDA cannot be clawed back on the areas safeguarded for basins, as this would not be in compliance with the approved Parameter Plans or the Illustrative Masterplan. Evidence relating to this is set out below in Section B.

Secondly, above ground, plot scale, source control features such as swales require steeper gradients to ensure appropriate conveyance of water, when compared to piped conveyance to basins in open space. The effect of this is that there is a greater levels difference, between the starting and finishing points of the drainage network. Furthermore, setting the base level of the attenuation ponds above the 1 in 100 year + climate change flood level and conveying runoff to them from the furthest extremities of the catchment requires substantial level raising due to the very flat profile of the site. Substantial level raising would be required across almost all phases of the development. In some places, levels would need to be raised by circa 3m above existing levels in places to achieve a drainage strategy that is compliant with the Original FRA Addendum.

As outlined in Section B of this letter, consideration has been given to the implications of levels raising for both the Original and Revised FRA Addendum. Having reviewed both scenarios in detail, CSS understand there to be a significant difference in lorry movements due to the additional level of soil import required to achieve the drainage strategy pursuant to the Original FRA Addendum. This scale of vehicular movement is estimated to generate a significant amount of additional carbon which was not an environmental impact that was considered as part of the technical evidence at outline stage. CSS are undertaking a final review of the cut and fill analysis in order to quantify the anticipated lorry movements associated with this. It is anticipated this information will be issued to SBC in the coming few days.

Thirdly, the effect of raising levels will significantly reduce the developable area as this scale of land raising will result in the need for excessive banking and batters around the perimeter of development parcels in order to return back to existing levels and tie into retained features such as watercourses, hedgerows and trees.

This would mean some existing hedgerows and trees would be sitting some 2-3m below made ground level potentially impacting the longevity of these retained landscape features. Notwithstanding impact on residential capacity, this would not be positive from a placemaking perspective.

Fourthly, although the Outline Permission sets an “up to” residential figure of 2,500, the Viability Assessment that underpinned the Outline Permission was undertaken on the basis of 2,500 dwellings being delivered. Therefore, any reduction in numbers may result in the viability position being reopened. In addition, the Viability Assessment did not take account of the additional cost associated with soil importation or banking/retaining features that will be required to deliver development in accordance with the “Original” Addendum.

Importantly, we note that the comments provided by the LLFA do not dispute any of the technical issues raised above.

B. Proposed Changes to Remedy Challenges

To remedy the challenges set out above and enable efficient delivery of the site in line with the requirements of the site allocation and Outline Permission, CSS propose a series of simple changes to the approved conditions, which will align the drainage strategy with the assessment work undertaken as part of the approved Outline Permission, as well as the approved Parameter Plans.

The key change proposed is the substitution of the “**Original**” **Addendum** with a “**Revised**” **Addendum**, prepared by Hydrock (ref. 22006-HYD-P0-XX-RP-C-0006). The “Revised” Addendum will alter the requirements for future drainage design. A full explanation of this is set out below. This necessitates variations to the document references within Conditions 41 (Environment Agency – Compliance with Flood Risk Assessment), 42 (Environment Agency – River Crossing Details), 43 (Environment Agency – River Corridor Survey) and 46 (Strategic Surface Water Management), however, the substantive content of these conditions remains unaltered.

The secondary changes proposed are amendments to the wording of Conditions 9 (Phasing), 10 (Design Codes), 46 (Strategic Surface Water Management) and 47 (Surface Water Management Scheme (Phases) for Phase 1 to compliance conditions. The rationale behind these changes is to avoid the need to re-discharge these conditions (which have already been approved or are the subject of live applications at present) for Phase 1 following the granting of this variation application.

Proposed updated wording to all affected conditions is set out below under the heading ‘*Proposed Amendments to Condition Wording*’.

The Key Proposed Change – The Revised FRA Addendum

As set out above, the key change proposed is to substitute the “**Original**” Addendum with a “**Revised**” Addendum, prepared by Hydrock (ref. 22006-HYD-P0-XX-RP-C-0006). This section of the letter should be read in conjunction with the planning justification outlined in Section C.

