

CM/P19-2831

23 January 2024

Mr D. Cox
Senior Planning Officer
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

BY EMAIL ONLINE

Dear David

PL/2021/09013 – Land West of Westbury Road, Warminster
Recall of Planning Application to the Strategic Planning Committee

I write on behalf of Barratt Bristol following notification provided in your emails of 17 and 18 January that the above planning application, having received a resolution to grant Outline planning permission subject to conditions and completion of a s.106 Agreement on 1 November 2023, is to be returned for re-determination by the Council's Strategic Planning Committee on 7 February.

You have advised that due to reporting timescales, the latest opportunity available to make further representations in respect of the application is first thing on Tuesday 23 January. This would be an extremely limited window of opportunity even were the application being reported simply as a matter of procedural fairness following the revisions to the NPPF, however in the circumstances it appears that our comments are invited in the context of a revised recommendation for refusal, no available Committee report, and no evidence in terms of legal advice or updated housing land supply reporting supporting the Council's stance.

As set out in our letter to Nic Thomas of 18 January, to which we have not yet received a response, we consider this to be prejudicial to the applicant's ability to engage meaningfully with the democratic planning process and, as highlighted, contrasts sharply with the Council's approach to re-consulting the wider public on even very minor changes to the proposals during the application lifecycle in order to minimise the risk of legal challenge.

Notwithstanding, in the absence of any further clarification from the Council, and strictly without prejudice to any further representations we may need to make in the light of the updated Committee report and any other relevant publication by the Council, I set out our immediate comments and concerns below, organised by subject heading.

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Housing Land Supply

We have not seen the evidence that the Reg 19 Plan is sufficiently detailed or meets the housing requirements in order for it to 'qualify' for 4-year supply status for the purposes of Paragraph 77/226 of the revised Framework. We assume this is addressed within the legal Opinion you have referred to but so far declined to share with us. In our view it remains questionable whether the Plan meets the necessary tests in order for the Authority to qualify for 4-year status.

We have seen no evidence that the Council has reviewed its housing land supply since publishing a position of 4.6 years in May 2023. As this figure is already eight months old, it is highly unlikely that it is accurate, and we are mindful of evidence presented at recent appeals suggesting that in reality the Council's supply is potentially less than four years. Indeed, as recently as November the Council did not contest evidence presented to the Holt appeal that, at best, the Council could only demonstrate 3.7 years supply, significantly short of 4 years.

In the absence of an up-to-date and publicly available calculation of housing land supply, in our view the Council cannot rely on an assumption that its published position from May 2023 remains unchanged as the basis for returning applications to Committee with revised recommendations at this time. Again, we have requested the evidence to support the Council's claims but this has not been received.

It is critical to emphasise that the changes to the Framework have made absolutely no difference to the presumption that Local Planning Authorities should seek to maintain at least a five-year supply of deliverable housing. Whether or not required to (or capable of) demonstrating more than four years' supply for the purposes of Paragraph 226, Wiltshire Council continues to fall significantly short of five years' supply in the context of a national housing crisis and, in particular, a marked shortfall of affordable homes. Quite rightly, the Council has not withdrawn the Briefing Note to which you make reference in your Committee report, stating that the Council will support 'speculative' applications where there are no technical objections in pursuit of a five-year supply.

Moreover, even if a 4+ year supply could currently be demonstrated, recalling and refusing a significant number of 'speculative' proposals with extant resolutions to grant planning permission presents a very real and immediate prospect that housing land supply will be severely depleted over the coming months, particular from April 2024, due to a lack of commitments. As such, refusing such applications at the present time is likely to be self-defeating and only likely to open opportunities for less desirable 'speculative' proposals later in the year.

Operation of the Tilted Balance

You have stated in your email that, on the assumption that the Council can demonstrate in excess of four years' supply, the 'tilted balance' would not be engaged for the purposes of decision-making. Notwithstanding the exceptions of Paragraph 226, however, as we have made clear throughout the application, Core Policies 1 and 2 remain out-of-date in their own terms, being predicated on a non-Framework compliant assessment of housing need, as are the related



settlement boundaries to which they refer, and their weight in decision-making diminished accordingly.

We therefore remain for the time being unclear on what basis you consider that Core Policies 1 and 2 are relevant and what weight you propose to attach to them. This is matter we would request is urgently addressed as, in our view, the analysis set out to date in your recent email is flawed.

Likewise, the tilted balance remains engaged in relation to these 'most important' policies independently of Paragraph 226 and housing land supply and it remains in the context Paragraph 11(d)(ii) that decision-making must still proceed.

Site-specific matters

The Council has confirmed through its previous resolution that there are no technical or environmental objections outstanding in relation to the proposals, nor any objection from key consultees.

Your last report concluded, *inter alia*:

'...this report shows that there are no adverse impacts arising from the proposal on the wider landscape, archaeology, drainage, ecology, highways, and/or amenity. There are, however, benefits which include additional market and affordable housing; the development would also contribute to the housing choice and mix in the local area. Additionally, it would help provide economic benefits by providing work for construction professionals, increase economic activity within Warminster and make contributions to off-site infrastructure through S106 contributions and CIL'

The physical effects of the proposals remain wholly unchanged in the present circumstances and therefore it is plainly unreasonable that any additional harms should be identified at this time, or indeed that any additional weight should be ascribed to them.

Noting the comments in your email, therefore, I would urge extreme caution with respect to implications including landscape impacts and the loss of agricultural land associated with the proposals; these were not objectional matters outweighed by the previous operation of the tilted balance but were instead, in and of themselves, deemed to be acceptable impacts of the development as proposed, as backed up by your specialist consultees' comments.

You will note from my letter of yesterday afternoon that my client intends to submit a s.78 appeal in this regard at the soonest opportunity. Needless to say, were the Committee led to introduce additional refusal reasons on any unrelated environmental or technical grounds, this would naturally place the Council at a very real risk of an award of costs due to the need to instruct additional experts to lead evidence at Inquiry.



Summary

As set out in my letter of last week, we would respectfully request sight of the legal advice and any updated housing land supply information on which the Council has based its current approach and the abrupt reversal of its own considered recommendations as a matter of urgency. As a courtesy perhaps our letter and request could at least be acknowledged, and a response provided on progress in responding to the requests. We reserve the right to provide further comments upon receipt of this information, and likewise upon reviewing the amended Committee report, in respect of which we trust the comments set out in this letter will be taken seriously into consideration.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Marsh'.

Chris Marsh

Associate Planner

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