

**Wiltshire Housing Site Allocations Plan
Examination: Hearing Statement Matter 2**

Underhill Nursery, Market Lavington, Wiltshire

March 2019

Respondent no. 1131263

Contents

1.	Introduction	1
2.	Response to Inspector's Questions	2
<hr/>		
	Appendix 1: Market Lavington Neighbourhood Plan Steering Group website (7 March 2019)	8
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	Appendix 2: Correspondence to Market Lavington Neighbourhood Plan Steering Group	9
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Our reference
COWR3001

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1. Introduction

- 1.1 This hearing statement has been prepared on behalf of Castlewood Properties Ltd (Castlewood) in response to Matter 2 of the Wiltshire Housing Site Allocations Plan (WHSAP) examination.
- 1.2 Castlewood is promoting land at Underhill Nurseries in Market Lavington, which represents a sustainable and deliverable residential opportunity for between 45 - 75 market and affordable dwellings, public open space and associated infrastructure.
- 1.3 This site was identified as a proposed allocation (ref. H2.1) in the Submission Draft of the WHSAP [doc ref. WHSAP.01.01] however Wiltshire Council Members resolved at Cabinet meeting on 3 July 2018 to remove this allocation from the plan, and to defer housing allocations in Market Lavington to the Market Lavington Neighbourhood Plan (MLNP).
- 1.4 There are no known physical or other impediments to the delivery of the site. We would ask the Inspector to re-instate this allocation in the WHSAP.
- 1.5 This hearing statement provides written responses to Matter 2 only.
- 1.6 Castlewood welcomes the opportunity to participate in the Matter 2 hearing sessions on Tuesday 2 and Wednesday 3 April 2019.

2. Response to Inspector's Questions

- 2.1 This section sets out our response on behalf of Castlewood to the questions that have been raised by the Inspector in his Initial Matters, Issues and Questions (MIQs) issued Paper issued on 8 February 2019 in relation to Matter 2: Consistency with the Wiltshire Core Strategy (WCS). We have only sought to respond to those questions considered relevant to our client's interests at Market Lavington.

Issue 2: Does the WHSAP make adequate provision to meet housing requirements as set out in the WCS?

2.4 In light of the above, does the WHSAP make adequate overall provision to ensure the delivery of the minimum housing requirement as set out in the WCS?

- 2.2 No. The WHSAP fails to make adequate provision for new housing in Market Lavington. Whilst the WHSAP defers this to the Market Lavington Neighbourhood Plan (MLNP), this is not considered to be an appropriate or effective strategy. Our reasons for this view are set out further below (para 2.14-2.29)
- 2.3 This failure to make adequate provision within the WHSAP for residential development in Market Lavington, is contrary to WCS. Para 4.26 of the Core Strategy identifies the indicative housing requirement for each Community Area. In respect of Devizes community area, an indicative requirement of 2,010 homes is identified for Devizes town and 490 for the remainder of the community area. Market Lavington is the most significant settlement within the remainder of the community area as per the settlement strategy set out in WCS Core Policy 12. As such, and in order to be positively prepared, the WHSAP should make adequate provision for new housing development within Market Lavington to meet some of this identified requirement for the remainder of the Devizes Community Area. The importance of delivery housing sites in Market Lavington should not be deferred to a delayed and flawed Neighbourhood Plan, which has not yet reached Regulation 16 stage and contains unsuitable and ineffective allocations (see para 2.14-2.29 below).

Issues 3: Does the distribution of site allocations accord with the spatial strategy in the WCS?

3.1 Is the overall distribution of housing allocations consistent with the spatial strategy set out in the WCS?

- 2.4 No, the exclusion of housing allocations in Market Lavington is not consistent with the WCS spatial strategy.
- 2.5 The Core Strategy seeks to ensure that the development is carried out according to the hierarchy of settlements with the large towns at the top, followed by the market towns including Devizes, down to the non-strategic settlements of the Local Service Centres such as Market Lavington.
- 2.6 Core Policy 12 of the WCS identifies Market Lavington as a Local Service Centre, with only Devizes above it in the settlement hierarchy, within the Devizes community area. Core Policy 1 states that Local Service Centres will provide for modest levels of

development in order to safeguard their role and to deliver affordable housing. As such, the WHSAP should allocate land for housing in Market Lavington in order to deliver this modest level of development required by Core Policy 1.

