

AGENDA SUPPLEMENT (1)

Meeting: Cabinet
Place: Council Chamber - Council Offices, Browfort, Bath Road, Devizes
SN10 2AT
Date: Tuesday 19 June 2012
Time: 10.30 am

The Agenda for the above meeting was published on 11 June 2012. The Supplement includes details of questions and statements received for the meeting.

Please direct any enquiries on this Agenda to Yamina Rhouati, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718024 or email yamina.rhouati@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

6 Public participation *(Pages 1 - 6)*

Representations on matters not covered by this agenda have been received as follows:

- Mr Sprules - Cricket facilities – statement and question
- Mr Sprules - Torch Relay - statement

Details attached.

7 Submission of Wiltshire Core Strategy and Review of the Local Development Scheme *(Pages 7 - 24)*

The Wiltshire Core Strategy was considered by the Environment Select Committee on 11 June 2012. The relevant extract of the minutes of the Committee and the response from the Cabinet member are attached.

Representations on this item have been received as follows:

- Neil Bromwich of Osborne Clark - statement
- Cllr Judy Rooke – question

Details attached.

DATE OF PUBLICATION: 18 June 2012

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Wiltshire Council

Cabinet

19 June 2012

Public Participation

Question from Mr Michael Sprules, - Chairperson RADAR
(Residents Against Development Affecting Recreational Land)

Statement of Appreciation : -

Wiltshire Council - Moment to Shine

Cabinet Members and attending Elected Members

As this is the first Cabinet Meeting since the Olympic Torch Relay made its first visit to the County of Wiltshire, through Towns and villages in West and North Wiltshire, I would like to take this opportunity to pass on my appreciation to Wiltshire Council for an excellent two days of organisation throughout the County.

Although there were some minor traffic issues, this did not detract from the excellent marshalling skills, undertaken by Wiltshire Council Staff. This was indeed Wiltshire Council's "**Moment to Shine**" and, in my humble opinion, Wiltshire Council and its Staff should be congratulated for a wonderful demonstration of "**How Marshalling Should Be Done**" !

I would also like to pass on my appreciation to the Wiltshire Council Press Department, in particular, who worked tirelessly throughout the day on 22nd May 2012 attempting to secure a "**photo Opportunity**" with LOCOG.

Although, sadly, this "**Photo Opportunity**" was not to be, it was not for the want of trying and, therefore, I would request that the Cabinet pass on my appreciation to the Press Department for their role during the time that the Olympic Torch Relay was in the County of Wiltshire.

Although, as a member of the Public, I would never normally be afforded the privilege of proposing a resolution at Cabinet, I would hope that the Cabinet, on this occasion, would agree to record its appreciation to all the hard working Staff who made the Olympic Torch Relay possible in West and North Wiltshire.

May I, once again, thank Cabinet Members and, indeed, Elected Members for allowing me to propose this Motion.

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Public Participation

Question from Mr Michael Sprules, - Chairperson RADAR
(Residents Against Development Affecting Recreational Land)

Statement

Non Mitigation of Cricket Facilities due to lack of a Grampian Condition
prior to development

Cabinet Members and attending Elected Members

As many of you will be aware, the 16th November 2011 saw the potential granting of permission, (Subject to the S106 Agreement), for the unwanted loss of the Westinghouse Sports and Recreation Ground, in favour of Housing.

During my visits to Cabinet, over the past year or so, I have tried to express my **“Concerns”** that, a decision, where **“Mitigation”** has been slanted in favour of a different sport, does not in itself constitute **“Mitigation”**, but rather **“Other Facilities”**. Moreover, Non Mitigation of the correct sport could potentially prove disastrous for the long term future of that sport.

Whilst I would wish to express my utmost gratitude to Cabinet Member for Development Control, Councillor Sturgis, for granting RADAR, and local residents, the opportunity to view and comment on a number of the Planning Conditions, prior to their Discharge, it is with a heavy heart that I wish all Cabinet Members to know that local residents have now received an update from representatives to the developer.

This update only reinforces the resolve of the developer to **“Re-Home”** the Cricket Club without first having provided the **“Much Needed Cricket Facilities”** for the Cricket Club.

