

## Wiltshire Council

### Cabinet

15 May 2018

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**Subject:** Wiltshire Housing Site Allocations Development Plan Document - Proposed Submission

**Cabinet Member:** Councillor Toby Sturgis - Planning and Strategic Asset Management

**Key Decision:** Yes

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#### **Executive Summary**

The Wiltshire Core Strategy (adopted January 2015) plans for housing to come forward through several sources including: strategic site allocations, neighbourhood planning, planning applications and site allocations plans. The Council's Local Development Scheme presents a commitment to prepare two site allocations plans, as anticipated by the Wiltshire Core Strategy. The Chippenham Site Allocations Plan was adopted by Council on 16 May 2017 and plans for the delivery of homes and employment opportunities at Chippenham. The Wiltshire Housing Site Allocations Plan is being prepared for the rest of Wiltshire.

Consultation has now been undertaken on the 'Wiltshire Housing Site Allocations Plan - Pre-submission draft plan (June 2017)' (the draft Plan), following approval by Cabinet on 20 June 2017. This draft Plan has been prepared to:

- (i) Allocate new sites for housing to ensure the delivery of the Wiltshire Core Strategy housing requirement of at least 42,000 dwellings (2006-2026) and maintain a five-year housing land supply in each of Wiltshire's three Housing Market Areas over the period to 2026; and
- (ii) Review, where necessary, settlement boundaries (or 'limits of development') in relation to the Principal Settlements of Salisbury and Trowbridge, Market Towns, Local Service Centres and Large Villages.

The formal consultation stage, where representations are invited on the soundness of the Plan, ended on 22 September 2017. At the close of consultation approximately 3,370 comments had been received approximately 970 consultees. In broad terms, most of the comments were concerned with the purpose of the plan and its methodology for selecting sites. A considerable proportion of the representations focussed on the proposed site allocations in Trowbridge and Salisbury. A more limited response related to the settlement boundary review proposals.

Having reviewed the comments received, Officers consider there are none which raise fundamental issues of soundness that would preclude the submission of the Plan to the Secretary of State for Examination. As explained in the report they generally present different interpretations of the evidence base or raise concerns regarding individual sites which is to be expected at this stage of the process.

The National Planning Policy Framework (paragraph 216) anticipates that 'unresolved objections' will need to be addressed through the Examination process. To inform and assist the Examination process a number of 'changes' are proposed to the draft Plan that respond to representations received for consideration by the appointed Inspector. These 'Proposed Changes' are categorised as either being 'minor' - i.e. not affecting the substance of the draft Plan, or 'main' - i.e. they affect the content of the draft Plan and hence will be considered through the Examination.

The next stage involves the submission of the draft Plan and other documents prescribed by legislation to the Secretary of State, who will appoint an Inspector. The Plan and all submitted evidence, including the representations received through the formal consultation undertaken in 2017, will then be independently and robustly examined in terms of legal compliance and soundness.

Subject to Cabinet endorsement and Council approval, submission of the draft Plan, together with the Proposed Changes, will be possible by end June 2018. This accords with the latest Local Development Scheme (September 2017) and will ensure that the Council continues to make timely progress with its Local Plan and improve the supply of housing land.

Endorsement of the Proposed Changes is therefore sought along with delegated authority to proceed with the next stages to enable the Plan to move through the submission and Examination stages as efficiently as possible.

## **Proposals**

That having considered the outcome of the formal consultation, Cabinet:

- (i) Endorses the draft Plan as sound and legally compliant, as set out **Appendix 1**;
- (ii) Endorses the schedule of Proposed Changes to the draft Plan in Appendix 1, as set out in **Appendix 2**, for submission to the Secretary of State for Housing, Communities and Local Government to inform and assist the Examination process;
- (iii) Recommends that Council approves the draft Plan together with the Proposed Changes and supporting information for submission to the Secretary of State to commence the independent Examination process subject to amendment in (iv);

- (iv) Authorises the Director of Economic Development and Planning in consultation with the Director of Legal and Democratic Services and the Cabinet Member for Planning and Strategic Asset Management to:
- (a) make any necessary changes to the Plan and supporting documents in the interests of clarity and accuracy before it is submitted to the Secretary of State;
  - (b) make appropriate arrangements for submission of all documents relating to the Plan, including the supporting evidence (including the Equalities Impact Assessment required by Section 149 of the Equalities Act 2010 at **Appendix 6**), to the Secretary of State;
  - (c) make all the necessary arrangements for Examination including - the appointment of a Programme Officer, the undertaking and/or commissioning of other work necessary to prepare for and participate at the Examination; and the delegation to officers and other commissioned experts to prepare and submit evidence to the Examination and where necessary, appear at any hearing sessions and represent the Council;
  - (d) authorise that officers request that the Secretary of State recommends modifications to make the Plan sound in accordance with Section 20 (7C) of the Planning and Compulsory Purchase Act 2004 (as amended); and
  - (e) implement any consequential actions as directed by the Inspector relating to the Examination, including undertaking any consultation where necessary, in order to respond to matters raised through the Examination.

**Reason for Proposal(s)**

To ensure that progress continues to be made on maintaining an up-to-date development plan for Wiltshire, in line with the timetable set out in the Council's Local Development Scheme and statutory requirements.

In accordance with legislative requirements, the proposed resolution enables the submission of a sound Plan. The Council will need to approve the submission of the Plan to the Secretary of State for Examination.

Alistair Cunningham - **Corporate Director, Growth Investment and Place**

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**Subject:** Wiltshire Housing Site Allocations Development Plan Document - Proposed Submission

**Cabinet Member:** Councillor Sturgis - Planning and Strategic Asset Management

**Key Decision:** Yes

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### Purpose of Report

1. To:
  - (i) Update Cabinet on the outcome of the formal consultation on the 'Wiltshire Housing Site Allocations Plan - Pre-submission draft plan (June 2017)'.
  - (ii) Seek Cabinet's recommendation to Council that the Plan, together with the schedule of Proposed Changes, should be approved for the purposes of submission to the Secretary of State and commencement of the independent Examination process.
  - (iii) Seek delegated authority to make appropriate arrangements for submitting the prescribed documents and supporting materials to the Secretary of State; and respond to any consequential actions as directed by the Inspector relating to the Examination.