The principal change proposed is to amend Section 3 of the Addendum to remove the requirement for prioritisation of plot scale source control features and new above ground conveyancing features. This will enable a predominantly piped drainage solution to basins in open space.

Notwithstanding these changes, the “Revised” Addendum does not preclude the use of plot scale source control features, and these will still be incorporated at detailed design stage subject to them “*not compromising residential capacity or requiring site levels to be raised excessively*”. Drained swales are proposed to be utilised alongside strategic roads, with piped sewers to be used to convey surface water runoff to basins or ponds.

These changes will enable drainage design to be approved pursuant to the relevant conditions, which better aligns with the assessment that was undertaken at outline stage, as well as aligning with the Parameter Plans and Illustrative Masterplan, and optimising the site's overall residential capacity.

To demonstrate this, plans have been submitted which overlay the proposed Strategic Site Wide Drainage Strategy with the approved Illustrative Masterplan and Green Infrastructure Parameter Plan. This shows that the proposed drainage strategy directly aligns with the approved Illustrative Masterplan, with all substantial drainage features within open space and limited negative impact on net developable area.

Finally, the "Revised" Addendum retains the details secured by Planning Conditions 41 – 45 (unchanged) whilst noting the conditions in which the details are secured, for clarity. **The application does not seek to change the principle of what is secured through Conditions 41 – 45, which were requested by the EA at outline stage.**

The Positive Implications of the Change and how this Compares to the "Original" Addendum Requirements

A drainage strategy pursuant to the "**Original**" Addendum, titled *Indicative Site Wide Surface Water Drainage Strategy* (ref. 22006-HYD-PO-XX-DR-C-2211 REV P11), and a drainage strategy pursuant to the "**Revised**" Addendum, titled *Strategic Site Wide Surface Water Drainage Strategy* (ref. 22006-HYD-PO-XX-DR-C-2220 REV P07) have been prepared to demonstrate the differing implications of each strategy.

"Original" Addendum Drainage Strategy

The drainage strategy pursuant to the "**Original**" Addendum consists of the following features:

- A greater number drainage catchments with attenuation basins positioned within each catchment.
- Additional basins to what was shown on the Green Parameter Plan approved under the Outline Permission.
- The base level of the basins set above the 1 in 100 year + 70% climate change flood level.
- All existing ditches remain in use as outfalls and to convey surface water around the development.
- Greater number of swales proposed within catchments.

An earlier version of this drainage strategy was discussed with the LLFA at a meeting earlier in 2023. CSS and their drainage consultants, Hydrock, believe that the LLFA would support this drainage strategy as being compliant with the "Original" FRA Addendum.

However, as set out above, accommodating all of these features has a significant impact on levels raising and site capacity.

In terms of levels raising, as the existing topography of the site is relatively flat, site wide level raising is required to achieve adequate fall across the site to convey surface water drainage to the ponds referred to above (i.e. set above the 100 year flood level) and the subsequent outfall to the existing ditches.

Detailed long drainage sections were shared with the Council and LLFA prior to the submission of this Section 73 application. A long section for Phase 1 based on a fully developed reserved matters layout (ref. 22006-HYD-P0-XX-DR-C-2710 REV P2) was shared at a meeting between the LLFA (Richard Bennett), the Council as LPA (Janet Busby), CSS, Hydrock and Savills on 18th January 2023 and is enclosed within this pack. The long section is compatible with the Indicative Site Wide Surface Water Drainage Strategy (ref. 22006-HYD-P1-XX-DR-C-2211 REV P011) which, as outlined above, is a drainage strategy pursuant to the Original FRA Addendum. Notes of this meeting (also enclosed) confirm that at this meeting Richard Bennett agreed the levels raising shown through Phase 1 was necessary for the means of implementing a drainage strategy pursuant to the Original FRA Addendum, on the basis of the sections and cut and fill information provided. As such, we feel this demonstrates that CSS's evidence relating to the implications of the Original FRA Addendum was understood and accepted by the LLFA, at least for Phase 1 prior to the submission of this application.

