

Extracts from the Legal Advice Received by Laverstock and Ford Parish Council that May be of Interest to Residents Responding to the Wiltshire Council Local Plan Consultation on Policy 30 (Church Road Laverstock)

The Parish Council has commissioned legal advice to help inform its response to the Wiltshire Council consultation on the draft local plan. The advice helps identify some of the issues which would be relevant to this evidence based consultation. Residents might wish to use these to consider whether they want to address any of these points in their responses and use any examples from their own personal experience and local knowledge to provide support.

Analysis: general

18. I begin with general points of advice. Firstly, the kind of planning analysis that applies to Local Plan allocations takes place at a very high level. There is an assumption on the part of the Inspector that the detail will be worked out at the application stage: or, if an outline permission, at the reserved matters stage. This means that objections to an allocation based on the detail, and/or on highly technical matters, are not usually successful.

19. What is therefore required at this stage is an objection that goes to the principle of development: a “knock-out blow” for the level of housing proposed on each site that demonstrates that there is no scenario when this would ever be acceptable in planning terms (and therefore the plan is “unsound” with the allocation in place).

20. To support these “knock out” arguments, we can also point to better alternatives to deliver the level of housing required (this may involve us supporting developers promoting other sites, for example those suggestions of the City Council that were rejected.)

Analysis: Land East of Church Road (Policy 30)

22. I consider there are a number of arguments that can be made that could amount to “knock-out” blows that undermine the principle of development at this site for this number of houses, and could persuade the Inspector to remove the allocation.

23. It seems to me that the allocation of 50 dwellings next to a Small Village does contradict and undermine the settlement hierarchy set out in the draft LOCAL PLAN itself: a) Small Villages are defined as having “a low level of services and facilities” which “may accommodate some very modest development” including “infill.”

b) “Development at Small Villages will be limited to respond to local needs and to contribute to their vitality.” As set out in the NEIGHBOURHOOD PLAN, local needs are being met from other developments within the Parish.

c) “new housing development will be limited to infill within the built-up area of Small Villages or should be geared towards meeting local affordable needs through exception sites, or up to 20 homes, or 5% of the size of the settlement (whichever is the lower).”

24. It therefore seems to me that a strong submission can be made that under the criteria of the draft LOCAL PLAN itself, Laverstock is simply unsuitable for 50 new houses. There is a mismatch between the kind of development that is said to be suitable for Small Villages and what is proposed for Laverstock. If this level of development were suitable, Laverstock would not be designated as a Small Village. Church Road might be acceptable as a rural exception site but that is not what is being proposed. It is not clear that any

other Small Village in the draft LOCAL PLAN is required to take this level of housing (which is unsurprising given the definition of a Small Village). This allocation therefore amounts to an internal inconsistency within the draft LOCAL PLAN itself. 25. This is in my view a strong point, and it has the advantage of being both simple and being a pure planning point that does not require further expert iNeighbourhood Planut.

26. However, this is a point that could benefit from more detailed local knowledge. In any submission to Wiltshire Council and/or the Examining Inspector, it would be worth emphasising the limited number of services in the village and, if possible, poor public transport links and links to nearby services, and reliance of residents on the motor car. It would be useful if we were able to say this would be a necessarily car-heavy development.

27. I note the 2020 Transport Assessment supporting the planning application for 135 dwellings on this site (20/11598/OUT), which suggests there are a reasonable number of amenities within walking distance: I do not know how true this suggestion is, but those arguments would need to be addressed.

28. Traffic impacts also strike me as a strong point, because although traffic objections are often raised in response to large developments, in this case the objections are supported by the observations in the NEIGHBOURHOOD PLAN which was recent and subject to independent examination, and therefore should be given weight. The allocation itself says nothing about mitigating traffic impacts, and does not acknowledge the clear wording of the NEIGHBOURHOOD PLAN about the difficulties faced on Church Road. It acknowledges the schools as a benefit but not the congestion they cause (which will be exacerbated by the proposal).

