



Local Plan Representations

Planning Applications

Site Appraisals

Appeals

### **Closing comments – Lydiard Millicent Appeal**

**LPA Ref: 17/08735/FUL**

**PINS Ref: APP/Y3940/W/18/3205367**

This statement is not intended to duplicate points made elsewhere. It will focus on the claims and points made in the LPA SoC in light of the new NPPF and other factors that have changed over the course of the application.

The Appellants welcomes the feedback of the LPA on the Unilateral Undertaking, which is the first feedback since it's circulation earlier in the year. A revised UU has been prepared to seek to address the issues.

### **LPA SoC – Commentary and Rebuttal**

Section 10.10 – Swindon is not outside the County Boundary. It is within Wiltshire, just not within the Administrative Boundaries of the LPA. It is unclear what the underlying point of this section is since the LA boundary is something which cannot readily be changed and is, by its nature, arbitrary. There will always be villages and towns that are close to the boundary.

To ignore Swindon, and its many local facilities, is against the principles of sustainable development. Residents of Lydiard should not be expected to shop in Malmesbury simply because it is within their HMA or LPA boundary. Swindon is the closest service centre to the site. This is the same circumstance for an estate called Moulden View in Swindon. The estate is built on a tooth of Wiltshire Council's territory that extends into (for legitimate historic reasons) part of the now urban area of Swindon (see diagram below).