Turning to site capacity, to demonstrate the impact of the “Original” FRA Addendum drainage strategy, CSS have overlayed this strategy on to the approved Density Parameter Plan (ref. PL1461.1-PLA-00-XX-DR-U-0007-S4-P02), as shown by the Density Plan Overlay (ref. DPO 02 REV P5). Accounting for NDA “lost” to drainage, this exercise demonstrates the maximum residential numbers that could be achieved whilst remaining in accordance with the Parameter Plans, regardless of discussions on mix, house types, plotting etc. This evidence demonstrates that if the “Original” Addendum drainage strategy is implemented, the maximum residential capacity of the site is 1,898 homes. This is some 602 units lower than the maximum figure permitted by the Outline Permission.

These numbers have been refined from those mentioned in previous submissions. This is as a result of CSS and their project team reviewing all opportunities to move closer to the design criteria sought by the “Original” Addendum.

“Revised” Addendum Drainage Strategy

The drainage strategy pursuant to the “**Revised**” Addendum consists of the following features:

- A smaller number of drainage catchments with fewer larger basins positioned on the periphery of the catchments.
- Basin locations reflect locations shown on the Green Parameter Plan approved under the Outline Permission.
- The base level of the basins set below the 1 in 100 year + 70% climate change flood level. The basins are modelled with surcharged outfalls to take account of flood water levels.
- Reduced number of road side swales throughout the development increasing the developable area.
- All existing ditches remain in use as outfalls and to convey surface water around the development.

As shown on the *Strategic Site Wide Surface Water Drainage Strategy* (ref. 22006-HYD-P0-XX-DR-C-2220 Revision P07), this strategy utilises the majority of existing drainage features across the site and incorporates a wide range of outfall points.

In comparison to the “Original” Addendum compliant drainage strategy, these changes have significant positive implications for levels raising, placemaking and site capacity.

In terms of levels raising, dropping pond bases below the 1 in 100 year + 70% climate change flood level reduces the scale of level raising required across the site to an extreme of 1.7m above existing levels, which is some 2m lower than the “Original” Addendum compliant drainage strategy.

The same exercise has then been undertaken of overlaying this “Revised” Addendum compliant drainage strategy with the approved Density Parameter Plan (ref. PL1461.1-PLA-00-XX-DR-U-0007-S4-P02) to demonstrate what the maximum residential capacity of the site is, in a manner that is in accordance with the approved Parameter Plans, regardless of discussions on mix, house types, plotting etc. The Density Plan Overlay (ref. DPO 03 REV P7) demonstrates a maximum residential capacity of 2109, which is some 211 units greater than the “Original” Addendum compliant drainage strategy.

As above, these numbers have been refined from those mentioned in previous submissions. This is as a result of CSS and their project team reviewing all opportunities to move closer to the design criteria sought by the “Original” Addendum.

At your request, CSS has given consideration as to whether there is potential to accommodate a greater number of features within the “Revised” Addendum compliant drainage strategy that are sought by the “Original” Addendum. CSS and their project team have explored this, however, we do not believe this is possible without compromising residential capacity and developing outside of the development areas on the approved Parameter Plans. If such changes were to be made resulting in a reduction in site capacity, this would move further away from the aspirations of the allocation policy and the Council's assumptions regarding land supply

for the site. Therefore, this has not been pursued further. As noted above, we highlight that the LLFA comments received do not challenge this position.

Proposed Amendments to Condition Wording

In light of the above, the following changes are proposed to the Outline planning conditions. **New proposed text is indicated in bold green**, with ~~deleted text in struck through red~~. All other text is as original.