As Cabinet Members will see, from the attached PDF, the representative to the developer makes it clear that **“Linden has already delivered a portion of the sports mitigation package allowing the Rugby Club to begin building their much needed new changing rooms”**. This reinforces the complete misunderstanding of **“Mitigation”** in this instance. Furthermore, the representative then goes on to state that **“Next steps include relocating the Cricket Club to their new home and allocating the rest of the financial backing for other facility improvements”**, thus reinforcing the fact that the Cricket Club will be **“Re-Homed”** prior to any **“Other Facility Improvements”** being provided !

As a result of this update from the Representatives to the Developer, I have contacted Sport England, regarding my **“Concerns”**, and I am able to confirm that Sport England are seeking clarification on a number of issues within the Section 106 and the replacement cricket facilities.

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Public Participation

**Question from Mr Michael Sprules, - Chairperson RADAR
(Residents Against Development Affecting Recreational Land)**

Question

**Non Mitigation of Cricket Facilities due to lack of a Grampian Condition
prior to development**

Taking my concerns into consideration, my question to Cabinet is :

Notwithstanding that my concerns are, indeed, site specific, are Cabinet able to give me their assurance that a "Grampian Condition" can be added to the list of existing Planning Conditions, that would ensure that the Mitigation facilities for the Cricket Club will, indeed, be provided before they are required to leave their present "Home"?

Furthermore, are Cabinet able to give me an additional assurance that, if the developer is unwilling to enter into an undertaking with Wiltshire Council to provide the "True Mitigation Facilities" for the Cricket Club, prior to development of their present "Home", that The Strategic Planning Committee will "Re-Visit" this "Tangled Web" in order to better evaluate what is and is not "Mitigation" and to then divide the "Mitigation" from the "Other Facilities", in order to add clarification to any confusion?

May I, once again, thank Cabinet Members and, indeed, Elected Members for allowing me to ask this question.

Response

The planning permissions for residential development on the Westinghouse Sports Club site and the associated Chippenham Rugby Club site have been granted. Both were granted permission on 28th March 2012 following the signing (and sealing) of a legal agreement under s106 of the Town and Country Planning Act 1990. This process was completed in accordance with the resolution of the Strategic Planning Committee on 16th November 2011. Accordingly, there is now no possibility of introducing additional planning conditions into either planning permission, Grampian or otherwise.

The aforementioned legal agreement, *inter alia*, requires the provision of sports facilities at the Chippenham Rugby Club site. Such "Sports Facilities Mitigation Measures" are defined within the agreement as including both cricket related facilities and enhancements to the existing rugby facilities. The Agreement also sets out a programme for the completion of the sports facilities and in doing so places upon the developer periodic constraints throughout the construction phase, as well as restricting the occupation of the

new residential development. This is, in effect, to create a financial compulsion for the developers to provide the new sports facilities throughout the course of the development of the Westinghouse site. In particular, the rugby changing room extension, the cricket wicket, floodlighting and rugby pitch improvements are all scheduled to be commenced prior to any work starting upon the Westinghouse site, with all new sports facilities at the Rugby Club site to be completed prior to occupation of any new dwelling at the Westinghouse site.

Wiltshire Council

Extract from the Minutes of the Environment Select Committee on 11 June 2012

10 Wiltshire Core Strategy

Public Participation

Dr Nick Murray spoke regarding the Core Strategy.

Mr Andrew Birch spoke regarding the Core Strategy.

Mrs Jenny Raggett submitted a statement regarding the Core Strategy.

Mr T Boxall, South Wiltshire Association of Council Taxpayers, submitted a statement regarding the Core Strategy.

The Wiltshire Core Strategy has been in development since early 2009, taking forward the work started by the former district councils. It was presented to the Environment Select Committee in January 2012, and then approved for further consultation by Council in February 2012, without receiving endorsement from the Environment Select Committee.

Following the consultation, a number of minor changes are proposed to the Wiltshire Core Strategy Pre-Submission Document (draft Core Strategy). Once approved they will be submitted to the Secretary of State alongside the draft Core Strategy.

The Environment Select Committee was asked to consider and scrutinize the draft Core Strategy, and to make recommendations and comments to Cabinet ahead of Council on 26 June 2012.

The Cabinet Member for Economic Development and Strategic Planning, Cllr de Rhé-Phillipe, was in attendance along with Alistair Cunningham, Service Director (Economy and Regeneration), and Georgina Clampitt-dix, Head of Place Shaping. They presented a report outlining the last consultation, summaries of the extent and type of comments received, and appendices listing examples of comments as well as proposed changes to the draft Core Strategy.