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**WICKLESHAM BUSINESS PARK • FARINGDON • OXFORDSHIRE • SN7 7BU**

**Tel: 01865 600555 • Mobile: 07970 241 671 • [md@markdoodlesplanning.co.uk](mailto:md@markdoodlesplanning.co.uk)**

**[markdoodlesplanning.co.uk](http://markdoodlesplanning.co.uk)**

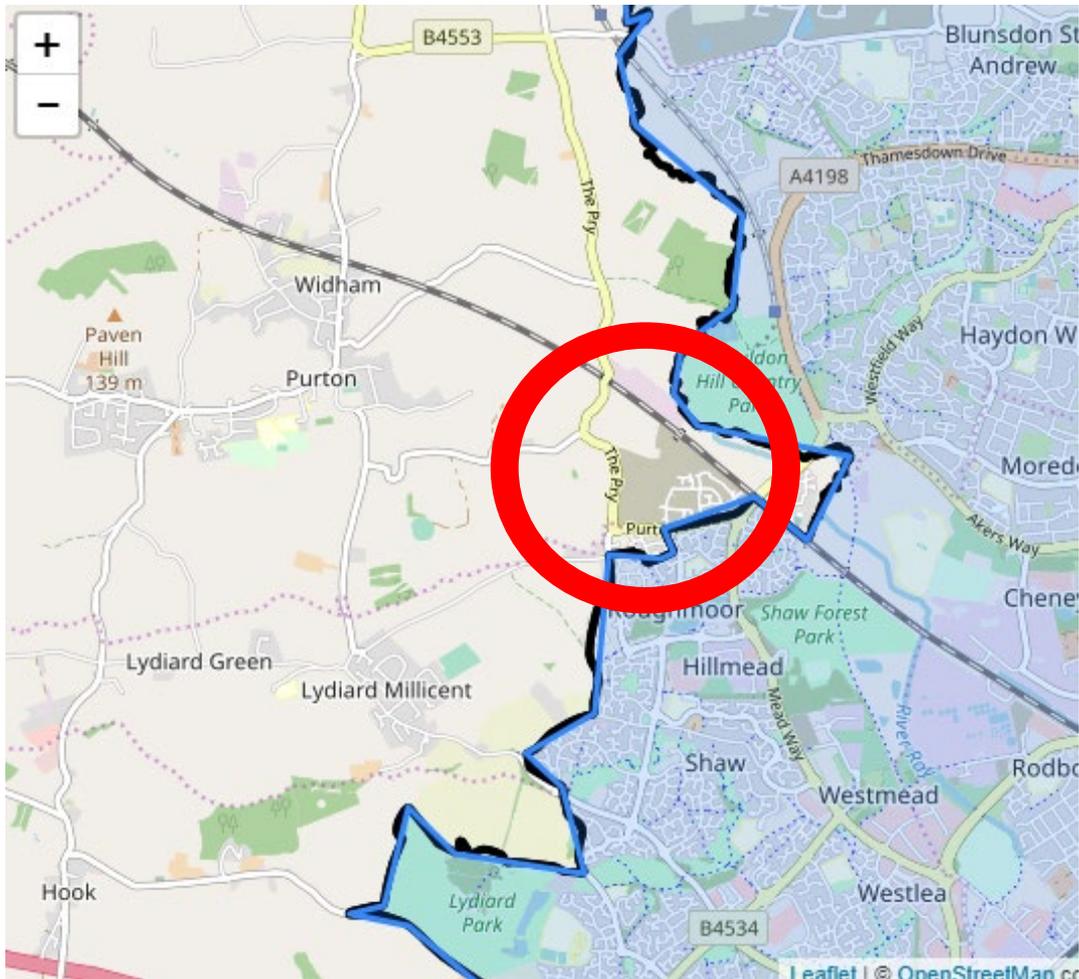


Figure 1 – Mouldon Hill part of Wiltshire Council.

Equally, the Core Strategy is silent about the positive impact of Salisbury being located towards the edge of the LPA boundary. Please see figure 2. Salisbury will act as a service centre for a ring of villages that are in Hampshire or Dorset (shown as a green curve) in exactly the same way as Swindon does to Lydiard Millicent. The point is that such

migration is inevitable and part and parcel of a modern connected society.

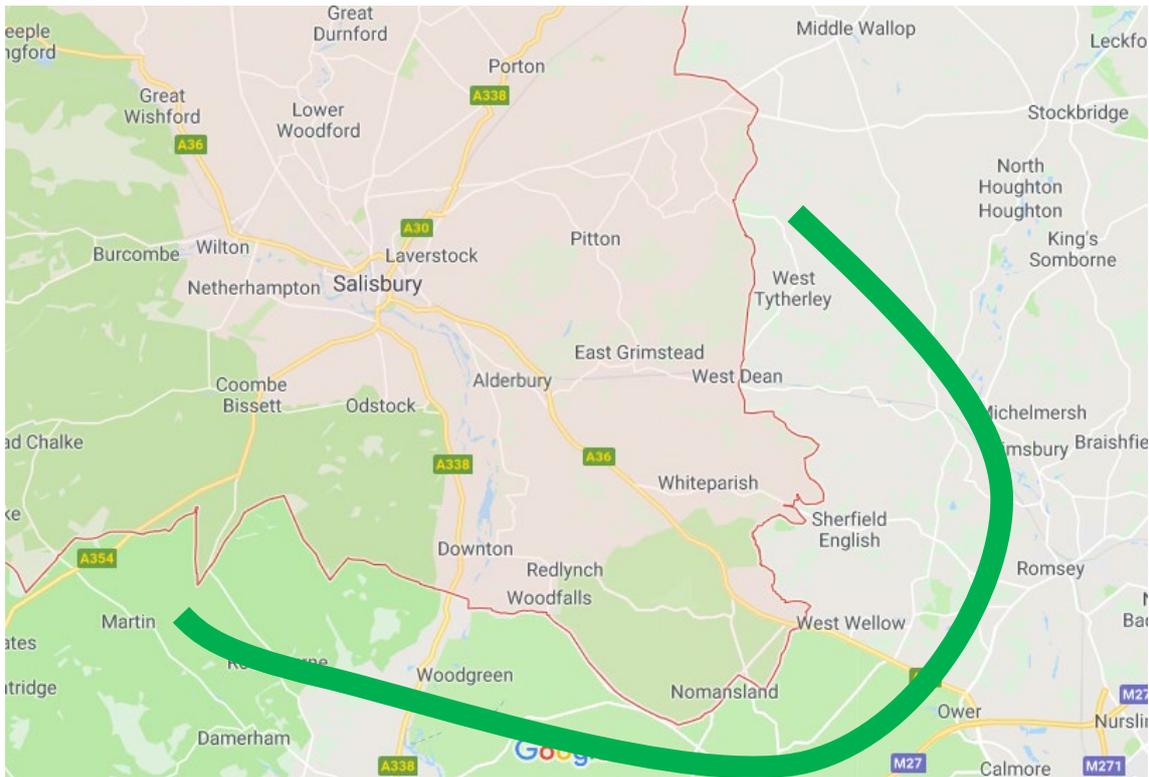


Figure 2 – Salisbury in relation to a hinterland of non Wiltshire villages. (Wiltshire shown in red)

Section 10.11 – The negative impact on sustainability is not amplified by the proximity to facilities, it is mitigated by it. The impact of air pollution and carbon footprints are *only* a product of distance travelled, not administrative boundaries. It makes much more sense, if a sustainability argument is to be advanced, to support schemes in locations that are proximate to facilities not in villages that are more distant such as Aldbourne which has no supermarket, doctors' surgery, little employment etc but is classed as a "large village". The residents of Aldbourne will drive longer distances to access these services yet the Core Strategy treats all small villages as (in essence) "unsustainable" locations. In the same way, surely the LPA cannot be suggesting that Malmesbury (a distance of some 13 miles) would be a more sustainable location for shopping than Swindon. This approach seems entirely arbitrary and perverse.

