



Pinsent Masons

BY E-MAIL

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Spatial Planning
Economy and Enterprise
Wiltshire Council
County Hall
Bythesea Road
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BA14 8JN

8 August 2011

Dear Sirs

WILTSHIRE CORE STRATEGY CONSULTATION DOCUMENT (THE "EMERGING CORE STRATEGY")

COMMENTS IN RELATION TO CHIPPENHAM COMMUNITY AREA AT PARAGRAPH 5.1 (CHAPTER 5, QUESTION 5) AND GENERAL COMMENTS (CHAPTER 6, QUESTION 22)

1. INTRODUCTION

1.1 We write on behalf of our client, Chippenham 2020, who own 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".

1.2 The Land to the East of Chippenham was included in the preferred strategic site option for Chippenham in the previous iteration of the Emerging Core Strategy, "Wiltshire 2026 Planning for Wiltshire's Future, October 2009" ("Wiltshire 2026"). 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. The site was preferred because:

"it provides one main coherent urban extension to the east and north of Chippenham that would provide a mix of housing and employment, within close proximity of the town centre and the railway station. It could also enable the development of an eastern distributor road. The town centre strategic site will enable regeneration opportunities in the town centre to be taken forward"

1.3 It was therefore something of a surprise that the Land to the East of Chippenham was not included in the Emerging Core Strategy, which is currently out to consultation until Monday, 8 August 2011.

1.4 Chippenham 2020 is a local business, with a sole landholding in the Land to the East of Chippenham. It does not "landbank". It is committed to, and has a serious investment in, delivering much needed housing and infrastructure in Chippenham.

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1.5 The Core Strategy must work for the future of all development in not only Chippenham, but the wider Wiltshire area. My clients and their advisors have carefully considered the Emerging Core Strategy and have identified serious irregularities in process and in the supporting evidence base.

1.6 CSJ Planning have examined the evidence base in detail, and will be submitting representations on behalf of Chippenham 2020 in this regard. We do not see the need to repeat CSJ's observations in this letter, but we thoroughly support their findings.

2. **SUMMARY OF REPRESENTATIONS AS TO LEGAL COMPLIANCE AND SOUNDNESS OF THE EMERGING CORE STRATEGY**

2.1 PPS12 and the Plan Making Manual should be taken into account by local planning authorities in preparing development plan documents and other local development plan documents.

2.2 As recognised in Planning Policy Statement 12 ("PPS12"), the "*examination of any DPD is concerned with the two separate matters of legal compliance and soundness*". Notwithstanding that the Core Strategy is not yet at the "examination in public" (EIP) stage, we have identified a number of fundamental flaws in the current document and process which need to be addressed by the Council now, so as to properly reflect the proper planning of the area and the views of the public. Addressing these issues now will avoid a time consuming and expensive exercise for the Council at the EIP.

3. **REPRESENTATIONS**

3.1 **Evidence Base/Prematurity**

3.1.1 As stated above, CSJ Planning are making representations on behalf of Chippenham 2020 as to deficiencies identified with the evidence base. These representations are supported by this firm. We will not seek to repeat the issues raised by CSJ in this letter, but it is important to make some key observations.

3.1.2 A fundamental question to ask is, what is the evidence base for the Emerging Core Strategy? Wiltshire 2026 was supported by appropriately detailed background papers and assessments. The Emerging Core Strategy and its evidence base is completely different to that which went before. Selection criteria should be consistently applied based on objective criteria. It is not possible to compare like with like, and it is not apparent why there has been a massive shift in the Council's approach to evidence and consultation. Whilst paragraph 1.1 of Topic Paper 14 states that it builds upon the Wiltshire Strategic Sites Background, and that the outcomes of this paper have "informed the Core Strategy Consultation Document" it is simply not possible to discern a logical flow or interaction between the two consultation processes.

3.1.3 The Council's website states that 18 Topic Papers have been produced to:

"form part of the evidence base to support the emerging Wiltshire Core Strategy. These topic papers have been produced in order to present a co-ordinated view of some of the main evidence that has been considered in drafting the emerging Core Strategy".

3.1.4 The website goes on to say that:

"some of these topic papers in draft form, have been produced alongside this consultation on the Wiltshire Core Strategy Consultation Document. The



remaining topic papers will be produced to accompany the next stage of consultation on the Wiltshire Core Strategy, the pre-submission draft, which is timetabled for December 2011".

