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BY E-MAIL

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13 January 2012

Dear Sirs

PRE-SUBMISSION DRAFT WILTSHIRE CORE STRATEGY DEVELOPMENT PLAN DOCUMENT ("DPD") – CABINET MEETING ON 17 JANUARY 2012, AGENDA ITEM 6

Cabinet is being asked to recommend to Full Council that the Draft Core Strategy be approved for publication. However, as previously outlined to the authority there are significant flaws and irregularities in the Core Strategy process to date, particularly in relation to the suggested allocation of the southern site within Option 2 for housing. The authority does not have the requisite reasoned and justified evidence base to support this proposed site allocation, and we would reiterate that the authority is risking legal challenge to the whole Core Strategy if it cannot robustly justify the selection of the southern site within Option 2.

We write to you on behalf of our client, Chippenham 2020, which owns 170 acres at New Leaze Farm to the east of Chippenham, forming part of what is commonly known as "Land to the East of Chippenham".

Given the significance of the proposed recommendation at item 6, we would strongly urge you to review and consider the representations previously submitted by our client in relation to the emerging Draft Core Strategy (by letter dated 8 August 2011, a copy of which is attached at Appendix 1). It is for the reasons set out within the previous representations (as also summarised in this letter) that the Draft Core Strategy cannot, at this stage, be approved for publication.

Our Client's previous detailed representations do not appear to have been addressed to date by the authority. The report to Cabinet does not deal with any of the concerns raised (and neither does the purported evidence base), and as such the report is fundamentally misleading, highly selective and flawed. It is now imperative that these concerns are considered and properly addressed by officers, and, in due course, members.

As you will be aware, our client's concerns primarily relate to the site allocations as contained within the Draft Core Strategy. At the current time, the evidence base simply does not stand up to evidential or legal scrutiny and accordingly the Draft Core Strategy cannot be said to be "sound" until such time as a reasoned and justifiable evidence base has been prepared and consulted upon by the authority.

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1. **SUMMARY OF CURRENT POSITION IN RELATION TO LAND TO THE EAST OF CHIPPENHAM**

1.1 By way of background, the Land to the East of Chippenham was included in the preferred strategic site options for Chippenham in the previous iteration of the Emerging Core Strategy, "Wiltshire 2026 Planning for Wiltshire's Future, October 2009". The site was selected through a process of consultation and evidence gathering that was clearly set out in a "Strategic Sites" background paper published in October 2009. Clear justification was provided for the inclusion of the site as a preferred option.

1.2 As members will be aware, the production of development plan documents ("DPDs") should be an iterative process, supported at all times by reference to the evidential basis for any options preferred. The previously preferred option of the inclusion of the Land to the East of Chippenham was not included within the subsequent draft Core Strategy in 2011. There has been no plausible explanation of the change in policy direction in respect of the Land to the East of Chippenham, particularly in terms of evidential justification for such a significant change.

1.3 There are further and fundamental flaws in respect of the current and proposed submission draft Core Strategy, as summarised below.

2. **INCORRECT ALLOCATION OF STRATEGIC SITES WITHIN THE CORE STRATEGY AND INADEQUACY OF EVIDENCE FOR SITE ALLOCATIONS**

2.1 It is fundamental that members have due regard to the guidance in PPS12 when considering agenda item 6, particularly in relation to the robustness of the evidence base that purports to support the allocation of housing within the southern site within Option 2. PPS12 (para 4.36) is clear that DPDs must be founded on a "*robust and credible evidence base*", and that the options must be "*the most appropriate strategy when considered against the reasonable alternatives*".

2.2 It is purported that the southern site within Option 2 has been selected on the basis of the evidence now contained within draft Topic Paper 12. However, the contents of this document are flawed, as the topic paper provides no evidence or justification to support the dismissal of the previous option for development on land to the East of Chippenham. In addition, the interim sustainability appraisal produced by the authority in 2011 did not reach or corroborate this conclusion, and so the authority has not demonstrated that the southern part of the Option 2 site is preferable when considered against the alternatives.

2.3 No plan is included within the Draft Core Strategy that constitutes an appropriate proposals map, and the plan of Chippenham showing the strategic sites (page 65 of the Draft Core Strategy) is wholly misleading, as the southern site remains an "area of search", giving no indication of where the housing is to be located.

2.4 It would also appear that the authority is planning on dealing with strategic site allocation in a further document, the "Strategic Site Allocations DPD" which, we understand, is "planned for the coming months". Accordingly, the Draft Core Strategy would best be limited to including an overall vision, strategic objectives and delivery strategy.

2.5 A sustainability appraisal has been prepared by the authority and PPS12 (para 4.43) states that:

"Sustainability assessment should inform the evaluation of alternatives. It should provide a powerful means of proving to decision makers, and the public, that the plan is the most appropriate given reasonable alternatives."



However, the sustainability appraisal is flawed and does not include adequate assessment of the reasonable alternatives. For example, the assessment of the southern site states that the southern area of search is no further from the town and its amenities than the 2009 preferred option to the east - without knowing where the housing is located, how can this statement be substantiated and justified as part of the evidence base?

- 2.6 The Land East of Chippenham remains the most sustainable option, and this must be the conclusion of any reasonable sustainability appraisal. It is simply not understood (and nor has it been evidenced to date by the authority), how the sites selected are preferred over an integrated site within walking and cycling distance of the town centre, railway station and amenities.