Section 11.1 – The provision of additional dwellings in village locations will assist in supporting a bus service, as will the reversing of subsidy reallocation decisions by the LA. However, it is accepted that most journeys will, like in many of the urban extension to nearby Swindon, take place by private means. This is not a disbenefit to the scheme but a product of the comparative convenience of private transport means in Wiltshire. The shift away from bus services is part of a declining national picture as highlighted by the DFT figures below published in September 2018.

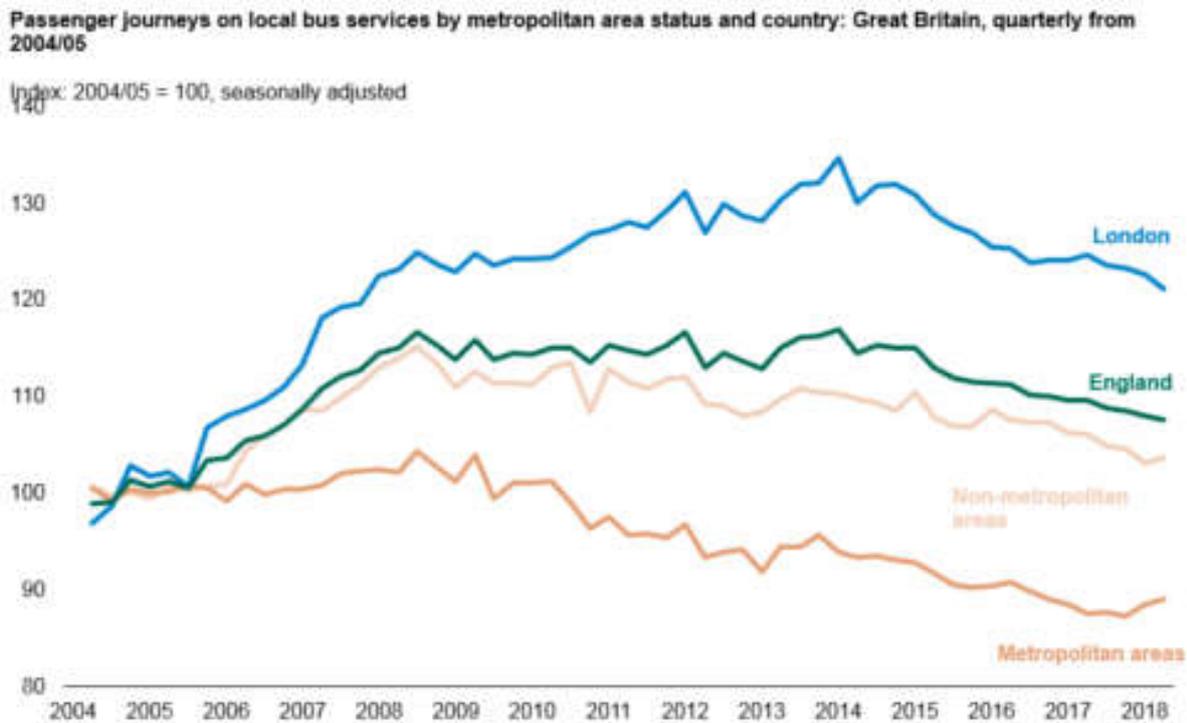


Figure 3 – The decline of the bus, nationally.

Section 11.2 – The appellant is not convinced that the LHA gave the application the attention suggested in the LPA SoC. The consultation response was several months late, and consisted of 2 to 3 sentences raising issues. A condition requiring the detailed off-site junction design would assist here.

Section 11.5 – The LHA will typically seek (as is within their ambit) an engineered solution. Manual for Streets 2 accepts that flexibility around standards can be acceptable. More detail of this issue is discussed elsewhere and need not be repeated.

Section 12.1 – At the time of the application, no *positive* or *proactive* design suggestions were made by the LPA. Perhaps this is a product of the in-principle objection. It is noted that these two adjectives are now absent from the NPPFv2 but the lack of design feedback is unlikely to be the product of prescience on the part of the LPA.

Section 12.2 – A number of other heritage gains have been included in the proposals but these are not discussed or acknowledged by the LPA. These gains are identified elsewhere and need not be repeated.