### Relevance to the Council's Business Plan

2. Progression of the Plan through the Examination process and on towards adoption will enable the sustainable delivery of new homes in line with the Wiltshire Core Strategy and overarching aims of the Business Plan 2017-2027 'Forward Thinking'. One of the four priorities, 'Growing the Economy', recognises the importance of improving housing supply. Progression of the Plan will help deliver the Council's aim to ensure "*Development where it is needed*" under the "*Housing and Environment (sustainable development)*" goal in the Business Plan.

### Background

3. The Wiltshire Core Strategy (adopted January 2015) sets out a strategic approach to the delivery of sustainable development over the period 2006-2026. It anticipates that housing will come forward through a variety of sources, including: strategically important sites (e.g. Ashton Park, Trowbridge); neighbourhood plans; planning applications (e.g. windfall development); and site allocations development plan documents. In

addition, the Wiltshire Core Strategy recognised that 'settlement boundaries' (or 'limits of development') would need to be reviewed to ensure that they are up-to-date.

4. The need to bring forward new homes through site allocations plans was identified to provide a surety of housing land supply across Wiltshire's three Housing Market Areas over the period to 2026. The 'Wiltshire Housing Site Allocations - Pre-submission draft Plan (June 2017)' (the draft Plan) has been prepared in conformity with the Wiltshire Core Strategy and seeks to:
  - (i) Allocate new sites for housing to ensure the delivery of the Wiltshire Core Strategy housing requirement of at least 42,000 dwellings (2006-2026) and maintain a five-year housing land supply in each of Wiltshire's three Housing Market Areas over the period to 2026; and
  - (ii) Review, where necessary, settlement boundaries (or 'limits of development') in relation to the Principal Settlements of Salisbury and Trowbridge, Market Towns, Local Service Centres and Large Villages.
5. The Settlement Strategy (Core Policy 1) and the Delivery Strategy (Core Policy 2) together with the relevant Area Strategy Core Policies (Section 5) of the Core Strategy guide where and how much development should take place to provide a sustainable pattern of growth over the period 2006-2026.
6. Core Policy 2 sets out housing requirements on the basis of Housing Market Areas (HMAs) and indicative requirements are provided in the Area Strategy Policies for: Wiltshire's Community Areas; the Principal Settlements and Market Towns; and, in the South Wiltshire HMA, the Local Service Centres. These figures are not intended to be prescriptive minima or maxima and instead are meant to be viewed as an indication of the general scale of growth appropriate for each area and settlement during the period up to 2026. The figures are therefore expressed as 'approximate' or 'about'. In accordance with Core Policy 2, sites for housing development may come forward through new allocations on the edge of settlement boundaries where they are identified in neighbourhood plans or site allocations plans.
7. On 16 May 2017, Council adopted the Chippenham Site Allocations Plan, which reviewed the settlement boundary of Chippenham and allocates land for 2,050 homes at the town. The draft Plan complements the Chippenham Site Allocations Plan in reviewing settlement boundaries and providing land for additional homes, where needed, elsewhere in the County consistent with the Core Strategy and its spatial strategy.

### **Main Considerations for the Council**

8. As a subsidiary document to the Core Strategy, the draft Plan has a specific purpose, namely, to support the delivery of the housing

requirements and furtherance of the Area Strategies, including the review of settlement boundaries. Therefore, the draft Plan does not provide an opportunity to revisit the strategic policies within the Core Strategy, for example the status of settlements, or the broad disaggregation of housing requirements.

9. Work on the draft Plan commenced in March 2014 when the Regulation 18<sup>1</sup> consultation on the proposed scope of the draft Plan was carried out. At the same time, there was an open 'call for sites' to enable interested parties to put forward land for consideration through the draft Plan. Informal, targeted consultation was undertaken on: draft proposals for amending settlement boundaries (July to September 2014); a draft site selection methodology and initial site options (February to March 2015); and further consultation on the approach to Large Villages (June to August 2015). Details of these consultations together with the representations received and Council's response is set out in the report on the Council's website via [this link](#).
10. Cabinet on 20 June 2017 considered and approved the 'Wiltshire Housing Site Allocations Plan - Pre-submission draft plan (June 2017)' (draft Plan) for the purpose of undertaking a formal stage of consultation.
11. The overall level of growth proposed for allocation in the draft Plan is 2,465 homes; with 1,205 homes in the North and West HMA (14 sites), 350 homes in the East HMA (4 sites) and 910 homes in the South HMA (6 sites). Where appropriate, it also proposed revisions to settlement boundaries to ensure they properly reflect development that has occurred since they were first established and a consistent approach is taken across Wiltshire. This was except for those boundaries that had recently been reviewed through sufficiently advanced neighbourhood plans and did not require further updates to take into consideration implemented development. Methodologies underpinned both the site assessment process and settlement boundary review, which have been published alongside the Agenda (see Topic Papers 1 and 2 provided as supporting documents to this report).
12. Consultation took place on the draft Plan, as set out in **Appendix 1**, for a period of 10 weeks, commencing 4 July 2017 and ending 22 September 2017. During the first two weeks of the consultation four public exhibitions were held at Chippenham, Salisbury, Devizes and Trowbridge.
13. Full details of this consultation, together with a summary of the representations received and the Council's response is set out in the consultation statement, which has been published alongside the Agenda. This is known as the Regulation 22 (1) (c) Statement<sup>2</sup>.
14. At this stage in the process, if the Council wishes to make any changes to the draft Plan to address matters arising from the Regulation 19 consultation, the (Procedural Practice in the Examination of Local Plans,

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<sup>1</sup> Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

<sup>2</sup> Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

The Planning Inspectorate, June 2016) gives the Council a choice as to how to proceed:

- (i) The changes could be prepared as an addendum to the draft Plan. Any such modifications would be subject to further consultation and Sustainability Appraisal before submission to the Secretary of State for Examination in order that the Inspector appointed to Examine the draft Plan can consider these as part of the submitted plan. This further consultation would lead to a delay to the submission of the draft Plan at a time when the Government are urging Local Planning Authorities to make timely progress on their Local Plans and to boost the supply of housing. The Local Development Scheme anticipates submission of the draft Plan in June 2018; or
- (ii) The Council can submit to the Secretary of State a schedule of Proposed Changes to inform and assist the Examination process. By virtue of Section 20(7C) Planning and Compulsory Purchase Act 2004 (as amended) the Inspector appointed by the Secretary of State to Examine the draft Plan can recommend that these modifications and any other modifications that arise through the Examination process are made in order to resolve matters of legal compliance and soundness. However, the Council must make a formal request under Section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended) for this to happen. In these circumstances, any modifications that arise through the Examination process and recommended by the Inspector would then be the subject to consultation and Sustainability Appraisal before the Inspector can make his or her final recommendations through a report to the Council and close the Examination. Following this process and submitting the draft Plan in June 2018 for Examination would be in accordance with the Council's current Local Development Scheme.

It is considered that the second option would provide the most pragmatic option to ensure timely progress can be made.

#### Representations on the draft Plan

15. At the close of the consultation on the draft Plan, approximately 3,370 comments had been received from approximately 970 people or separate organisations. One petition consisting of 5 'e-signatures' relating to the proposed housing allocations at Netherhampton Road, Salisbury was received during the consultation period. A further 237 paper-copy signatures were added to this petition after the consultation period closed. In the weeks following the close of the consultation period, approximately 30 additional comments were also received. These comments were logged separately and marked as 'unduly made' representations as they were not submitted within the consultation period. Whilst these representations were submitted late, they will nonetheless be sent to the Secretary of State along with all other submission documents to ensure that the appointed Inspector has a record of all representations.

16. In broad terms, most of the comments were concerned with the purpose of the draft Plan and its methodology for allocating land for housing. Moreover, a considerable proportion of the representations from local communities focussed on the proposed site allocations in Trowbridge and Salisbury. These tended to focus on detailed technical matters such as flood risk, surface water drainage, landscape, ecology and highways; which have been addressed through the Council's evidence base. Highway's England were particularly concerned about the impact of further development on A36. The Council has now prepared draft transport strategies for Trowbridge and Salisbury, which outline the approach to mitigation to support the site allocations. These are provided as supporting documents to this report.
17. In terms of other matters raised, a more limited, but nonetheless important, number of responses concentrated on the settlement boundary review proposals. The settlement boundary review is discussed in more detail at Paragraph 45 below.
18. As provided by legislation<sup>3</sup> the Council is required to submit a statement setting out, amongst other matters, the 'main issues' raised in this formal stage of consultation<sup>4</sup>. As the Council is not required to respond to every individual comment or objection raised through the consultation, the main issues are in effect a summary of comments submitted.
19. The main issues raised through the consultation, including the public exhibitions, ranged from: wholesale objections to the methodology employed to identify sites and address the review of settlement boundaries; through to detailed site-specific concerns with individual site proposals. These are set out in Section 7 and Appendix M of the consultation statement, which is published as a supporting document to this report. Some of the more substantive main issues outlined in the representations that challenge the soundness of the draft Plan relate to the following issues and are discussed further below:
- (i) Proposed level and distribution of housing within the draft Plan
  - (ii) Omission sites
  - (iii) Ecological matters
  - (iv) Heritage matters
20. Paragraphs 44 and 45 then go on to set out the updated position with regard to the Council's housing land supply position and the effect of the draft Plan.

*The proposed level and distribution of housing within the Plan*

21. A considerable number of responses queried the level and distribution of housing proposed in the draft Plan. In general, these came from the development industry. They call for greater consistency, flexibility and

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<sup>3</sup> Regulation 22 (1) (c), Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended),

<sup>4</sup> Regulation 19, Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)



choice in terms of the identification of broad 'areas of search'; and allocation of sites. At the heart of this issue is the concern that the draft Plan is not identifying enough land for housing through allocations and therein failing to deliver the surety of supply it is intended to deliver. These comments therefore challenge the methodology employed to identify 'areas of search' and individual sites.

22. Allied to these concerns, comments received from housebuilders and promoters of the sites proposed for allocation called for the Council to make best and most efficient use of the land. The concern here revolves around the fact that the evidence used to support the proposals in the draft Plan was based on the delivery of 30 dwellings per hectare and then applying mitigation measures to address environmental concerns. The National Planning Policy Framework (e.g. paragraph 17 - Core planning principles) advocates the effective use of land. Indeed section 11 of the latest consultation draft of the National Planning Policy Framework reinforces the need to continue to do so. It is therefore clear that in line with national policy, increased densities on sites should be encouraged, provided the character and infrastructure capacity of local areas can accommodate such proposals.
23. Having reviewed the densities in the light of the consultation responses, it is considered that there is the potential to increase the overall housing numbers on certain sites whilst ensuring the provision of necessary mitigation measures. Therefore, it is considered that Proposed Changes relating to the deliverable quantum are recommended in respect of the following site allocations:
  - H2.1, Elm Grove Farm, Trowbridge (potential increase of 50 dwellings);
  - H2.2, Land off A363 at White Horse Business Park, Trowbridge (potential increase of 75 dwellings);
  - H2.3, Elizabeth Way, Trowbridge (potential increase of 150 dwellings); and
  - H2.5, Upper Studley, Trowbridge (potential increase of 25 dwellings).
24. Additional information will be prepared in support of the increased densities to illustrate to the Inspector how they can be achieved. The potential increase in units at site allocation H2.1 is proposed to reflect an opportunity that has arisen in relation to the inclusion of land owned by Wiltshire Council (Elm Grove Field) in the site area. It is considered that the inclusion of this land would facilitate the timely delivery of a new primary school and improved recreation land in the local area. This is discussed further in **Appendix 3** and reflected in the Proposed Changes.
25. The approach taken to identifying sites in the rural areas also raised concerns. Comments were made that Large Villages and Local Service Centres across Wiltshire's three HMAs should have been identified as potential 'areas of search' to help address housing supply, irrespective of whether (or not) the indicative housing requirements for the Community Area Remainders had been met. As an adjunct to this point, concerns

were raised that Large Villages need additional homes to ensure people have access to affordable homes in rural areas; and communities continue to benefit from viable local services and facilities.