The Committee was then addressed by members of the public as detailed above.

A discussion followed, in which the Committee discussed various aspects of the final consultation and the draft Core Strategy, making comments including the following:

- Clarity on the Community Infrastructure Levy was requested, and it was explained that the Council was awaiting publication of regulations from Central Government.
- Air Quality in particular locations was discussed. Core Policy 55 of the draft Core Strategy refers to the Air Quality Strategy giving it policy status and the need for decisions on development to take this into account., Recognition of the importance of other strategies has been made during the production of the draft Core Strategy.
- The amount of Member involvement was raised, and it was clarified that Members had been involved throughout the process including through signing off the consultation documents, with the last stage approved by Council. In addition, all Area Boards had received presentations on the emerging Core Strategy during the course of its preparation.
- The Committee then raised that in the appendix summarising the consultation document, representations from Members had not all been included, and it was firmly recommended that it would be appropriate and preferred to do so. In response it was stated that more detailed consultation responses were available on line.
- Clarity on renewable energy policies, such as wind farm separation distance, was raised.
- Core Policy 47, 'Meeting the needs of Gypsies and Travellers', was raised as regards public perception of specialized treatment securing sites in the countryside, which was clarified as a governmental direction.
- The use of artificial administrative boundaries such as the Trowbridge Community Area as a basis for planning and development strategies was raised.
- The status of the Regional Spatial Strategies was sought. It was stated that they were still in place until formally revoked, which the government could do at any time, but officers felt they had diminishing weight attached to them ahead of abolishment due to the more up to date evidence on which the Core Strategy is based. Irrespective of revocation, the Core Strategy when adopted would carry greater weight.
- With regards to references to Area of National Beauty (AONB) within the Core Strategy, it was suggested that the draft was not always clear in differentiating which AONB was being referenced.
- The companion Infrastructure strategies referred to within the draft Core Strategy was discussed. It was suggested that the strategies did not provide extensive solutions to potential infrastructure concerns, and that either they should be developed further, or the Core Strategy clarify where solutions were not to be contained within the Infrastructure Strategies. In response, it was stated that the Infrastructure Delivery Plan (IDP) is a live document and would continue to be

developed and inform decision making as new evidence is prepared including the detail within Transport Strategies for the Principal Settlements. Officers stated that the infrastructure work underpinning the Core Strategy had shown that there were no showstoppers to development proposed.

- Consistent treatment for potential sites for railway stations was raised with reference to Core Policy 66, and it was suggested each Area Strategy includes reference to aspiration for development or improvement of railway stations, rather than specific reference of only a few within Core Policy 66. It was agreed that where stations are included within Core Policy 66 they should also be referred to in the Community Area Strategies.
- The increase in out-commuting as a result of plans within the draft Core Strategy in locations such as Chippenham was raised. It was stated in response that although the intention is to address out-commuting for the county, it is acknowledged that commuting will still happen although the level can be influenced through the level of jobs and housing provided.
- In response to queries, it was stated that officers consider that predicted levels of transport increase should be able to be absorbed within those areas, but some Committee members expressed scepticism at this.
- In response to queries, the Cabinet Member stated that the Core Strategy would encourage developers to bring site allocations forward for particular uses and would hope that developers would not sit on sites for years.
- The identification of sites at Chippenham which have raised local objection, as against alternative local sites, was discussed. The Cabinet Member and Service Director stated it would be very difficult to reconsider other sites at such a late stage when the judgement of officers is that the sites identified are still the most appropriate. All sites for development had been considered, and that concerns/objections were presented for all sites. Specific discussion of the Hunters Moon site in Chippenham as an alternative to Rawlings Green took place. The Cabinet Member promised to inform the Committee of the details of objections to the Hunters Moon site at the earliest opportunity.
- The designation of Principal Employment Areas (PEA) within the Strategy was questioned, specifically in respect of Mere, where the local member felt a recent major development merited note, and also regarding provision of one bedroom homes for Mere. It was clarified that the site in question in Mere did not meet the technical definition for a PEA, but that other encouragement within the place would support the retention of employment at the settlement.
- The impact of the consultation and response to views of the public was raised.
- Concerns were raised about the development of former and current agricultural buildings within the draft Core Strategy, and it was agreed that the title of Core Policy 48, 'Supporting Rural Life', was not reflective of its policy objective and that Core Policy 2 also provided for development to take place within villages in the rural area supporting rural communities and should be revised.