Condition 9: Phasing Details¹

“For Phase 1, development shall be carried out in accordance with the approved phasing and timetables set out in the following:

- **0767-1004 Revision D received 23rd August 2022 Overarching;**
- **0767-1002 Revision D received 03rd November 2022 Strategic foul and drainage infrastructure;**
- **0767-1001 Revision D received 11th August 2022 Movement;**
- **0767-1000 Revision C received 11th August 2022 Spine road and housing parcels; and**
- **0767-1003 Revision C received 11th August 2022 Green infrastructure**

Prior to the submission of each reserved matters application, **relating to Phase 2 onward**, a phasing programme and plan shall be submitted to and approved in writing by the local planning authority to show how the development shall be implemented in phases or sub phases. The phasing programme shall include the following elements:

- a) The development parcels.
- b) Major distributor roads/routes within the site, including a defined hierarchy of the road network, the timing of provision and opening of access points into the site.
- c) Phased access strategy delivery and associated phased housing delivery.
- d) Pedestrian / cycle connectivity and public transport to committed and emerging parcels of development within the New Eastern Villages.
- e) Alterations to public transport routes to accommodate the defined phases of development within the site.
- f) Local centres and community facilities, including car share space provision.
- g) The safeguarded route for the canal.
- h) Strategic foul and surface water features and sustainable drainage systems.
- i) Strategic landscaping, recreation and open space.

The development shall be carried out in accordance with the approved phasing and timetable.

Reason: To ensure the coordination and delivery of infrastructure provision for the new community. In accord with Policies IN1 and NC3 of the Swindon Borough Local Plan 2026”.

¹ All documents referred to in the proposed text are already approved under ref. S/COND/22/0411, and are also submitted as part of this application.

Condition 10: Character Area Design Code²

“For Phase 1, development shall be carried out in accordance with the approved Wanborough Green Character Area Design Code dated January 2023.

A Design Code relating to each Character Area **relating to Phase 2 onward**, as defined in the Strategic Design Code, shall be submitted to and be approved in writing by the local planning authority prior to the submission of the first reserved matters application within the Character Area. Each Design Code shall be in accordance with the approved Strategic Design Code (Design and Access Statement, Chapter 7 ‘Strategic Design Code’, document reference: PL1461.1-ID-001-05; received on 29th April 2020) and shall include detailed guidance for the Character Area in respect of:

- The overall vision, mix of uses and character of the parcel of development;
- How the character and identity of the development parcel will be established and strengthened through consideration of the public realm, streets and open spaces, green infrastructure, retained and proposed planting, open spaces and play areas;
- The approach to public art throughout the scheme and in individual character areas
- The form of the character area, with reference to densities, block types, building types, building heights, ground levels, the palette of materials, recycling and waste management, street furniture, principles of inclusive design and Secure by Design;
- The hierarchy, typology and treatments of all elements of the movement network;
- Principles of traffic management, parking provision and servicing to all properties;
- The means of achieving direct, safe and accessible connectivity to the rest of the NEV development and in particular to the facilities and services of existing and proposed local and district centres; and Noise attenuation measures.

Each reserved matters application shall be accompanied by a checklist to demonstrate how the development accords with the relevant approved Character Area Design Code or any updated Character Area Design Code which may be subsequently approved.

Reason: To ensure a holistic approach to co-ordinate and deliver high quality design in accordance with Policies DE1 and Policy NC3 of the Swindon Borough Local Plan 2026”.

Condition 41: Environment Agency – Compliance with Flood Risk Assessment³

The application does not seek to change the principle of what is secured through this condition.

“The development shall be carried out in accordance with the submitted flood risk assessment (reference 27970/4003/001, dated 8 March 2019 and prepared by Peter Brett Associates) and the ~~Addendum to March 2019 Flood Risk Assessment (reference 27970/4003/TN001, dated 22 August 2019 and prepared by Peter Brett Associates)~~ **Revised Flood Risk Assessment Addendum (reference 22006-HYD-P0-XX-RP-C-0006, dated 01/03/2023 and prepared by Hydrock)** and the following mitigation measures they detail:

- No built development located within the post development 0.1% AEP flood extent as shown in drawing number 27970_016_MI013 (dated 13 April 2017 and prepared by Peter Brett Associates); and
- Finished floor levels shall be set no lower than 300mm above the 1% AEP level including an appropriate allowance for climate change.

² Document referred to in the proposed text is the subject of a live discharge of condition application (ref. S/COND/23/0100), however, almost all of this content was previously approved as part of an earlier approval of condition application (ref. S/COND/22/0411). This is also submitted as part of this application.