26. The relationship between the draft Plan and neighbourhood plans was also questioned particularly by the development industry. The concern being that too much reliance is being placed on neighbourhood plans to deliver housing when the availability and achievability of such sites is not rigorously tested through the basic conditions test. Conversely, responses from Market Lavington Town Council and Crudwell Parish Council considered that sites should be removed from the draft Plan and instead identified through the neighbourhood plan process.
27. In response to the above points, the key consideration relates to the relationship between the draft Plan and the Core Strategy. As explained in paragraphs 5 and 6, the overall housing requirement and its distribution is set by the Core Strategy. The draft Plan has been prepared in general conformity with it and seeks to deliver housing allocations in areas where the Core Strategy indicative requirements are yet to be met. This is to ensure a sustainable distribution of development consistent with strategic policies and the spatial strategy.
28. With regard to Large Villages, the draft Plan respects the Delivery Strategy (Core Policy 1) and Settlement Strategy (Core Policy 2) of the Core Strategy. The draft Plan only identifies sites where there is the strategic imperative to do so and supply should be supplemented. Whilst sites have been identified with the Local Service Centre of Market Lavington, there is no need to follow a similar approach in Cricklade, or other Local Service Centres due to either there being no indicative requirement to meet, or a sufficiently advanced<sup>5</sup> neighbourhood plan in the area which identifies sites for housing.
29. The relationship between the draft Plan and neighbourhood plans is underpinned by a cogent and consistent methodology. Moreover, neighbourhood plans are independently examined to a standard consistent with legislative requirements. In this regard, they are a legitimate and reliable component of the overall housing land supply position. However, as set out in the site selection methodology, it is considered that only plans that are reasonably advanced<sup>4</sup> can provide sufficient confidence that housing sites will be delivered. Therefore, while the neighbourhood planning process across Wiltshire is fully supported, the proposed allocation of sites for housing in Market Lavington and Crudwell is considered appropriate to provide certainty of housing supply and facilitate delivery of the relevant Area Strategies.

#### *Omission sites*

30. A considerable number of responses proposed alternative land for allocation in the draft Plan and challenged the assessment of sites. These

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<sup>5</sup> Where a neighbourhood plan has at least reached the Regulation 16 stage (Neighbourhood Planning (General) Regulations 2012 (as amended)) i.e. publicised by Wiltshire Council for consultation

sites are classified as 'omission sites' (i.e. they are not included as allocations within the draft Plan) and having assessed each site, they broadly fall into three categories:

- (i) they are situated within areas of search that were ultimately dismissed because it was considered there was no need to allocate land to help deliver the policy requirements set out within the Core Strategy; or
  - (ii) they fell within areas of search where the Council is seeking to deliver housing but had not been previously assessed through the site selection process; or
  - (iii) they are sites that have been assessed and rejected through the site selection process where further evidence has been provided to support some of the sites and challenge the Council's assessment.
31. With regard to sites falling under (ii) or (iii), new sites were taken through the assessment process or the information submitted challenging the Council's assessment of sites (e.g. in relation to Sustainability Appraisal scoring or technical information on matters such as drainage or archaeology) reviewed to see whether any changes would be justified. Having completed the further assessment work, it is considered that there is only one site that would score favourably against the site selection methodology meriting allocation. This is a small site for 14 homes at The Yard, Hampton Park, Salisbury. It is therefore proposed that this site forms a Proposed Change. The further assessment work undertaken is reflected in the updates of the Sustainability Appraisal and relevant Community Area Topic Papers by way of tracked changes, which have been published as papers supporting this report.

#### *Ecological matters*

32. In response to the consultation, Natural England and the Environment Agency raised concerns about the soundness of the draft Plan and the potential impact of proposed growth on the River Avon Special Area of Conservation (SAC), an internationally important wildlife site. They considered there to be insufficient evidence and certainty that development is unlikely to have an adverse effect on concentrations of phosphates within the River Avon SAC. In this regard, concerns were raised with the Habitats Regulations Assessment accompanying the draft Plan, which is published as a supporting paper to this report. This identified issues with the implementation of the Nutrient Management Plan (NMP)<sup>6</sup> but concluded that with mitigation there are unlikely to be any adverse effects.
33. Phosphates in relation to the River Avon SAC is a complex and technical issue, as recognised by Core Policy 69 of the Wiltshire Core Strategy that relates to the Protection of the River Avon SAC and refers to the role of

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<sup>6</sup> River Avon Special Area of Conservation Nutrient Management Plan for Phosphorus (April 2015) - developed in partnership by Environment Agency, Natural England and Wiltshire Council

the Nutrient Management Plan (NMP) in managing phosphate levels. In simple terms, the reduction in phosphates anticipated through catchment sensitive farming practices has not been achieved. Since making their response to the draft Plan, Natural England and Environment Agency have confirmed that they will be reviewing some of the underlying assumptions in the NMP. As such, they have simplified their advice and require that development should be designed to be phosphate neutral.