- 3.1.5 The remaining evidence base appears to be the draft Sustainability Appraisal and Assessment under the Habitats Regulations, both published at the same time as the emerging core strategy, and consultation responses from Wiltshire 2006.
- 3.1.6 Topic Paper 17 informs that a SHLAA is to be published in "June/July 2011" and it is acknowledged at paragraph 6.19 of the Topic Paper that "*this has yet to be produced and so the deliverability of a housing requirement will have to be assessed in terms of historic delivery in the interim*". The previous SHLAA was published in May 2009, based on reporting work carried out in 2008.
- 3.1.7 The Core Strategy should be informed by the evidence base, but this cannot be the case if the evidence base itself is still in draft form and/or is in the process of consultation itself and/or is "historic".
- 3.1.8 The Topic Papers are full of examples where what is required in terms of evidence/consultation is set out, but the process has simply not been followed. Taking one of these examples, Topic Paper 17 acknowledges at paragraphs 6.32 and 6.33 that:

"6.32 any revised housing targets must be founded on robust evidence and collaboration with stakeholders. This will be tested through public examination. Advice on the nature of this evidence is provided in Planning Policy Statement 3 (PPS3) on housing, re-issued by the new Government in June 2010. This includes:

- *Evidence of current and future levels of need and demand for housing*
- *Evidence of the availability of suitable land for housing*
- *The Government's overall ambitions for affordability across the housing market, including the need to improve affordability and increase housing supply.*
- *A Sustainability Appraisal of the environmental, social and economic implications.*
- *An assessment of the impact of development upon existing or planned infrastructure*

6.33 This was confirmed by the interim advice issued by DCLG which states that "it is important for the process to be transparent, and for people to understand why decisions have been taken. Local authorities should continue to collect and use reliable information to justify their housing supply policies and defend them during the LDF examination process. They should do this in line with current policy PPS3"

- 3.1.9 The Topic Paper then goes on to conclude that Wiltshire should plan for "*net dwelling delivery in the range of 35,900 to 43,300*". As identified in the representations of CSJ Planning, these figures do not provide a reasonable and realistic basis upon which to plan for growth in the Core Strategy, with



fatal flaws identified in the forecasts produced to determine the strategic housing requirement.

- 3.1.10 It is difficult enough for the professional to understand the Council's evidence base, but it is simply not possible for members of the public to readily understand the proposals and why what is being suggested *is* being suggested. If the Council were to look at the conclusions in the Emerging Core Strategy and refer back to the procedural requirements it knows it must follow, we do not consider that the Council has built its case on solid foundations, and the flaws in the evidence base and process clearly demonstrate the unsoundness of the consultation document.
- 3.1.11 We consider that the Council should take a more sequential approach to consultation, only publishing documents for consultation when they are properly informed by a clear evidence base.
- 3.1.12 There is also a clear absence of reporting. We have not seen the results of any commissioned work (eg a transport assessment etc..) which analyses, provides options and suggests a preferred option.
- 3.1.13 It is therefore premature to consult upon the Emerging Core Strategy now, given the volume of evidence that needs to be gathered and evaluated. It is not acceptable and not in accordance with the intentions of PPS12 to consult upon numerous documents, all at the same time, when several of these documents are designed to inform documents also out to consultation.

3.2 Inadequate Consultation

3.2.1 Paragraph 4.20 of PPS12 states that:

"The production of core strategies should follow the Government's principles for community engagement in planning. Involvement should be:

- **appropriate** to the level of planning;
- **from the outset** – leading to a sense of ownership of local policy decisions;
- **continuous** – part of an ongoing programme, not a one-off event, with clearly articulated opportunities for continuing involvement;
- **transparent and accessible** – using methods appropriate to the communities concerned; and
- **planned** - as an integral part of the process for making plans".

3.2.2 The draft National Planning Policy Framework also states that "*planning must be transparent, effective and efficient and it must ensure the public interest is protected*" (paragraph 3)

3.2.3 The Emerging Core Strategy is not the only document which is currently out to consultation. The Council's website at "Local Development Framework Consultations" also indicates that the Proposed Submission Draft Waste Site Allocations DPD and the Draft Devizes Wharf Planning Brief Supplementary Planning Document are also being consulted upon, for the same consultation period.



- 3.2.4 This is not, however, the full story. On navigating to the Wiltshire Core Strategy Consultation Document page, towards the bottom are links to 18 "Topic Papers" which, it is said:

"will form part of the evidence base to support the emerging Wiltshire Core Strategy. These topic papers have been produced in order to present a coordinated view of some of the main evidence that has been considered in drafting the emerging Core Strategy. It is hoped that this will make it easier to understand how we have reached our conclusions.