- 2.7 Furthermore, the Council's Housing Land Supply Statement Addendum July 2018 Submission Version (doc ref: TOP03B) indicates there is still an indicative residual requirement for the remainder of the Devizes Community Area, outside Devizes itself, of at least 81 dwellings during the remainder of the Plan period up to 2026. Given Market Lavington is the next settlement in the hierarchy below Devizes, it should be the location for this residual requirement, and as such the Council should still be looking to identify site allocations within the WHSAP. To not allocate sufficient sites would mean the Council's approach would fail to fully meet its identified housing needs and as such would not be positively prepared.
- 2.8 National planning policy is clear that local authorities should look at its residential allocations beyond five years to ensure there is a consistent pipeline for bringing forward new residential development.
- 2.9 Rather than allocate sufficient sites through the WHSAP the Council's proposed approach is to now defer any allocations in Market Lavington to the MLNP. Whilst we recognise that Neighbourhood Plans have the option of allocating land for housing, this must be in support of the strategic housing delivery targets for that area as explained in paragraph 184 of the NPPF (2012).

3.3 Is the approach set out in Stages 1 and 2 of the site selection process justified? In particular, has a consistent and justified approach been taken to excluding specific locations from the scope of the exercise, including:

- ***Principal Settlements, Market Towns, Local Service Centres and Large Villages;***
- ***Areas where housing needs in the WCS are indicated to have been met;***
- ***Areas with made of emerging Neighbourhood Plans?***

- 2.10 The approach is not justified insofar as the WHSAP relates to Market Lavington.
- 2.11 The submission draft of the WHSAP allocated land at Market Lavington in order to meet identified housing requirement. A decision was made by the Council's Cabinet on 3 July 2018 [doc ref. WHSAP29] to defer the allocation of housing sites in Market Lavington to the Market Lavington Neighbourhood Plan (MLNP). The Council's Cabinet considered sufficient progress had been made in the preparation of the MLNP. This resulted in the removal of the proposed allocation of Underhill Nurseries in Market Lavington.
- 2.12 For the reasons we will set out further below we consider this approach of deferring residential allocations to the MLNP to be unsound. As a result the proposed allocation H1.2 should be reinstated in the WHSAP.
- 2.13 Additionally, in removing the allocation of site ref. H2.1 from the WHSAP, Wiltshire Council Members at the 3 July 2018 Cabinet [doc ref. WHSAP29] contended that a five year housing supply in the East HMA removes the strategic need to make residential

allocations in Market Lavington. This is inconsistent with the WCS spatial strategy which identifies modest growth within service centres such as Market Lavington, and the submission draft WHSAP [doc ref. WHSAP 01.01] para 5.22 which reiterates that Market Lavington is a focus for modest growth. Para 5.22 also identifies that additional housing development in the settlement during the plan period would support local facilities and contribute to achieving improved self-containment. Residential development elsewhere in the East HMA would not meet this identified requirement and need in Market Lavington.

Progress of Market Lavington Neighbourhood Development Plan

- 2.14 On the basis of the Council's Neighbourhood Plans progress page [doc ref. NP 01], the Market Lavington NP has not made any significant progress. Reference on this page (viewed 26 Feb 19) is only made to the area being designated as a Neighbourhood Area, with no information provided on the status of the document.
- 2.15 We are aware that the Market Lavington Neighbourhood Plan Steering Group has made some progress on the preparation of the MLNP. Whilst the Devizes Community Area Topic Paper [doc ref. CATP.06], which was updated in July 2018, refers to the qualifying body making good progress towards finalising the Regulation 16 version of the Plan, this does not appear to be the case.
- 2.16 Instead, a further Regulation 14 consultation was held in Autumn 2018, to which representations were submitted on behalf of our client. No update has been provided on the progress of the Plan since the submission of our representations in October 2018, and the Steering Group website (<http://www.marketlavington.info/index.htm>) still refers to the Regulation 14 consultation period commencing (see Appendix 1).
- 2.17 We have sought an update from the Steering Group on the progress of the MLNP (see email correspondence at Appendix 2), however at the date of writing had not received a response.
- 2.18 The Market Lavington Neighbourhood Area designation was confirmed in March 2015, some 4 years ago. It is clear that the MLNP has taken a significant length of time to emerge and in this period has still not progressed beyond the Regulation 14 consultation. On this experience, it appears there is limited prospect of the MLNP progressing in a timely manner to Regulation 16 consultation and beyond to examination and adoption.
- 2.19 As such, and in accordance with NPPF paragraph 216, it is considered the MLNP is not a sufficiently advanced stage to take the place of the WHSAP in allocating land for housing in Market Lavington. This position is supported by para 2.13 of doc ref. CATP06 which states a neighbourhood plan is considered to be sufficiently advanced once it has **at least (our emphasis)** submitted a draft plan to the Council for a Regulation 16 consultation.
- 2.20 The limited status that should be awarded to the MLNP at the current stage is also recognised by Planning Officers in doc ref. WHSAP 31 (response no. 8) and there are a

number of relevant appeal and Court decisions referenced in WHSAP 31¹ which conclude that only limited weight could be ascribed to emerging neighbourhood plans, particularly where such documents have not reached a sufficiently advanced and robustly tested stage (i.e. Regulation 16 / examination stage). The current approach to defer the Market Lavington housing allocations to the emerging MLDP is contrary to this conclusion of Planning Officers, and the clear steer of appeal and Court decisions.