34. Since the close of the consultation the Council has been working constructively with all relevant parties: Natural England, Wessex Water, the Environment Agency and neighbouring authorities (e.g. New Forest District Council) on the phosphates issue. Progress is being made on a 'Memorandum of Understanding' ('the MoU'), which has been drafted to set out the approach to identifying effective and proportionate measures to remove or off-set the phosphate load from qualifying developments and how the Council and all parties will work together. This will give greater certainty with respect to nutrient management, sufficient for the Council to conclude that the draft Plan will support phosphate neutral development that is unlikely to have adverse effects upon the integrity of the SAC. Significant and constructive progress has been made towards finalising the MoU. This will include a commitment to preparing additional work to identify in more detail the measures that will be required to offset phosphate inputs, in Wiltshire to be paid for by the Community Infrastructure Levy. A proposed change is recommended to the draft Plan to reflect the requirements of the MoU and ensure development proceeds in a compliant way. This is reflected in the Addendum to the HRA provided at **Appendix 4**.
35. Natural England also objected to the draft Plan through the consultation in respect of the proposals at Trowbridge on the grounds that a mitigation strategy to protect the integrity of the Bath and Bradford on Avon Bats SAC was not in place. Again, work has been progressed in respect of this matter and constructive dialogue with Natural England has taken place.
36. The issues at the heart of Natural England's objection relate to Core Policy 29 of the Core Strategy in terms of ensuring the impacts associated with further development at Trowbridge (loss of habitat and increased recreational pressure) are addressed. To this end, the Council commissioned work in July 2017 to investigate the nature of recreational pressure on large, publicly accessible open spaces including important bat habitats around the town. The findings led to a series of recommendations that are now being considered along with measures for offsetting loss of habitat, to provide a coherent, strategic approach to safeguarding the bats associated with the SAC.
37. Work is progressing on developing the Trowbridge Bat Mitigation Strategy in consultation with Natural England. It is anticipated that this will form part of the submission documents to support the draft Plan. It has been agreed that the Strategy will be delivered in two phases. Phase 1<sup>7</sup> will focus on development coming forward within the timescale of the draft

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<sup>7</sup> A second phase will follow to provide a longer term strategy to support the Local Plan Review, which Plans for the period 2016 to 2036.

Plan, including both allocated land and windfall sites, identifying the nature of mitigation required mostly within the allocations themselves. It will collate all relevant ecological evidence available on bats at the town and provide recommendations to satisfy the Competent Authority (the Council), in consultation with Natural England, that the proposals in the draft Plan would not put at risk the integrity of the Bath and Bradford on Avon Bats SAC. To this extent, there are proposals already set out within the draft Plan for how development intends to mitigate its effects on bats including details on how it will bolster green infrastructure and maintain 'dark corridors' to provide continued permeability for bats in the urban/rural landscape; and requirements to contribute to the Trowbridge Bat Mitigation Strategy.

38. The Addendum to the HRA considers that together with the proposals included in the draft Plan to protect and buffer existing bat habitat, Phase 1 of the Trowbridge Bat Mitigation Strategy will be sufficient to ensure that adverse impacts to the SAC features will be avoided and the integrity of the SAC maintained.

#### *Heritage Matters*

39. Whilst the draft Plan has been prepared in the light of relevant legislation<sup>8</sup> and national policy, Historic England submitted representations through the consultation that identified concerns with the Council's evidence on how development affecting designated and non-designated heritage assets had been justified. Whilst no 'show-stopper' concerns were raised in heritage terms Historic England was concerned about the potential scale of effects attributable to development and therefore the risk of harm to heritage assets. They considered that an impact assessment could not be deferred to a future planning application stage.
40. It was agreed with Historic England that a full, but nonetheless proportionate assessment of six of the proposed allocations would be undertaken to provide greater certainty to the evidence base. Consultants were commissioned to undertake a Heritage Impact Assessment, which is provided as a supporting paper to this report. The report adds to the Council's understanding of the various heritage assets associated with the six sites that were appraised.
41. The Heritage Impact Assessment produced for the Council naturally reflects statutory<sup>9</sup> and national planning policy advice and takes a precautionary approach to the assessment of heritage assets and the degree to which their significance would be harmed by development proceeding. However, the assessment nonetheless concludes for all sites that the scale of harm would be less than substantial and for two site allocations (H2.3 Elizabeth Way, Trowbridge; H2.4 Church Lane, Trowbridge) there were low risks associated with development and can proceed as allocations. The report identifies more significant risks with proceeding with the H2.6 Southwick Court (Trowbridge), H2.2 Land off A363 at White Horse Business Park (Trowbridge), H2.7 East of Dene

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<sup>8</sup> Planning (Listed Buildings and Conservation Areas) Act 1990, Sections 66(1) and Section 72(1)

<sup>9</sup> Planning (Listed Buildings and Conservation Areas) Act 1990, Sections 66 and 72

(Warminster) and H3.3 Land North of Netherhampton Road (Salisbury) site allocations that merit further consideration.

42. As defined by paragraph 134 of the National Planning Policy Framework, where a proposed development would lead to 'less than substantial harm' to the significance of a designated heritage asset (which can be of varying degrees of severity), should be weighed against the public benefits of development proceeding. This, together with an explanation of less than substantial harm, is discussed in more detail in the 'Heritage Note' at **Appendix 5**.
43. Having carefully considered the evidence and options it is considered that there is no justification for recommending deletion of the proposed sites on heritage grounds. However, in the light of the HIA and comments by Historic England, it is considered that Proposed Changes should be made that emphasise the special regard that needs to be applied to conserving heritage assets in a manner appropriate to their significance. These are set out in **Appendix 2**.

#### Updated Housing Land Supply Figures

44. The draft Plan refers to housing supply figures that, although with a base date of 1 April 2017, were estimated. Since then the 'Housing Land Supply Statement, Base date: April 2017 (March 2018)' has been published. It is therefore proposed that changes are made to show the most up to date figures alongside those that informed the draft Plan (See Annex to **Appendix 2** and the Addendums to Topic Papers 3 and 4). These updated figures show that the five year land supply position has changed and that, for the South Wiltshire HMA only a five year land supply with appropriate buffer (5%) can be demonstrated up to 2022. This change is mainly attributed to the mixed use strategic site at Churchfields for 1,100 dwellings (Core Policy 20, Wiltshire Core Strategy) no longer being considered deliverable in the period to 2026 and a lower density delivered on the Kings Gate site at Amesbury. The proposed increased densities at the allocation sites, as set out in the Proposed Changes (see paragraph 23 above), would contribute an additional 300 homes to the housing land supply in the North and West Housing Market Area, helping improve supply at Trowbridge consistent with the Core Strategy.
45. As is recognised in paragraph 4.32 of the draft Plan, additional allocations can be identified to supplement supply through the Wiltshire Local Plan Review, which is underway and plans for the period 2016 to 2036. This is programmed for adoption early 2021. Whilst it is considered that the Plan as submitted is sound, the examination process enables the Inspector to make such recommendations to the Council as he or she considers necessary under Section 20 (7C) of the Planning and Compulsory Purchase Act 2004 (as amended), which may include adding sites to the supply.