³ The document referenced here is submitted as part of this application.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants, in accordance with paragraph 163 of the National Planning Policy Framework (NPPF) and adopted policies EN6 and NC3 of the Swindon Borough Local Plan 2026”.

Condition 42: Environment Agency – River Crossing Details

The application does not seek to change the principle of what is secured through this condition.

“Development within phases or sub phases that include a main river crossing, must not be commenced until such time as details and design of any main river crossings proposed within that phase or sub phase have been submitted to, and approved in writing, by the local planning authority. Details should demonstrate that the crossings shall not result in a loss of floodplain storage and include soffits raised a minimum of 600mm above the 1% annual exceedance probability (AEP) plus an appropriate allowance for climate change extent, in accordance with the ~~Addendum to March 2019 Flood Risk Assessment (reference 27970/4003/TN001, dated 22 August 2019 and prepared by Peter Brett Associates)~~ Revised Flood Risk Assessment Addendum (reference 22006-HYD-P0-XX-RP-C-0006, dated 01/03/2023 and prepared by Hydrock. The watercourse crossings shall be clear span in design with abutments set back from the top of the bank. The crossings shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent increased risk of flooding by ensuring there are no detrimental impacts to flood storage or flood flow routes as a result of the crossings, in accordance with paragraph 163 of the National Planning Policy Framework (NPPF) and adopted policies EN6 and NC3 of the Swindon Borough Local Plan 2026. Also to ensure that the works are not detrimental to the biodiversity of the watercourse, in accordance with paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) and adopted policies EN4 and NC3 of the Swindon Borough Local Plan 2026”.

Condition 43: Environment Agency – River Corridor Survey⁴

The application does not seek to change the principle of what is secured through this condition.

“Where a phase of development is the first to propose an outfall into a main river (in accordance with the Strategic Site Wide Surface Water Drainage Strategy ref: 22006-HYD-P0-XX-DR-C-2220 Revision P07 Drainage Strategy plan ref: 27970/4005/001 Rev B, contained within the Addendum to March 2019 Flood Risk Assessment), no development shall take place until a River Corridor Survey (RCS) has been undertaken, including recommendations for enhancement of the watercourses where appropriate, has been submitted to, and approved in writing, by the local planning authority. The survey shall be holistic, covering all watercourses within the red line boundary. The recommendations of the survey shall be used to create a site wide watercourse enhancement scheme which will be incorporated into each phase or sub phase of development and implemented prior to first occupation of any dwelling within that phase or sub phase.

Reason: Paragraphs 170 and 175 of the National Planning Policy Framework (NPPF) and adopted policies EN4 and NC3 of the Swindon Borough Local Plan 2026 seek for development to provide net gains for biodiversity”.

⁴ The document referenced here is submitted as part of this application.

Condition 46: Strategic Surface Water Management Scheme⁵

“Development shall be carried out in accordance with the approved Strategic Site Wide Surface Water Drainage Strategy (ref. 22006-HYD-P0-XX-DR-C-2220 Revision P07) or in accordance with a revised strategy agreed with the Local Planning Authority.

~~Prior to the approval of the first reserved matters, a Strategic Surface Water Management Scheme for the site, in accordance with the approved Addendum to March 2019 Flood Risk Assessment (27970/4003/TN001) dated 22/08/19, shall be submitted to, and approved in writing by the Local Planning Authority. The scheme shall include:~~

- ~~○ Details to demonstrate how the proposed flows from the site will be restricted to 4.67l/s/ha for all events up to and including the 1% AEP + climate change event;~~
- ~~○ Details of how the drainage scheme has been designed to incorporate SuDS techniques to manage water quantity and maintain water quality as set out in the FRA addendum, and in accordance with adopted policy and best practice guidance including the New Eastern Villages SuDS Vision SPD and the SuDS Manual C753;~~
- ~~○ A strategic surface water drainage plan showing the proposed location of the proposed SuDS features;~~
- ~~○ Details of the volumes (including indicative dimensions and indicative cross sections) and proposed construction details of the proposed SuDS measures;~~
- ~~○ Details of how the scheme shall be maintained and managed after completion;~~
- ~~○ Detailed drainage calculations for all rainfall events up to and including the 1 in 100 year plus climate change event to demonstrate that the strategic SuDS features can cater for the critical storm event for its lifetime;~~
- ~~○ The submission of evidence relating to accepted outfalls from the site, particularly from any third party network owners; and~~
- ~~○ Sequencing for implementation in accordance with the approved Phasing Plan (Condition 9).~~

The detailed Surface Water Management Schemes for each phase or sub phase (as required by condition 48) shall be implemented in accordance with the approved details and timetable.