- Comments were made about inconsistent classifications of settlements as single urban entities or separate communities. Specific reference was made to the need to put in protection for the land between Wilton and Salisbury to maintain separation, and querying of the status of Seend and Seend Cleeve as separate entities, but Melksham and Bowerhill as a single urban area.
- Concerns were raised regarding the vulnerability of communities when the Core Strategy was approved before neighbourhood plans were in place, resulting in lack of protection from unwanted development. It was stated that it was hoped neighbourhood plans would be commenced in place the market towns (where strategic sites are not allocated) and local service centres within the calendar year. Officers acknowledged that funding of neighbourhood planning within communities is an issue and that provision is also made for the Council to prepare a site allocations develop plan document if necessary to help manage growth appropriately.
- The definition of Brownfield sites within the draft Core Strategy was queried. It was clarified the definition as contained in the National Planning Policy Framework had been utilized and would be distributed to Members.
- The Committee referenced the recent presentation of a long term climate change projection report and potential impacts for the county, and raised whether the Core Strategy should make reference to the predictions as they impacted on strategic plans. It was noted that there remained scepticism regarding the long term climate change predictions by some members and officers stated the Core Strategy responds to the issue of climate change.

At the conclusion of the discussion, it was debated whether the recommendation to Cabinet should include mention of specific sites and community areas as raised, or a more generalized noting of concerns and issues raised.

It was,

Resolved:

To offer general endorsement of the Wiltshire Core Strategy Pre-Submission Document (draft Core Strategy), while asking Cabinet to take into account and consider the reservations and suggestions, as contained in these minutes, ahead of submission to Council.

(Cllr Jon Hubbard and Cllr Stephen Oldrieve requested their votes in objection be recorded)

CABINET MEMBER RESPONSE TO DETAILED MATTERS RAISED BY ENVIRONMENT SELECT COMMITTEE 11 JUNE 2012

Extract from Draft Minute	Response	Proposed Change
<p>Clarity on the Community Infrastructure Levy was requested, and it was explained that the Council was awaiting publication of regulations from Central Government.</p>	<p>No further information required.</p>	
<p>Air Quality in particular locations was discussed. Core Policy 55 of the draft Core Strategy refers to the Air Quality Strategy giving it policy status and the need for decisions on development to take this into account. Recognition of the importance of other strategies has been made during the production of the draft Core Strategy.</p>	<p>No further information required.</p> <p>Although not within the minutes, clarity on the position in relation to AQMAs was requested.</p> <p>Local authorities have a duty to carry out assessments on air quality in line with the UK Air Quality Objectives which specify which pollutants are to be considered and how they should be measured. Where there is likely to be a breach of the objectives and failure of the air quality standard is found the Local Authority should declare an Air Quality Management Area (AQMA) and take steps to try to reduce the levels of pollution. The declaration of an AQMA does not mean that there will be a complete ban on development within that area. Rather it means that greater weight must be given to the consideration of air quality impacts and their mitigation.</p>	
<p>The amount of Member involvement was raised, and it was clarified that Members had been involved throughout the process including through signing off the consultation documents, with the last stage approved</p>	<p>In summarising the comments, the detail of comments will be subsumed into the general response Appendix 12 of the full Consultation Report, although still a summary, contains more detailed comments on who responded</p>	

<p>by Council. In addition, all Area Boards had received presentations on the emerging Core Strategy during the course of its preparation.</p> <p>The Committee then raised that in the appendix summarising the consultation document, representations from Members had not all been included, and it was firmly recommended that it would be appropriate and preferred to do so. In response it was stated that more detailed consultation responses were available on line.</p>	<p>and what they said than the overview provided in the Appendices to the Environment Select Committee and Cabinet reports.</p> <p>The full responses have been considered by Officers and informed the proposed minor changes to the draft Wiltshire Core Strategy. These can all be accessed on the Council's website and are publically available.</p>	
<p>Clarity on renewable energy policies, such as wind farm separation distance, was raised.</p>	<p>Core Policy 42 includes a requirement for standalone renewable energy proposals to consider residential amenity. Separation distances are one of the criteria that can be considered.</p>	
<p>Core Policy 47, 'Meeting the needs of Gypsies and Travellers', was raised as regards public perception of specialized treatment securing sites in the countryside, which was clarified as a governmental direction.</p>	<p>No further response required.</p>	
<p>The use of artificial administrative boundaries such as the Trowbridge Community Area as a basis for planning and development strategies was raised.</p>	<p>Comment noted.</p>	
<p>The status of the Regional Spatial Strategies was sought. It was stated that they were still in place until formally revoked, which the government could do at any time, but officers felt they had diminishing weight attached to them ahead of abolishment due to the more up to date evidence on which the Core Strategy is based. Irrespective of revocation, the Core Strategy when adopted would carry greater weight.</p>	<p>No further response required.</p>	
<p>With regards to references to Area of National Beauty (AONB) within the Core Strategy, it was suggested that</p>	<p>Amend Proposed Change 21 of Appendix 1 of Cabinet Report to clarify which AONB is being referred to. This applies to all</p>	<p>Yes</p>