#### Settlement Boundary Review

46. The comments received in respect of the draft proposals for reviewing settlement boundaries focussed largely on the rationale for including, or excluding land. Having considered the representations, the overall method remains sound. However, it is considered that some changes should be made to the proposed settlement boundaries to address inconsistencies with the application of the methodology, as set out in Topic Paper 1: Settlement Boundary Review Methodology (June 2017), where appropriate to do so in the light of the representations received. Appendix A of Topic Paper 1 has been updated to reflect where settlement boundaries have now been reviewed through a sufficiently advanced neighbourhood planning process (Christian Malford, Cricklade and West Lavington). In line with the latest published housing land supply data, the Proposed Changes also include the most up-to-date position in respect of housing completions and commenced development at settlements as at April 2017. The Proposed Changes to the boundaries arising from the consultation are explained as tracked changes to the Community Area Topic Papers, which are published as supporting documents to this report.

### Summary

47. Having considered the representations received through the formal consultation, a number of 'main issues' have been identified that are considered likely to form the basis of the Examination process. It is considered that a schedule of Proposed Changes should be submitted alongside the draft Plan to inform and assist the Examination process. This schedule of Proposed Changes can be considered by the Inspector through the Examination process as changes to the draft Plan under section 20(7C) Planning and Compulsory Purchase Act 2004 (as amended)
48. In addition to the Proposed Changes outlined above, other changes are proposed in **Appendix 2** that are generally in response to representations received and include the following:
- Amendments to plan text to address factual updates submitted through representations;
  - Amendments to site boundaries to reflect comments received through consultation; and
  - Amendments to policies and text to reflect representations from statutory consultees (e.g. Environment Agency in relation to providing greater clarity on how flood risk will be addressed).

### **Overview and Scrutiny Engagement**

49. The draft Plan has not been subjected to the Council's Overview and Scrutiny function. It has been agreed that as the Environment Select Committee has not prioritised this item highly as a topic of interest, no Overview and Scrutiny engagement is to be undertaken at present.

### **Safeguarding Implications**

50. Whilst there are no safeguarding implications as a direct result of this proposal, as anticipated by the Council's Business Plan, the delivery of new homes will likely lead to wider social benefits as a function of building strong and resilient communities.

### **Public Health Implications**

51. In accordance with the provisions of Section 39(2) of the Planning and Compulsory Purchase Act 2004 (as amended), planning for sustainable development seeks to address the housing, infrastructure and employment needs of communities, thereby helping to foster social well-being, encourage healthier lifestyles and tackle inequalities. Well planned, accessible developments contribute to improving public health, for example through the provision of green infrastructure, as well as encouraging cycling and walking via sustainable transport initiatives.

### **Procurement Implications**

52. The Examination of the draft Plan will entail the need to procure the services of a suitably experienced Programme Officer to help support the appointed Inspector. The role of the Programme Officer is to act as a conduit for information sharing between the Council, Third Party representatives and the Inspector. The appointment of a Programme Officer is mandatory. The financial implications include provision for this appointment.

### **Equalities Impact of the Proposal**

53. The draft Plan aims to positively manage growth in accordance with the Wiltshire Core Strategy and thereby ensure sufficient homes are available to meet housing needs.
54. Statutory requirements<sup>10</sup> governing the submission stage of plan preparation determine that the draft Plan be supported by an Equalities Impact Assessment. A copy of this Assessment is attached at **Appendix 6** for Members' consideration.
55. The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to:
- eliminate discrimination;
  - advance equality of opportunity between persons who share a "*relevant protected characteristic*" and persons who do not share it;
  - foster good relations between persons who share a "*relevant protected characteristic*" and persons who do not share it.

### **Environmental and Climate Change Considerations**

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<sup>10</sup> Section 149, Equality Act 2010; Section 20, Planning and Compulsory Purchase Act 2004; Regulation 22, Town and Country (Local Planning) (England) Regulations 2012



56. Spatial planning has implications for the natural, economic and social environment. A Sustainability Appraisal, incorporating Strategic Environmental Assessment, has been undertaken as an integral element of the plan making process and thereby seeks to ensure that the potentially negative environmental impacts associated with the development of the proposals on the face of the draft Plan are avoided, or appropriately mitigated. The updated Sustainability Appraisal Report (see paragraph 31 above) is published as a supporting document to this report and the Non-Technical Summary attached at **Appendix 7**. These incorporate an assessment of the implications for the Sustainability Appraisal of the schedule of Proposed Changes. A Habitats Regulations Assessment and Addendum have also been undertaken to support the draft Plan.
57. Managing climate change is one of the cross-cutting themes of the Wiltshire Core Strategy and therefore a principle that has been woven into the methodology for this draft Plan. The evidence relied upon to support this draft Plan has sought to identify the most sustainable options by addressing issues such as: flood risk from all sources; accessibility to services and facilities; bolstering green infrastructure; managing direct phosphate generation; and minimising, where practicable at the plan making stage, potential amenity issues relating to the generation of noise, dust and light pollution.
58. Once adopted, the draft Plan will become part of the development plan for Wiltshire. Therefore, specific policies of the Wiltshire Core Strategy that seek to protect and enhance the environment; as well as those that protect against the risks associated with climate change will be relevant in the consideration of planning applications relating to the development of the proposed site allocations.

#### **Risks that may arise if the proposed decision and related work is not taken**

59. If the proposed decision is not taken the Council would fail to meet the obligations it set itself through the Local Development Scheme. In addition, any delay in submitting the draft Plan could leave the Council open to speculative planning applications for housing schemes.
60. Progression of the draft Plan will therefore help reduce this risk by ensuring that the Council is able to boost housing supply across each of its Housing Market Areas.

#### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

61. The draft Plan is a sound plan but nonetheless to manage any risk that the submitted draft Plan could be found to be unsound through the Examination process and hence recommended for withdrawal by the Inspector the Council can manage this risk by:
  - Ensuring that it provides all the documents prescribed by statute (see Legal Implications);

- Submitting a schedule of Proposed Changes to inform and assist the Examination process in response to representations made to the draft Plan (see paragraph 14 above);
- Requesting that the Inspector recommend modifications to the submitted draft Plan that would effectively make it sound. This can be achieved through a direct request to the appointed Inspector in accordance with the provisions set out in Section 20 (7C) of the Planning and Compulsory Purchase Act 2004 (as amended); and
- Ensuring any detailed matters that need to be subject to refinement are finalised prior to adoption as part of an iterative process. The management of phosphates, which is considered within the Habitats Regulations Assessment (HRA), is one such example. An Addendum to the HRA has been prepared to reflect the current position and the Memorandum of Understanding under development between various parties, which will set out the approach to identifying effective and proportionate measures to remove or off-set the phosphate load from qualifying developments. There is a risk that it will not be possible to devise sufficient mitigation measures to off-set development. However, Natural England and Environment Agency consider this is possible. Constructive progress is being made, as set out in paragraph 34, and there is every reason to be confident that satisfactory mitigation can be achieved which will enable a sound plan to proceed to adoption.

62. There remains a reputational risk to the Council if it proceeds with the draft Plan. This would likely arise from local people who do not want to see development occurring close to where they live, or areas they value. Whilst this risk is real, the Council is nonetheless charged with making difficult, often controversial decisions in the interests of ensuring it maintains an up to date Local Plan and a planned approach to development.

### **Financial Implications**

63. Provision will be made from the Economic Development and Planning 2018/19 budget for costs associated with the Submission and Examination of the draft Plan. This is forecast to be circa £130,000 and includes the cost of the Inspector and Programme Officer.

### **Legal Implications**

64. In accordance with Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'), the Council has a statutory duty to prepare planning policies and maintain an up-to-date development plan. This is further reinforced through the National Planning Policy Framework. The draft Plan has therefore been prepared in compliance with primary legislation.

65. Secondary legislation relating to the preparation of development plan documents is set out in the Town and Country Planning (Local Planning) (England) Regulations 2012 ('the Regulations'). In preparing the Plan, the Council has complied with the statutory duty to co-operate and engaged with a list of prescribed bodies<sup>11</sup>, local communities and other stakeholders throughout the plan making process in accordance with its Statement of Community Involvement.
66. With particular regard to the legal duty to co-operate, the draft Plan is essentially a product of the Core Strategy and hence the scope of the matters considered to be relevant to the prescribed bodies is more limited than would be the case if the Council were embarking on a new plan. That said, the Council has engaged constructively, actively and on an on-going basis with the prescribed bodies as relevant during the preparation of the draft Plan. A draft statement highlighting how the Council had fulfilled the duty to cooperate up to the publication of the draft Plan was made available to support the consultation documents at the Regulation 19 stage of the plan making process (see **Appendix 8**). This statement has been updated to reflect dialogue since the publication stage and thereby support the submission materials (see **Appendix 9**).
67. Reflecting on the entire process to date, it is considered that the Council has discharged its functions in respect of Regulation 18 (Preparation of a local plan) and Regulation 19 (Publication of a local plan). Representations relating to the draft Plan submitted at the Regulation 19 consultation stage have been duly recorded in accordance with Regulation 20.
68. According to Section 20(3) of the 2004 Act and Regulation 22 (1), the next stage of the process involves the Council submitting a prescribed list of documents to the Secretary of State, alongside the draft Plan. These documents are:
- the sustainability appraisal report;
  - a submission policies map (i.e. changes to the policies map);
  - a statement setting out how the draft Plan has been prepared<sup>12</sup>;
  - copies of the representations received through the Regulation 19 consultation; and
  - such supporting documents considered relevant to the preparation of the draft Plan (e.g. the Habitats Regulations Assessment)
69. The 'supporting documents' include those published as supporting documents to this report together with the appropriate Appendices.
70. The next stage of the process following the consultation on the draft Plan is submission to the Secretary of State. Once submitted to the Secretary of State the draft Plan will be Examined by an independent Inspector

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<sup>11</sup> The Town and Country Planning (Local Planning) (England) Regulations 2012, Regulation 4; and Section 33A of the 2004 Act

<sup>12</sup> The Town and Country Planning (Local Planning) (England) Regulations 2012, Regulation 22(1) (c)

whose role is to consider compliance with section 20(5) of the 2004 Act. The Council has complied with requirements of section 19 of the 2004 Act (as amended), and the Town and Country Planning (Local Planning) (England) Regulations 2012 pursuant to section 20(5)(a) 2004 Act. Further in respect of section 20 (5)(c) the Council considers that it has complied with its duty to cooperate under section 33A 2004 Act.

71. In respect of section 20(5)(b) of the 2004 Act and soundness of the draft Plan, the National Planning Policy Framework (paragraph 182) also requires the Council submits a plan for examination which it considers is “sound”, namely that it is:
- **Positively prepared** - the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
  - **Justified** - the plan should be the most appropriate strategy, when considered against all reasonable alternatives, based on proportionate evidence;
  - **Effective** - the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
  - **Consistent with national policy** - the plan should enable the delivery of sustainable development in accordance with the policies in the NPPF.
72. Although there are outstanding issues to resolve in respect of the Habitats Regulations Assessment. The parties who are relevant to the resolution of these matters are confident that all outstanding technical issues can be satisfactorily resolved during the Examination process. As such there is no impediment to submitting the draft Plan and all supporting documents. Therefore, having considered all matters carefully, the Council considers the draft Plan to be sound in accordance with Section 20(5) (b) of the 2004 Act
73. Once adopted, the draft Plan will form part of the statutory development plan for the area and be used as such for the purpose of determining relevant planning applications

### **Options Considered**

74. The draft Plan has been through an iterative and inclusive process. Each stage of that process has followed legislative requirements. The proposals within the draft Plan have been rigorously tested through various appraisals, including the Sustainability Appraisal, and an extensive formal consultation process at the Regulation 19 Publication stage.