Deliverability of Housing Allocations in MLNDP

- 2.21 It is our firm view, that the MLNDP cannot be relied on to deliver the remaining housing requirement. We recognise that it is not for the Inspector to examine the soundness of the MLNP in this forum. There are, however, some significant deficiencies that we request are taken note of as evidence that the Council's decision to defer potential housing allocations to the MLNP is an inappropriate strategy. It is considered that the WHSAP is a more appropriate vehicle in which to allocate residential development sites, and thereby deliver the residential development identified for Market Lavington.
- 2.22 Whilst the second round of the Regulation 14 consultation draft of the Plan does seek to allocate sites for residential development, we have significant concerns about the appropriateness of these allocations.
- 2.23 Firstly, one of the sites referred to as land 'North of Spin Hill' (MLNP ref: Site 2) was not submitted to, or considered, in the Wiltshire Strategic Housing and Economic Land Availability Assessment (SHELAA). As a result, the suitability of this site has not yet been formally assessed by the Council, with the first opportunity for it to do so being the MLNP Regulation 16 Consultation. In any event, this site has clear constraints and does not represent an appropriate opportunity for residential development. It is remote from Market Lavington with no visual connectivity, located a significant distance from the village's settlement framework boundary as established in the Wiltshire Core Strategy. There is an absence of pedestrian routes or public transport options between the site and Market Lavington. Overall it is considered this site is contrary to the core planning principles established in paragraph 17 of the NPPF (2012) thereby rendering the site unsustainable and unsuitable.
- 2.24 A second site, referred to as 'The Spring', allocated in the MLNP Regulation 14 consultation is also not considered to be an appropriate option to deliver the additional housing required at Market Lavington. As set out in our representation to the Schedule of Proposed Changes in November 2018, 'The Spring' (MLNP ref: Site 4) was discounted by the Council in document ref. CATP06 and is not considered a preferred site. The Council identifies that this site involves the loss of land that contributes to the rural character at the approach to the village, and any measures to achieve heritage objectives and mitigate surface water flooding (if possible) would substantially limit the developable area. As such it is concluded by Wiltshire Council that the benefits of developing the site were considered marginal and did not outweigh the adverse impacts.

¹ Mr Gary Russell of Mulberry Homes (Ropley) Limited v East Hampshire District Council (17th April 2018); Mr J Wells (Studios Building (Falmouth) Ltd) v Cornwall Council (20th December 2017); Mr Richard Shires (R&S Shires(Farmers) Ltd) v Milton Keynes Council

- 2.25 It is considered that the sites identified in the Regulation 14 draft of the MLNP are unlikely to deliver in the way that the neighbourhood plan envisages, nor provided sufficient housing to meet the identified residual requirement. The Plan is untested and considered flawed in terms of its housing allocations, and should not be relied upon to meet the identified housing requirement for Market Lavington.
- 2.26 Should the MLNP continue in its current form, it is envisaged that the plan will run into significant issues. One scenario is that the proposed residential allocations would need to be re-considered with aforementioned unsuitable sites removed. This would have the consequence of Market Lavington having a lower quantum of allocated homes than required to meet its needs as a designated Local Service Centre and second tier settlement within the Devizes Community Area. Alternatively, given the fundamental failings in the proposed allocations, the MLNP could fail to progress past the Regulation 16 consultation or be found unsound at Examination. This would result in further, significant, delays to the MLNP and in the absence of allocations in the WHSAP, would significantly hinder the delivery of new housing in Market Lavington.

Summary

- 2.27 In summary, we consider the WHSAP is unsound in relation to Market Lavington, as a result of the proposed amendments removing the residential site allocations and deferring these to the MLNP.
- 2.28 Neighbourhood Plans cannot be relied on until they have passed examination. The delays in progressing the MLNP and deficiencies in the sites identified demonstrate that the MLNP is not an appropriate medium to address the housing requirement for Market Lavington.
- 2.29 Whilst we remain of the view that the housing allocations should be dealt with entirely through the WHSAP, at the very minimum, the WHSAP should allocate reserve sites in the event that the MLNP, or sites identified therein, are found to be unsound and undeliverable. The current reliance on the MLNP is not appropriate and is likely to result in insufficient housing being allocated.

Issue 4: Has the site selection process for housing allocations been soundly based?

4.1 Have the site allocations been undertaken on a consistent basis having regard to the strategic objectives and policies of the WCS, the policies of the NPPF and the evidence base?