<p>the draft was not always clear in differentiating which AONB was being referenced.</p>	<p>Community Areas other than Westbury, Trowbridge, Salisbury and Melksham.</p>	
<p>The companion Infrastructure strategies referred to within the draft Core Strategy was discussed. It was suggested that the strategies did not provide extensive solutions to potential infrastructure concerns, and that either they should be developed further, or the Core Strategy clarify where solutions were not to be contained within the Infrastructure Strategies. In response, it was stated that the Infrastructure Delivery Plan (IDP) is a live document and would continue to be developed and inform decision making as new evidence is prepared including the detail within Transport Strategies for the Principal Settlements. Officers stated that the infrastructure work underpinning the Core Strategy had shown that there were no showstoppers to development proposed.</p>	<p>No further response required.</p>	
<p>Consistent treatment for potential sites for railway stations was raised with reference to Core Policy 66, and it was suggested each Area Strategy includes reference to aspiration for development or improvement of railway stations, rather than specific reference of only a few within Core Policy 66. It was agreed that where stations are included within Core Policy 66 they should also be referred to in the Community Area Strategies.</p>	<p>The following changes are proposed:</p> <p>(i) Amend Royal Wootton Bassett and Cricklade Community Area Strategy at paragraph 5.99 to include reference to the promotion of a railway station at Royal Wootton Bassett consistent with Core Policy 66.</p> <p>(ii) Amend penultimate sentence of paragraph 6.168 to read: <u>“Subject to the provision of suitable stopping train services, priority will be given to new stations at Corsham and Royal Wootton Bassett and an improved service station at Melksham.”</u></p>	<p>Yes</p>
<p>The increase in out-commuting as a result of plans within the draft Core Strategy in locations such as Chippenham was raised. It was stated in response that although the intention is to address out-commuting for</p>	<p>No further response required.</p>	

<p>the county, it is acknowledged that commuting will still happen although the level can be influenced through the level of jobs and housing provided.</p>		
<p>In response to queries, it was stated that officers consider that predicted levels of transport increase should be able to be absorbed within those areas, but some Committee members expressed scepticism at this.</p>	<p>No further response required.</p>	
<p>In response to queries, the Cabinet Member stated that the Core Strategy would encourage developers to bring site allocations forward for particular uses and would hope that developers would not sit on sites for years.</p>	<p>No further response required.</p>	
<p>The identification of sites at Chippenham which have raised local objection, as against alternative local sites, was discussed. The Cabinet Member and Service Director stated it would be very difficult to reconsider other sites at such a late stage when the judgement of officers is that the sites identified are still the most appropriate. All sites for development had been considered, and that concerns/objections were presented for all sites. Specific discussion of the Hunters Moon site in Chippenham as an alternative to Rawlings Green took place. The Cabinet Member promised to inform the Committee of the details of objections to the Hunters Moon site at the earliest opportunity.</p>	<p>Having reviewed the comments submitted there are few representations explicitly supporting the Hunters Moon site as an alternative location to the Rawlings Green strategic site with no clear support from the local community.</p>	
<p>The designation of Principal Employment Areas (PEA) within the Strategy was questioned, specifically in respect of Mere, where the local member felt a recent major development merited note, and also regarding</p>	<p>The reference to one bedroom dwellings is taken from the South Wiltshire Strategic Housing Market Assessment (SHMA) (2010), which identified a total requirement of 48 affordable 1-bed dwellings to be provided in the Mere Community Area. This has</p>	