Reason: To ensure development does not increase the risk of flooding elsewhere; in accordance with Paragraph 155 of the National Planning Policy Framework (NPPF) and Policy EN6 and NC3 of the adopted Swindon Local Plan 2026”.

Condition 47: Surface Water Management Scheme (Phases)⁶

“For Phase 1, development shall be carried out in accordance with the approved details listed below or in accordance with a revised scheme agreed with the Local Planning Authority:

- Preliminary Drainage Strategy Sheet 1 of 4 (ref. 22006-HYD-P1-XX-DR-C-2200 REVP07)
- Preliminary Drainage Strategy Sheet 2 of 4 (ref. 22006-HYD-P1-XX-DR-C-2201 REVP07)
- Preliminary Drainage Strategy Sheet 3 of 4 (ref. 22006-HYD-P1-XX-DR-C-2202 REVP06)
- Preliminary Drainage Strategy Sheet 4 of 4 (ref. 22006-HYD-P1-XX-DR-C-2203 REVP05)

Prior to the approval of any related reserved matters **relating to Phase 2 onward**, a detailed Surface Water Management Scheme for each phase or sub-phase of development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the details approved as part of the strategic scheme (Condition 46), and include all supporting information as listed

⁵ Document referenced here is submitted as part of this application, which is a duplication of information on file as part of live discharge of condition application (ref. S/COND/22/1184).

⁶ Document referenced here is submitted as part of this application, which is a duplication of information on file as part of live discharge of condition application (ref. S/COND/22/1765).

in that condition. The scheme shall be implemented in accordance with the approved details and timetable”.

C. Planning Justification

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that determination of planning applications is made in accordance with the development plan unless material considerations indicate otherwise.

Having set out the technical justification and implications of the proposed changes of the above, the purpose of this section is to appraise the proposals in relation to the requirements of the Act.

Overview of the Development Plan and Material Considerations

The relevant adopted development plan document is the Swindon Local Plan (March 2015), and the relevant policies regarding site capacity and drainage are:

- Policy EN6 (Flood Risk); and
- Policy NC3 (New Eastern Villages).

We understand the Council is anticipating undertaking Regulation 18 consultation for an emerging plan later this year, however, given the stage reached, it is unlikely to have any material bearing on the determination of this application. Therefore no further consideration is given.

With regard to material considerations, the following are key:

- The existing Outline Permission;
- New Eastern Villages ('NEV') Sustainable Drainage SPD (February 2017) ('the SPD');
- National Planning Policy Framework (July 2021) (the 'Framework'); and
- Planning Practice Guidance ('PPG') (as at the time of writing);

Planning Justification

Development Plan

Policy EN6 (Flood Risk)

In so far as sustainable drainage systems ('SuDS') and drainage design is concerned, the key parts of the Policy are criteria (e), (f) and supporting paragraph 4.362.

Criteria (e) requires drainage strategies to include SuDS features, but importantly it does not require that any drainage strategy must be solely comprised of SuDS features. It also states that run off rates are attenuated to greenfield rates.

Criteria (f) and paragraph 4.362 then set out further requirements for the design of SuDS features; notably that they deliver water quality and biodiversity enhancements. However, as above, neither include a requirement for drainage strategies to comprise solely of SuDS features.

The "Revised" Addendum includes SuDS features, and through detailed design, these features will be able to deliver water quality and biodiversity requirements.

Therefore the content of the "Revised" Addendum is compliant with Policy EN6.

Policy NC3 (New Eastern Villages)

Policy requires that the site and the rest of the land within the NEV deliver “about 6,000 dwellings”.