Some of these topic papers, in draft form, have been produced alongside this consultation on the Wiltshire Core Strategy Consultation Document. The remaining topic papers will be produced to accompany the next stage of consultation on the Wiltshire Core Strategy, the pre-submission draft, which is timetabled for December, 2011".

- 3.2.5 It is therefore unclear if the Topic Papers are to be formally consulted upon, but 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.

- 3.2.6 At the bottom of the Wiltshire Core Strategy Consultation Document page are links to a "sustainability appraisal report" with the accompanying text:

- 3.2.7 *"An interim sustainability appraisal report is available to download below, along with a non-technical summary and appendices"*

- 3.2.8 At paragraph 1.1.2 of the report, it is stated that :

"This Interim Sustainability Appraisal Report has been published to accompany the Core Strategy. Sustainability appraisal is a process that is carried out as an integral part of developing the Core Strategy, with the aim of promoting sustainable development through the integration of social, environmental and economic considerations. It is a mandatory requirement and is subject to the same level of public consultation and scrutiny as the Core Strategy".

- 3.2.9 As a "mandatory requirement", subject to the "same level of public consultation and scrutiny as the core strategy" it is therefore surprising that this key document is not expressly included on the Local Development Framework Consultations page of the Council's website.

- 3.2.10 It cannot be transparent nor accessible, nor, simply *fair* to members of the public if documents are not easily available and the extent of actual consultation is not readily apparent.

- 3.2.11 To add further confusion, on the Wiltshire Core Strategy Consultation Document page there are several headings – some of which relate to documents that need to be consulted upon, some of which are historic documents. It is simply not clear enough to the lay member of the public upon what documentation their views will be considered.

- 3.2.12 All local planning authorities should adopt a "statement of community involvement" ("SCI"). The Council adopted theirs on 23 February 2010.

- 3.2.13 Paragraph 3.6 of the Council's SCI states that documents will be made available on the Council's website for people to view and comment upon



electronically via a simple series of standard, easy to use representation forms.

- 3.2.14 Paragraph 4.59 – 4.61 of the SCI (under the heading "*Consulting on the draft plan and SA report*") states that:

"4.59 The SA report on the draft DPD is a key part of the appraisal process. It provides the public with information on the effects of the plan (and the alternatives). This means the public is fully informed when consulted and able to comment on the plan, the alternatives and their appraisal.

4.60 At publication, we will produce and publish the SA report alongside the draft DPD. The SA report will set out how the appraisal was carried out and how options were assessed and carried forward. It will also indicate clearly which options were not taken forward, drawing on the evidence base and appraisals to show why they were not pursued.

4.61 At this stage, consultees will be invited to consider both the draft DPD And the accompanying SA report. Consultation will follow the same methods as those detailed for the publication stage of the DPDs. We will consider each representation made in relation to the draft SA report and amendments will be made as appropriate".

- 3.2.15 It is clear from the manner in which the Council have undertaken this current round of consultation that the correct consultation procedure has not been followed, the public are not "fully informed" and the sequential approach of collating evidence, assessing that evidence and reporting on that evidence has not been followed.

- 3.2.16 The consultation process for the Emerging Core Strategy and the Sustainability Assessment is therefore flawed.

3.3 **Incorrect Allocation of Strategic Sites**

- 3.3.1 Core strategies may allocate strategic sites. However, the guidance in PPS12 advises that in general the core strategy "*will not include site specific detail which can date quickly*" and "*where core strategies allocate strategic sites, they must include a submission proposals map*". This is recognised in draft Topic Paper 14 "Site Selection Process" at paragraphs 2.1 and 2.2. The Topic Paper also recognises that allocated strategic sites should be those that are "*central to the achievement of the strategy*".

- 3.3.2 As the evidence base behind the strategy is itself flawed (we refer to the detail in CSJ Planning's representations), it follows that any allocation of sites based on this strategy is also flawed.

- 3.3.3 No plan is included within the core strategy that constitutes an appropriate proposals map, and it would appear that the Council is planning on dealing with strategic site allocation in a further document, the "Strategic Site Allocation DPD" which, we understand, is "planned for the coming months".

- 3.3.4 It would appear that the Emerging Core Strategy would best be limited to including an overall vision, strategic objectives and a delivery strategy. However, the evidence base supporting the Emerging Core Strategy needs to be urgently revisited.