<p>provision of one bedroom homes for Mere. It was clarified that the site in question in Mere did not meet the technical definition for a PEA, but that other encouragement within the place would support the retention of employment at the settlement.</p>	<p>been superseded by the Wiltshire wide SHMA (2011), which supports the policies contained within the Wiltshire Core Strategy including Core Policy 45 (Meeting Wiltshire's housing needs). While the Wiltshire SHMA recognises the need and demand for to provide 1-bed accommodation in Wiltshire this is not prescriptive at the local area and is informed by local evidence available when determining planning applications.</p>	
<p>The impact of the consultation and response to views of the public was raised.</p>	<p>The Consultation Output report provides a comprehensive summary of the comments received and the changes that have arisen following consideration of these.</p>	
<p>Concerns were raised about the development of former and current agricultural buildings within the draft Core Strategy, and it was agreed that the title of Core Policy 48, 'Supporting Rural Life', was not reflective of its policy objective and that Core Policy 2 also provided for development to take place within villages in the rural area supporting rural communities and could be revised.</p>	<p>Paragraph 6.61 explains the approach taken to support rural communities outside of identified settlements. Cross referencing to Core Policy 2 is required to clarify the approach to development within small rural settlements.</p>	Yes
<p>Comments were made about inconsistent classifications of settlements as single urban entities or separate communities. Specific reference was made to the need to put in protection for the land between Wilton and Salisbury to maintain separation, and querying of the status of Seend and Seend Cleeve as separate entities, but Melksham and Bowerhill as a single urban area.</p>	<p>The Strategy recognises the spatial distinctiveness of different places. It acknowledges that while there are strong functional relationships between Melksham and Bowerhill, requiring these places to be considered together for the purposes of the strategy, that each has individual characteristics that should be protected where practicable.</p>	
<p>Concerns were raised regarding the vulnerability of communities when the Core Strategy was approved before neighbourhood plans were in place, resulting in lack of protection from unwanted development. It was stated that it was hoped neighbourhood plans would be</p>	<p>No further response required.</p>	

<p>commenced in place the market towns (where strategic sites are not allocated) and local service centres within the calendar year. Officers acknowledged that funding of neighbourhood planning within communities is an issue and that provision is also made for the Council to prepare a site allocations develop plan document if necessary to help manage growth appropriately.</p>		
<p>The definition of Brownfield sites within the draft Core Strategy was queried. It was clarified the definition as contained in the National Planning Policy Framework had been utilized and would be distributed to Members.</p>	<p>Definition of 'brownfield sites' as referred to in Proposed Change 111, as follows:</p> <p>Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation ground and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape on the process of time.</p>	Yes
<p>The Committee referenced the recent presentation of a long term climate change projection report and potential impacts for the county, and raised whether the Core Strategy should make reference to the predictions as they impacted on strategic plans. It was noted that there remained scepticism regarding the long term climate change predictions by some members and officers stated the Core Strategy responds to the issue of climate change.</p>	<p>No further response required.</p>	

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**Cabinet Member
Wiltshire Council
c/o Yamina Rhouati**

by e-mail only to Yamina.Rhouati@wiltshire.gov.uk

Our reference NPB/PGM_PROPERTY/O14754303.1/NPB

Your reference

15 June 2012

Dear Member

ITEM 7 - SUBMISSION OF THE WILTSHIRE CORE STRATEGY

SUSTAINABILITY APPRAISAL AND STRATEGIC ENVIRONMENTAL IMPACT –

SOUNDNESS

We act on behalf of Chippenham 2020 LLP regarding their detailed submissions on the Pre-Submission Draft Core Strategy. This letter relates to the officer report to Cabinet dated 19th June 2012 ("the Report") and the legal soundness of the Core Strategy.

Considerable concern emanates from the Council's identification of a less sustainable southern urban extension to Chippenham when a robust procedure, credible evidence base and option testing can, and indeed should, lead to restoring land to the East of Chippenham to its previous (2009) preferred option status.

The consultation objection submitted by Chippenham 2020 LLP in April of this year runs to 30 pages and has detailed appendices from Employment, Transport, Sustainability, Flood Risk, Viability and Housing supply experts. It contains a proper analysis of material issues and highlights the large volume of flaws within the Council's work.

The officer report to committee dated 19th June 2012 is leading you astray, especially in its advice on the "soundness" of the plan. The plan as presented and proposed for change, is not legally sound. Paragraphs 14 and 15 of the Report refers to representations that have been made on the Draft Sustainability Appraisal and refers to "further work" necessary in light of the representations received. Alarming however it goes on to state that Sustainability Appraisal will be "*completed for Submission*" but will not lead to any change in the Draft Core Strategy.