Although the NEV is still at an early stage of planning permissions and delivery, without CSS’s site delivering as close to 2,500 as possible, it seems very unlikely that the Council could achieve the “about 6,000” requirement of the Policy.

The Council’s most recent housing land supply evidence (dated March 2021) (**Appendix A**), assumes a site yield of all 2,500 dwellings, pursuant to the Outline Permission, and therefore, the Council is heavily reliant on the site delivering all 2,500 dwellings or as close to that.

Policy NC3 does not include any specific requirements regarding drainage.

Given that the “Revised” Addendum would facilitate up to 211 dwellings more than the “Original” Addendum, it is reasonable to conclude that these proposals are more conducive to achieving the aims of Policy NC3, and are therefore in compliance with Policy NC3.

Conclusions

On the basis of the above, the Section 73’s proposals are not only in accordance with the adopted development plan but are also fundamental to the delivery of the development and allocation as a whole.

Material Considerations

The Existing Outline Permission

As set out in Section A of this cover letter, the original planning application did not accurately assess the implications of the SPD and the influence that it had on future drainage design criteria, as set out within the “Original” Addendum and the conditions which refer to it. The implications that this has for net developable area, site levels, lorry movements (and associated air quality issues), and quality of landscaping and impact on retained hedges and trees and viability (all matters which are outlined in more detail in Section D), should all be material considerations of significant weight in the determination of the Section 73 application.

NEV Sustainable Drainage SPD

This document is a material consideration, however, it is not policy and holds the status of guidance only.

The proposals within the “Revised” Addendum do not wholly accord with guidance contained within this document. However, the following matters (in no particular order) are relevant to determining the weight that should be afforded to the SPD.

- As guidance, rather than policy, this document has not been the subject of independent examination or viability testing.
- The PPG (Paragraph: 008 Reference ID: 61-008-20190315) clearly states that the SPD should not add unnecessarily to the financial burdens on development. The implications of the SPD are such that they would result in a substantial reduction in the number of dwellings capable of being delivered on the site. As a consequence, it would have a very significant additional financial burden on development, over and above the requirement of Policy EN6.
- Following consultation on a draft of the SPD in July – September 2016, the Council published a Consultation Statement (**Appendix B**), which summarises the consultation responses received and the Council’s responses. Multiple consultation responses identified that the requirements of the SPD were more onerous than the development plan and also argued the need for an allowance for the use of pipe and gully drainage systems. At page 3, the Council state that “*Traditional pipe and gully solutions may be more appropriate in certain circumstances, however they will need to be in accordance with other SuDS systems to ensure they meet policy requirements*”. This demonstrates

that the Council always considered that some use of piped systems could and should be used in the NEV. As above, the proposals are considered to comply with the requirements of Policy EN6.

- Fundamentally, by introducing requirements that are more onerous than Policy EN6, the result of which is to suppress the site's residential capacity, in terms of the circumstances of this site at least, the SPD is incompatible with Policy NC3 and the Council's housing land supply expectation of 2,500 units.

For the reasons above, the SPD should be afforded limited weight in the determination of the Section 73 and, where a conflict between the SPD and Policy NC3 arises, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004), the development plan policy must take precedence.

Notwithstanding the above, many aspects of the "Revised" Addendum are in accordance with the SPD.

Framework and PPG

Nothing in the Framework or PPG is considered to conflict with the adopted development plan or the proposals.

Overall Conclusion

The commentary above demonstrates that the proposals are in accordance with the adopted development plan and that no material considerations indicate that the Section 73 application should be determined otherwise. Therefore permission should be granted.

As outlined in the introduction of this letter, this is a conclusion that is endorsed by Charles Banner KC.

D. Benefits of the Proposed Changes

In addition to the benefits of the delivery of the site identified within the original committee report, these proposals will deliver the following benefits.

1. Increasing the number of homes that can be delivered within the 2,500 Outline Permission limit

The proposals will facilitate the delivery of an additional c. 211 homes when compared to development pursuant to the "Original" Addendum. This additional delivery remains within the Outline Permission's maximum limited of 2,500 and fully in accordance with the approved Parameter Plans.

This figure has been calculated in accordance with the methodology set out in Section B of this letter.