3. **INADEQUACY OF EVIDENCE BASE - PREMATURITY**

- 3.1 Fundamentally, there is a lack of a coherent and meaningful evidence base for the Core Strategy. The evidence base that exists is different to that which went before it in relation to the Wiltshire 2026 document (in 2009) and the massive shift in the authority's approach to evidence and consultation is inexplicable. Selection criteria should be consistently applied based on an objective basis, in order to allow for meaningful consultation to take place.

- 3.2 In particular, the position in relation to the topic papers is unclear; these are designed to *"form part of the evidence base to support the emerging Wiltshire Core Strategy"*. However, not all of the topic papers were immediately available at the start of the 2011 consultation on the emerging Draft Core Strategy, and any consultation without them could not be described as "meaningful", as consultees did not have access to the full evidential context.

- 3.3 Furthermore, the authority has consulted upon parts of its evidence base at the same time as the Draft Core Strategy. This approach will not stand up to scrutiny at an Examination in Public ("EiP") into the "soundness" of the Draft Core Strategy, as the Draft Core Strategy should be informed by the evidence base, and this cannot be the case if the evidence base itself is still in draft form.

- 3.4 In addition, there is, and continues to be, a clear absence of reporting, for example our client (and the public generally) has not seen the results of any authority-commissioned work (eg a transport assessment) which analyses, provides options and suggests a preferred option. On the advice of the authority's officers, our client has commissioned its own independent traffic and transport modelling report and submitted this to authority. However, this has not been taken into account by the authority as part of the evidence base.

- 3.5 Accordingly, consultation on the emerging Draft Core Strategy has been premature given the evidence available to the public.

4. **CONSULTATION TO DATE**

- 4.1 We would draw the attention of members to PPS12, which is clear that the production of DPDs should be, amongst other things, *"continuous"*, *"transparent"* and *"accessible"*. Paragraph 4.26 of PPS12 discusses the need to involve the community in the process of refining and improving the options. Paragraph 4.37 is clear that the evidence base should contain *"evidence of the views of the local community and others who have a stake in the future of the area"*. For the reasons set out in the previous representations, the consultation to date has been inadequate.

- 4.2 Furthermore PPS12 advises that the extent of consultation undertaken should be proportionate to the issues within the scale of the plan. Accordingly, the consultation



carried out to date in relation to the allocation of sites cannot be described as "adequate" given the significance of the change in policy direction.

- 4.3 The number of documents being consulted on by the authority has been confused and remains confusing, for example the authority states that the Topic Papers "*will form part of the evidence base to support the emerging Wiltshire Core Strategy*". However, the status of the Topic Papers is unclear. If they have been prepared to "*accompany*" consultation on the Core Strategy, one must conclude that they are intrinsic to the Core Strategy and are therefore inherently part of the Core Strategy Consultation.

5. **FAILURE TO TAKE ACCOUNT OF REPRESENTATIONS RECEIVED IN RELATION TO THE DRAFT CORE STRATEGY**

- 5.1 The Department of Communities and Local Government has produced a plan-making manual to accompany PPS12, and this manual is clear that "*the local authority must take into account any representations received as a result of preparing the development plan document*". Indeed, throughout the process, "*early and effective community engagement through the scoping of the sustainability appraisal and engagement with key delivery stakeholders is very important*".

- 5.2 The report to Cabinet states that the document has "*been developed in consultation with the local community, partner organisations and other stakeholders*". However, there is no explanation as to how any representations made in relation to the emerging document have been taken into account and there is no evidence base to demonstrate how these responses have been considered and taken into account. The consultation responses have not been discussed in any detail at all in the report to Cabinet. Accordingly, members have not been given all of the requisite information in order to make a reasonable and fully informed decision (as required by PPS12 and the plan-making manual), as to whether the document should be recommended to Full Council for approval for publication.

- 5.3 For example, at paragraph 13 the report discussed the authority's view in terms of consultation responses received and states that:

"No new evidence has been put forward that would justify a change to the overall housing numbers, which are still considered to be sound".

This issue was raised in our client's previous representations and clear evidence was provided in relation to housing numbers.

- 5.4 Taking the 2009 and 2011 consultations together, there were over 300 separate written representations against development to the South of Chippenham and only 104 against the East. However, the impression given by the authority throughout the documentation is the opposite, as the strength of the objections to the East is stressed whilst remaining silent on the objections to the South. This is misleading and fails to draw members' attention to a material consideration to their decision making process.

6. **NEXT STEPS FOR THE AUTHORITY**

- 6.1 To progress with the proposed submission draft Core Strategy makes legal challenge inevitable, and this will ultimately cause delay to the County-wide Plan and unnecessary cost to all parties

- 6.2 This situation is avoidable. The Emerging Core Strategy is based on a hurried and unsound evidence base. We suggest the only reasonable avenue open to the authority is to abandon the southern site within Option 2 and revert to the preferred option identified the previous iteration of the Core Strategy, Wiltshire 2026, which was



supported by a clear evidence base and is the obvious (and only genuine) sustainable option.

Our clients are committed to their investment in Chippenham and will continue to scrutinise all Emerging Core Strategy and other policy documents. It is not in anyone's interests to incur wasted time and expense at EIP when the matters addressed in this letter are capable of remedy now. We urge the authority to address the fundamental issues addressed in this letter as a matter of urgency.

Yours faithfully

Pinsent Masons LLP

This letter is sent electronically and so is unsigned

Copy to: Chippenham 2020
 CSJ Planning