Paragraph 2.7.4 of Appendix 1 to the Report purports to summarise the representations on Core Policy 10, the Chippenham Community Policy Area. This includes, for example, the views of the Chippenham Vision Board and the Chamber of Commerce who can be expected to have a local independent understanding of the appropriate community strategy for the town. Both groups have vocally supported the re-instatement of the East Chippenham site, but the officer commentary and the inadequate summary of the concerns is simply that;

"new evidence has not been presented to suggest the strategic sites proposed for Chippenham should be amended or that based on the evidence available any one site or number of sites offer better alternatives to the three strategic sites proposed in the Core Strategy".

This statement by officers is misleading and incorrect.

Chippenham 2020 LLP have submitted clear, robust and compelling evidence which clearly demonstrates that the preferred South West Strategic Site may be capable of playing small a role in the employment land supply, but it is obviously not the most sustainable way of accommodating town centre led employment, nor indeed a sustainable urban extension for housing. There is simply no engagement with this evidence in the officer summary.

Officers simply state that there is;

“concern over the Chippenham Transport Strategy and the lack of evidence to inform the proposals for Chippenham. Developers promoting sites have provided their own transport modelling evidence”.

It goes on to assert that it would not be appropriate to delay site selection until such time as there is more detailed transport modelling available.

“New evidence has not been provided at this stage to suggest that strategic sites should be amended”

This statement is, again, misleading and incorrect.

Chippenham 2020 LLP have provided expert transport evidence which clearly demonstrates that not only is the Council’s transport evidence base underpinning the site selection process wholly inadequate, but there is also clear evidence to show that the strategic site selection should be amended.

The Council has not conducted the public identification, consultation and evaluation of reasonable alternatives for the expansion of Chippenham in the manner the law requires.

In the context of the Council’s Transport Assessment, the land to the east of Chippenham has been belatedly *“option tested”* as a reduced site for 800 dwellings. However, this *“option testing”* is, itself, entirely flawed. For example, it considers the transport implications of development to the east on an entirely erroneous and unequal assumption, namely that there will not be a complete eastern distributor road linking to the A4. The reason for such an arbitrary and obtuse assumption are unfathomable and do not reflect good practice.

The treatment of Chippenham 2020 LLPs consultation objection within the Report is not only evidentially perverse; it also raises a more fundamental concern over the soundness of the legal process of site evaluation and selection.

It is wholly unacceptable to accept that further work on the Sustainability Appraisal is required, but to simultaneously predict that no change to the Core Strategy will result This cannot be a genuine exercise.

It is also wholly unacceptable to accept that further traffic modelling is required, but to press on regardless with detailed appraisal work for existing options only, in complete ignorance of the further modelling results. This is particularly so when the Sustainability Appraisal Report states at paragraph 5.12.29;

“Transport impact is arguably the key issue with all options being considered”

Chippenham 2020 LLP have repeatedly objected to the 2009 and 2011 site selection process and noted the absence of legally compliant site selection and consultation process. There has been a fundamental failure to consult the public on a reduced housing number development option to the east (other than Rawlings Farm) which has never been corrected.

This error has serious legal consequences for soundness, as most recently expressed in a letter to the Senior Planning Policy Officer dated 21st May 2012.

For the avoidance of doubt regulation 12(2) of the Environmental Assessment of Plans and Programmes Regulations 2004 (“the SEA Regulations”) requires that the Core Strategy and in particular the sustainability appraisal shall:-

“identify and evaluate the likely significant effects on the environment of –

(a) Implementing the plan or programme; and

(b) Reasonable alternatives taking into account the objectives and geographical scope of the plan or programme.”

Wiltshire Council has not complied with legislative requirement. The failure to do so renders the Sustainability Appraisal flawed.

In *Save Historic Newmarket Ltd v Forest Heath DC, SSCLG [2011] EWHC 606 (Admin)* a successful application was made to quash the Forest Heath District Council Core Strategy *“to the extent that the court considers appropriate”*. The case was an attack on a policy for the urban extension of Newmarket for approximately 1200 dwellings as part of mixed use development. The main challenge was that there was a failure of the SEA to contain all that it should have contained. The judgement stated;

“the authority responsible for the adoption of the plan or programme as well as the authorities and public consulted must be presented an accurate picture of what reasonable alternatives there are and why they are not considered to be the best option”.