With the Council's housing land supply assuming delivery of at or close to 2,500 units from this site, it is essential to the Council that housing delivery is optimised. This should also be considered in the context of the Council being unable to demonstrate a five year housing land supply, as most recently confirmed in December 2022. Therefore, the facilitation of an additional c. 211 homes should be considered a significant benefit.

2. Significantly less level raising, lorry movements and CO2 emissions

The proposals will remove the requirement for substantial level raising across the site, as piped solutions require shallower gradients in order to enable appropriate conveyance of water. An increase in piped solutions therefore means there will be a lesser levels difference between the starting and finishing points of the drainage network, enabling a flatter, less raised, profile of the site. Furthermore, setting the base level of the attenuation ponds below the 1 in 100 year + climate change flood level also enables substantial savings in levels raising.

The impacts of the anticipated reduction in land raising will result in a significant difference in lorry movements to and from the site, which is significant in terms of traffic movements through and around nearby existing settlements. This reduction in lorry movements is estimated to equate to a significant amount of carbon no longer needing to be emitted, thereby reducing additional impacts on air quality. This should be considered a very significant benefit.

3. Higher quality development

As a result of lesser requirements for levels raising, the proposals will facilitate placemaking improvements via the avoidance of excessive banking and batters around retained landscape features including watercourses, hedgerows and trees. Reduced levels raising will help the built form and public realm relate more positively to the existing hedgerows and environmental features to be retained within the site.

With the delivery of high quality development a consistent theme of the Council's development plan, this benefit should be considered significant.

4. Retention of Section 106 package of contributions

The Outline Permission's conditions and Section 106 secures a significant package of contributions which will bring notable benefit it's to Lotmead and the wider NEV. However, the viability of this package was calculated assuming the delivery of 2,500 units, not a lower quantum, and certainly not a maximum unit delivery of 1,898, as the evidence submitted shows is the maximum yield arising from a scheme that implements the Original FRA Addendum.

Based on current circumstances, approving these proposals and the Revised FRA Addendum within the Section 73, resulting in a residential capacity of circa 2,109, would enable CSS to proceed with the delivery of the site without the need to revisit any viability discussions. On this basis, we do not consider that there is any requirement for the submission of formal viability information at this stage.

However, CSS can confirm that if the Section 73 were to be refused, and the Council were to insist on a drainage strategy pursuant to the Original FRA Addendum, CSS would look to progress an application seeking to revisit the viability of the scheme, with the current S106 package of contributions at risk of being reduced.

This should be considered a very significant benefit to the Section 73 proposals. However, even if this benefit were to be removed from the consideration, we consider that the other three identified benefits weigh significantly in favour of the proposals.

Conclusion

Separately and collectively, these benefits, in addition to those identified as part of the original proposals are significant and weigh further in favour of granting permission.

E. Other NEV Sites / Precedent

At our recent meeting, you requested that we comment on the subject of precedent for other NEV sites, should the Section 73 application be approved.

It is long established in planning judgements that proposals are assessed on their own merits. The evidence submitted by CSS relates solely to Lotmead, and does not pass comment on any other sites within Swindon or the NEV. The specific circumstances involve the extant consent, topography and other constraints.

As such, we do not consider that approval of this application would set any precedent for other sites within the NEV or weaken the Council's ability to take the NEV Drainage SPD into account as a material consideration in the determination of other planning applications.

This is a position that is endorsed by Charles Banner KC.

Conclusions

Supported by the review of Charles Banner KC, and in accordance with the Planning and Compulsory Purchase Act, this submission has positively addressed all your requests for further information and demonstrates that the proposals are in accordance with the development plan, when material considerations are taken into account and that they will deliver significant benefits, and that we have positively answered your requests for further information.

With the statutory determination period coming to an end on 31st August 2023, CSS respectfully request that this application is approved without delay.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "M. Sommerville". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mark Sommerville MRTPI
Associate Director
Planning

Enc.



Appendix A: Swindon Borough Council NEV 5YHLS Statement (31.03.23)



Appendix B: NEV SUDS Vision SPD Consultation Statement (February 2017)