- 2.30 In respect of Market Lavington, up until the proposed amendments to the WHSAP submission draft resulting from the resolution of Council Cabinet on 3 July 2018, the site allocations for Market Lavington had been undertaken on a consistent basis.
- 2.31 Land at Underhill Nursery in Market Lavington (which comprises two adjacent land parcels) was proposed allocation H1.2 in the Wiltshire Housing Site Allocations document. In reaching this stage it was fully assessed, having initially been identified in the Wiltshire Strategic Housing and Employment Land Availability Assessment (SHELAA) (2017) as being suitable, available, achievable and deliverable as well as being developable in the short-term for housing. It was recognised that combining the two SHELAA sites would provide an opportunity for the holistic planning of the sites and would make use of previously developed land. The proposed allocation site was considered to be in a sustainable location with good access to the centre of Market

Lavington. In particular, the site is well placed for access to the health centre and primary school, and will integrate well with existing residential development.

- 2.32 As set out in our previous submissions, the Council's findings as well as our supporting technical evidence, demonstrate that proposed allocation H1.2 Underhill Nursery would be a logical development site to meet the housing needs of Market Lavington as a Local Service Centre.
- 2.33 Removing this site allocation, at the submission stage of the WHSAP, and referring the housing allocations to the MLDP will result in inconsistent site allocations. As set out above, we have significant concerns regarding the robustness and assessment of potential sites identified in the MLDP, with insufficient regard being had to criteria set out in NPPF in terms of suitability of sites and the Council's own assessment of site suitability.
- 2.34 Proposed residential allocation H1.2, relating to Underhill Nurseries in Market Lavington should be reinstated so that it forms part of the adopted Development Plan for Wiltshire.

Appendix 1: Screenshot of Market Lavington Neighbourhood Plan Steering Group website (7 March 2019)

Market Lavington Neighbourhood Plan
Your Village, Your Voice, Your Future

Home Steering Group Useful Information Plan & Reports

2015

What does the future hold?
What is a neighbourhood Plan and what does it mean to me...?
[CLICK HERE TO FIND OUT](#)

Consultation and draft plan documents are now available [here](#)

The draft Neighbourhood Plan has been revised as a result of the 1st Regulation 14 Consultation and now includes additional comments and fresh recommendations, including some changes to the proposed site allocations.

A second statutory 6 week consultation period will begin on Wednesday 19th September and will end on Tuesday 30th October.

Your Village

Your voice

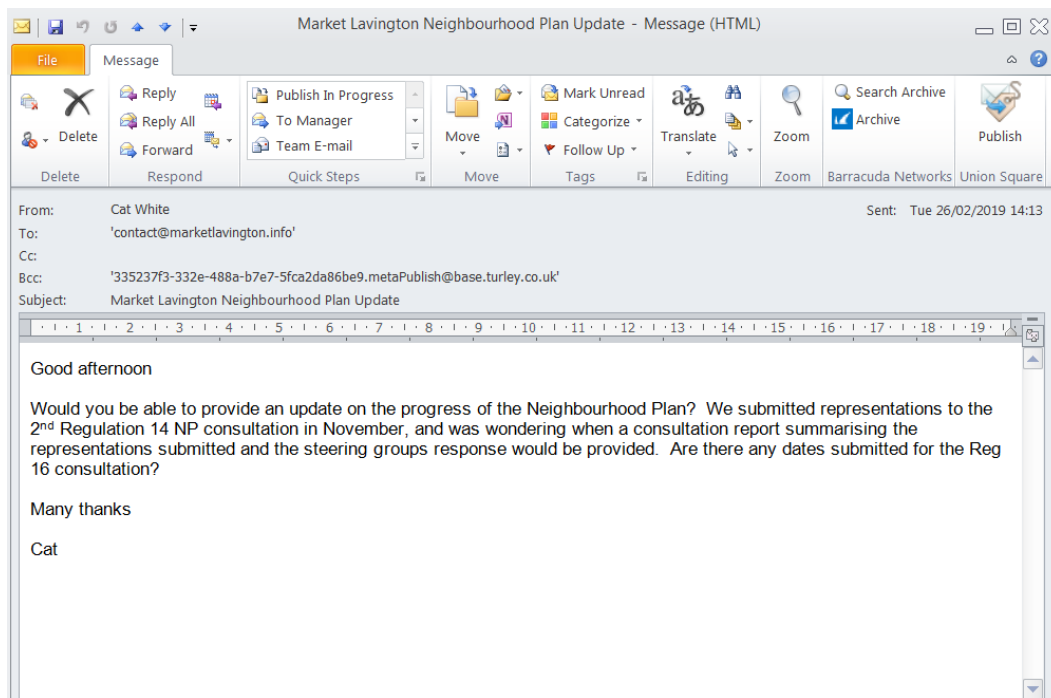
Your future

it's up to you ...

Contact us: [Contact us: contact@marketlavington.info](mailto:contact@marketlavington.info)

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Appendix 2: Email correspondence to Market Lavington Neighbourhood Plan Steering Group



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