- 3.3.5 It is not understood how the Council can produce a draft "Strategic Site Allocation DPD" at this stage in the planning process. If publication is



expected "in the coming months", the document must currently exist in draft which is premature given that the Core Strategy is not yet adopted.

3.4 Sustainability

3.4.1 Sustainability is at the heart of the draft National Planning Policy Framework (NPPF), with the key principle of a presumption in favour of sustainable development "*which should be seen as a golden thread running through both plan making and decision taking*".

3.4.2 CSJ Planning have addressed the flawed site selection in the Emerging Core Strategy/Topic Paper 14 in their representations, and we will not repeat the issues here. However, it is necessary to reiterate that Land East of Chippenham remains the most sustainable option. Indeed, it is the obvious and most genuine sustainable option. It is simply not understood how the sites selected are preferred over an integrated site within walking and biking distance of the town centre, railway station and amenities.

3.4.3 This goes to the heart of the problem with the Emerging Core Strategy - the Sustainability Appraisal is deeply flawed. The Council is risking challenge to the whole Core Strategy if it cannot justify the selection of Options 1 and 2 through the Sustainability Appraisal. At the current time, the evidence base simply does not stand up to legal scrutiny.

4. CONCLUSIONS

4.1 As summarised at page 20 of PPS12, to be "sound" a core strategy should be justified, effective and consistent with national policy.

4.2 "Justified" means that the document must be:

- founded on a robust and credible evidence base
- the most appropriate strategy when considered against the reasonable alternatives

"Effective" means that the document must be

- Deliverable
- Flexible
- Able to be monitored.

4.3 Paragraph 4.37 elaborates that the evidence base should contain two elements:

- "Participation: evidence of the views of the local community and others who have a stake in the future of the area.
- "Research/fact finding: evidence that the choices made by the plan are backed up by the background facts

4.4 The scattergun approach taken by the Council in consulting upon planning documents that are sequentially reliant upon each other, is flawed. The evidence base is neither robust nor credible. The Sustainability Appraisal and the Topic Papers, it is acknowledged by the Council, form part of the evidence base to support the Emerging Core Strategy. As to the remainder of the evidence base, aside from the Habitats



Assessment (which has also just been published), it is difficult to see what actual evidence the Emerging Core Strategy is based upon.

- 4.5 It therefore follows that any strategy identified in the Emerging Core Strategy cannot be the most appropriate strategy if the evidence base against which evaluation is made, is flawed.
- 4.6 The Council appears to be consulting upon its' evidence base at the same time as the Emerging Core Strategy. This is deeply unstable and will not stand up to scrutiny at an EIP. Further, it is deeply unsatisfactory that a Strategic Site Allocation DPD is in the course of preparation (and will itself soon be consulted upon) when the Emerging Core Strategy is being consulted on. It is not understood why the Council is not waiting for the results of the Emerging Core Strategy consultation before considering strategic site allocation. Not only is this premature of the Council, it feels as though site allocation has been predetermined.
- 4.7 The ability of the public to participate in the consultation is restricted. It is not clear which documents the Council is currently consulting on, and the information is not easily available to the man on the street.
- 4.8 The Council have clearly not selected the most sustainable site in the Emerging Core Strategy. It is not understood how Options 1 and 2 can be found to be preferred sites, given the evidence supporting the Land to the East of Chippenham at the previous consultation stage, and lack of evidence supporting Options 1 and 2 at the current stage of consultation.
- 4.9 We therefore consider that, in its current iteration, the Emerging Core Strategy is unsound. There are many procedural irregularities and consultation is premature because the evidence base is not in order. My clients are committed to their investment in Chippenham and will continue to scrutinise all Emerging Core Strategy 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 Council to address the fundamental issues addressed in this letter as a matter of urgency.

5. **NEXT STEPS FOR THE COUNCIL**

- 5.1 To progress with Options 1 and 2 in the Emerging Core Strategy makes legal challenge inevitable which will ultimately cause delay to the County-wide Plan and unnecessary cost to all parties.
- 5.2 The resulting uncertainty in the planning process will be of no benefit to Chippenham. The Council will be exposed to less favourable appeal decisions in the interim and delivery of much needed housing and infrastructure will be held up.
- 5.3 This situation is avoidable. The Emerging Core Strategy is based on a rushed and unsound evidence base. We suggest the only avenue open to the Council is to abandon Options 1 and 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.



Yours faithfully

Pinsent Masons LLP
This letter is sent electronically and so is unsigned

Copy to: Chippenham 2020
 CSJ Planning