The Judge records the material increase in numbers from 500 to 1000 to 1200 (para 35) but noted that there was no explanation of the increase or why there were no realistic alternatives for that increase being accommodated by the already identified spatial strategy within the SEA – this was a flaw requiring relief.

In *Heard v Broadland District Council [2012] EWHC 344 (Admin) [24/2/12 Ouseley J]* a legal challenge was made to a Joint Core Strategy. It was alleged that the SEA did not comply with two requirements:

- (i) the Core Strategy failed to explain which reasonable alternatives to urban growth in the North East Growth Triangle they had selected to examine and why; and
- (ii) a failure to examine the reasonable alternatives in the same depth as the preferred option.

The Judge upheld the challenge as there was not any reason for selection of alternative sites at any stage, nor was there any discussion in the SA of why preferred options came to be chosen, there was no analysis on a comparable basis of preferred options and selected reasonable alternatives. The judgement states the SEA regulations require;

“an equal examination of the alternatives which it is reasonable to select for examination alongside whatever, even at the outset, may be the preferred option. It is part of the purpose of this process to test whether what may start out as preferred should still end up as preferred after a fair and public analysis of what the authority regards as reasonable alternatives.”

Chippenham 2020 LLP consider that the Report fails to report their objections accurately and the response to “concerns” is completely without any meaningful engagement as a matter of evidence or law. Chippenham 2020 LLP conclude in their evidentially supported objection that:

- (i) the option considered to delete the housing allocation to the south of Chippenham and replace it with an allocation of about 800 houses to the east, in conjunction with support for the town centre, has not been presented to the public or the Council with an accurate picture of what reasonable alternatives there are to developing the housing allocation; and

- (ii) there has not been a fair, public and equal examination of the reasonable alternatives.

Chippenham 2020 LLP strongly suggest that the opportunity should now be taken by Members to insist on the plan-making process being returned to officers so they may properly consider the strategic sites for Chippenham in a legally sound manner prior to submitting the document.

A relatively short delay now may well avoid a potentially longer delay upon or following examination.

A copy of this letter will be sent to the Planning Inspectorate as legal issues of soundness are raised.

Yours faithfully,



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Wiltshire Council

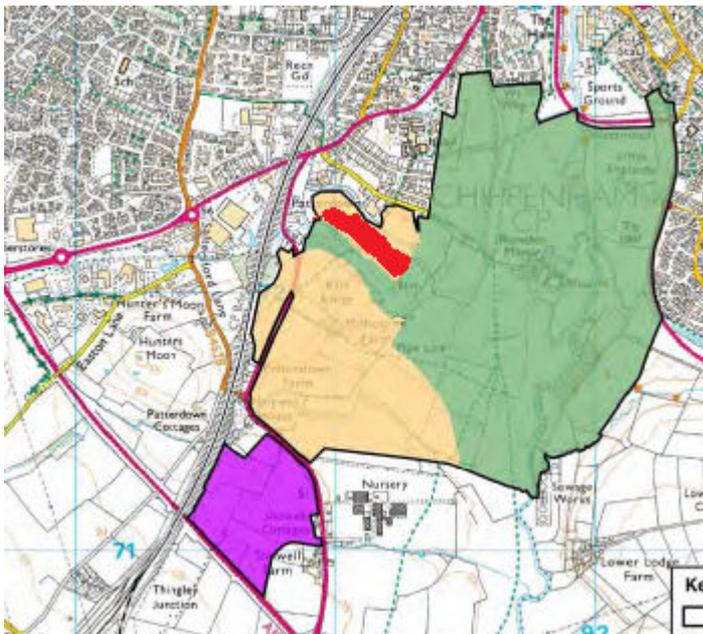
Cabinet

19 June

**Question from Councillor Judy Rooke
(Chippenham Lowden and Rowden Division)
Wiltshire Core Strategy – item 7**

Question

It has already been confirmed to me by a spatial planning officer that the greenspace/country park in the South Chippenham Strategic Site will be extended to include the area referred to by Natural England and is marked in red on the map below;



I would be grateful if you could confirm that the map which is on p248 of the Wiltshire Core Strategy document will be amended for the Council meeting on 26th June to show this.

Response

Proposed change No. 131 at Appendix 1 should have also included the amendment proposed by Natural England (as referred to by Councillor Rooke) and will be amended accordingly.

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