75. Progression of the draft Plan to the formal submission and Examination stage will ensure that the Council maintains the commitment it gave through the published Local Development Scheme. Moreover, progressing the draft Plan will help ensure the Council maintains a planned approach to housing development in areas that support the delivery of the Core Strategy.
76. In considering the comments submitted during the consultation period, the option of not proposing changes to the draft Plan was considered. Indeed, there is no requirement in the Regulations to propose such changes prior to submission. Such matters are ordinarily addressed through the Examination process with the appointed Inspector ultimately determining the scope and scale of any changes to the draft Plan before recommending such changes be made. However, a schedule of Proposed Changes has been produced to inform and assist the Examination process.

## Conclusions

77. Having completed all statutory steps in the plan making process, it is considered that there are no fundamental issues of soundness that would preclude the Council from submitting the draft Plan. The appointed Inspector will review all the representations received through the Regulation 19 consultation and the evidence relied upon by the Council in preparing the draft Plan. The Examination will then focus on soundness matters that the Inspector considers need to be tested thoroughly through open hearing sessions before determining whether the draft Plan should be:
- Withdrawn (i.e. it would fail the tests of soundness and is incapable of addressing such matters); or
  - Adopted without modification; or
  - Adopted subject applying a schedule of main modifications.
78. In the spirit of the letter dated 21 July 2015 from the former Department of Communities and Local Government to the Chief Executive at the Planning Inspectorate (attached at **Appendix 10**), which is now common practice, it will be within the Inspector's remit to work pragmatically and positively with the Council to deliver the draft Plan. This will involve an iterative process with the Inspector. At this stage, it is considered that the draft Plan remains a sound document that is based on a credible evidence base and benefits from an inclusive process of consultation and engagement at the Regulation 18 and Regulation 19 stages.
79. The Council has engaged constructively, actively and on an ongoing basis with the bodies prescribed in the 2004 Act (as amended) and Regulations during the process of preparing the draft Plan. Indeed, much of this engagement built upon the work undertaken through the preparation of the Core Strategy. As such, the challenges faced by the Council in terms of delivering a steady and reliable supply of homes across the County have

been well rehearsed through evidence gathering over a considerable period.

80. Whilst the comments received through the Regulation 19 consultation challenge the soundness of the draft Plan, the matters raised are considered to be capable of resolution through the Examination process. A schedule of Proposed Changes has been prepared to assist the appointed Inspector.
81. Cabinet is asked to endorse the draft Plan and schedule of Proposed Changes and recommend to Council that these, together with the wider prescribed submission documents<sup>13</sup> be submitted to the Secretary of State as set out in paragraph 1 above.
82. In conclusion, it is considered that the draft Plan remains a sound plan and therefore appropriate to submit to the Secretary of State to commence the Examination process. Subject to Council approval submission of the draft Plan together with the schedule of Proposed Changes in June 2018 will accord with the timescale within the approved Local Development Scheme.

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Date of report: 4 May 2018

**Appendices**

Appendix 1: Wiltshire Housing Site Allocations Plan - Pre-submission Draft Plan (June 2017)

Appendix 2: Schedule of Proposed Changes to the Pre-submission Draft Plan (May 2018)

Appendix 3: Note on Elm Grove Field and implications for asset transfer

Appendix 4: Addendum to the 'Assessment under the Habitat Regulations, June 2017' (May 2018)

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<sup>13</sup> As defined by Regulation 22(1) of the Town and Country Planning (Local Planning) (England) Regulations 2012

Appendix 5: Note on Heritage  
Appendix 6: Equalities Impact Assessment  
Appendix 7: Non-Technical Summary, Wiltshire Housing Site Allocations Plan Sustainability Appraisal Report (Updated May 2018)  
Appendix 8: Duty to Co-operate Statement, June 2017  
Appendix 9: Addendum to 'Duty to Cooperate Statement June 2017' (May 2018)  
Appendix 10: Letter from Secretary of State to Chief Executive of Planning Inspectorate (July 2015)

## **Supporting Documents**

The following documents have been published in support of this report:

Regulation 22 (1) (c) Report (May 2018) - Consultation Statement  
Regulation 22 - Appendices 1 (May 2018)  
Regulation 22 - Appendices 2 (May 2018)  
Regulation 22 - Appendices 3 (May 2018)  
Sustainability Appraisal Report, Atkins, Updated May 2018  
Assessment under the Habitat Regulations, June 2017  
Landscape Assessment - Part 3 (May 2018)  
Heritage Impact Assessment, LUC, March 2018  
Draft Trowbridge Transport Strategy Refresh, Atkins, May 2018  
Draft Salisbury Transport Strategy Refresh, Atkins, May 2018  
Topic Paper 1 - Settlement Boundary Review Methodology (May 2018)  
Topic Paper 2 - Site Selection Methodology Minor Factual Update (May 2018)  
Topic Paper 3 - Housing Land Supply (June 2017)  
Addendum to 'Topic Paper 3 - Housing Land Supply, June 2017' (May 2018)  
Addendum to 'Topic Paper 4 - Developing Plan Proposals, June 2017' (May 2018)  
Assessment of Viability, BNP Paribas, June 2017

### Community Area Topic Papers (Updated May 2018)

- Amesbury Community Area Topic Paper
- Bradford on Avon Community Area Topic Paper
- Calne Community Area Topic Paper
- Chippenham Community Area Topic Paper
- Corsham Community Area Topic Paper
- Devizes Community Area Topic Paper
- Malmesbury Community Area Topic Paper
- Marlborough Community Area Topic Paper
- Melksham Community Area Topic Paper
- Mere Community Areas Topic Paper
- Pewsey Community Area Topic Paper
- Royal Wootton Bassett Community Area Topic Paper
- Salisbury Community Area Topic Paper
- Southern Wiltshire Community Areas Topic Paper
- Tidworth Community Area Topic Paper
- Tisbury Community Area Topic Paper
- Trowbridge Community Area Topic Paper
- Warminster Community Area Topic Paper
- Westbury Community Area Topic Paper
- Wilton Community Area Topic Paper