29. It therefore seems to me that a strong argument could be made that the traffic impacts for this level of development would be unacceptable. Paragraph 110 of the NEIGHBOURHOOD PLANPF is clear that for allocation proposals it should be ensured that “any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.” Little work seems to have been done on this by Wiltshire Council such that it could be said that they have ensured that the impacts can be mitigated.

Landscape and character of the area

32. Landscape impacts also strike me as a good objection to this allocation. Paragraph 7.1 of the NEIGHBOURHOOD PLAN Landscape Sensitivity Assessment notes that:

“Area 2 is the collection of fields to the east of Church Road and to the north of the schools. The fields lie at the base of the carp slope of Cockney and Ford Downs and are gently sloping with the slope steepening closer to the downs. The fields are arable with boundary hedges in some places although open in others. There are wide views from the top of the downs and the downs create a visual backdrop to the area from most views.”

35. Understandably, the assessment focuses more on the visual aspects of the area rather than how one experiences it. But it is clear to me that a good argument can be made that the semi-rural nature of the area as described in the NEIGHBOURHOOD PLAN is experienced in part due to the visibility of open fields that go out to the countryside, such as along Church Road. If housing were along both sides of the road, then the road would obviously be experienced as a more urban and less rural setting- because the person walking or driving along the road would not be able to see the fields behind the houses.

36. Accordingly, a good argument can be made that effectively closing off this series of views will fundamentally alter how the village is experienced by those travelling through it. The proposal would not therefore “maintain the visual character of the landscape when viewed from both inside and outside the Parish” in accordance with NEIGHBOURHOOD PLAN Policy 2. I have had success with this kind of

argument before in a planning appeal where the developer sought to build a large housing scheme on a village field that

Air Quality

37. Air quality is an issue on this site given what is said in the NEIGHBOURHOOD PLAN about air quality as a problem along Church Road, and the fact that the allocation itself recognises air quality concerns. Salisbury is subject to an Air Quality Management Area and this allocation has the potential to have a negative impact on air quality both locally and in the AQMA (as was noted by Wiltshire's environmental health team regarding the 135-home proposal).

38. The difficulty with air quality is that it can often be dealt with via condition or mitigation: it is not usually a "knockout blow" that would preclude any development of a certain scale being approved, and if it were, the implications of such a finding for the wider Salisbury area would be quite significant. So I consider it to be a mentionable point, but not a major point.

Inconsistency with the Neighbourhood Plan

41. Policy 30 appears to me to be inconsistent with a number of observations made in the NEIGHBOURHOOD PLAN (set out above) and the requirements of NEIGHBOURHOOD PLAN Policy 1 and 2.

42. I consider this is a good point, but something of a sub-point to those considered above. It is not really a standalone point: in law, the most recent development plan document takes precedent over the documents that came before. So, it is quite possible for an adopted Local Plan to be inconsistent with an extant Neighbourhood Plan and indeed any other extant development plan document. The Local Plan will merely overtake it insofar as there is any inconsistency.

43. That being said, there are a number of useful observations set out in the NEIGHBOURHOOD PLAN which I have highlighted above that support our case on settlement hierarchy, traffic and landscape. These observations will carry weight because they are recent and have been subject to independent examination.

Salisbury City Council proposed allocations

46. Any submissions we made could also of course support the City Council's identified potential brownfield sites that did not make it into the draft local plan, as an alternative.

Terminology Used

In carrying out the examination, the Inspector must consider if the draft LP is 'sound' (s.20 PCPA 2004). The 2004 Act contains no definition of the term 'sound.' The term is however defined in paragraph 35 of the National Planning Policy Framework ("NPPF"):

"Plans are 'sound' if they are:

...

b) Justified – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;

c) Effective – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and

d) Consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant."

iv. Following the public hearings, the Inspector will usually recommend main modifications to the draft LP in order to make it 'sound.'

v. Wiltshire Council must follow those recommendations or else it cannot adopt the draft LP (s.23(4) PCPA 2004). Thus the Inspector's recommendations are binding.

Wiltshire Council Local Plan Consultation Page

You can respond to the consultation online on the consultation portal, by email, or by post. Details are at-
<https://www.wiltshire.gov.uk/article/8048/Current-consultation-Reg-19-autumn-2023>