Section 12.3 – The Oxford dictionary definition of Criticism is “*The expression of disapproval ...on the basis of perceived faults or mistakes.*”. The word appears appropriate to the context.

Section 12.4 – The appellant has *consistently* requested evidence that Inspectors have considered the burdensome provision of trenching for Minor development where a geo-physical survey was provided as being proportionate or necessary. No such evidence was provided, because none exists. Inspectors have found that a condition is sufficient in such circumstances.

Section 12.6 – The adjective *only* does not reflect the considerable cost of such works which would be circa £7,000. Given the range of conditions open to the LPA, a watching brief or Grampian condition appears to be the most suitable way forward on a site which appears to have few features of interest.

Section 12.7 – Appeal APP/Y3940/W/16/3156940, a Wiltshire scheme for 25 units deals directly with the issue at hand and is found attached at Appendix A. Paragraph 14 of the appeal states;

*“There was dispute between the parties in relation to the level of detail required in relation to archaeological site evaluation. The appellant has submitted a desk-based assessment, subsequently supported by a supplementary geophysical survey. Moreover, based on the submitted geophysical survey, the site does not appear to contain archaeological remains of national importance, such that planning consent would be refused on heritage grounds. Whilst I have carefully considered the Council’s concerns, based on the evidence before me, I conclude that this is a proportionate approach consistent with paragraph 128 of the Framework. Furthermore, had I been minded to allow the appeal I would have applied a condition ensuring appropriate protection for archaeological remains within the site.”(emphasis added)*

Despite the above appeal being brought to the attention of the LPA, no reflection of the SoS words appears to have taken place. Consistently requesting something unreasonable does not make that request reasonable.

The appeal at Devizes was for a scheme of 150 units covering 5 Hectares. The differences in scale (ergo potential harm to buried heritage) between the appeal site and the major urban extension of Devizes are stark.

Section 14.1 – The design rationale is well articulated in the planning statement and by the Architects constraint diagrams and other drawings.

Section 14.2 – The road within the scheme is intended to be a private road, and bitumen is unlikely to be a material of choice for design / aesthetics reasons.

Section 14.3 – It is one of the few areas of common ground that both parties agree that the trees in question are protected. Therefore this section appears to serve little purpose. There is no doubt to the appellant that the loss of some of the healthy, characterful, mature trees weighs against the proposals. Words to this effect are used in the Planning Statement.

Section 15.1 – The LPA appear in the passage to cherish the words of the appellant’s ecology consultant to some degree. Despite this, no suggestion was ever made by the LPA that the inclusion of a large buffer was a mandatory (or even preferential) design. All applications are a product of compromise and on this occasion the preference to provide a playground, pond feature and new footway were considered to outweigh the preferences of the ecology consultant. However, a new area of planting and wild long grasses can be added to the eastern edge of the site. The details of which can be controlled by condition.

Section 15.3 – Again, the LA ecologist has not supported the scheme contingent upon an ecology buffer being provided in a particular location. Given that roughly half the site is not being developed, there appears to be more than adequate space for ecology areas (notwithstanding that the pond is such an area) to be provided on the site according to a suitable condition.

Section 16.3 – At no time throughout the process was a revised housing mix sought or requested by the LPA. The Core Strategy Policy for small villages is a policy which will ensure no Affordable Housing comes forward. This is because schemes of 1-2 units will have no Affordable Housing requirement. These proposals provide Affordable Housing, albeit not of the type that the LPA prefer. The LPA have not provided any details of the size of the Affordable Housing register and have blindly stated that there is no demand for housing in this area including Affordable Housing. The Inspector will already have a letter from one of Wiltshire's larger Registered Social Landlords refuting the claim that there is no underlying demand for Affordable Housing. The Registered Social Landlord also states that they see no issues with the wording of UU.

Section 16.4 – It is a frustration that the Housing Services team have not provided details of the number of families who are presently on the housing list in this HMA. The LPA have not provided this information which does not assist the Inspector in drawing conclusions on the correct weight to assign AH in this HMA. If the housing market or the Core Strategy Policies were properly functioning, there would be no extant demand for Affordable Housing. Simultaneously the LPA claim there is no demand for housing in the area whilst the Housing team are being far from forthcoming about the length of the waiting list for the same.

### Comments on the LHA response

The LHA and LPA both appear to believe that private land cannot be accessed by the public. This view is unfounded and misguided. There are many examples of private land being enjoyed by the public, as if it were in such ownership. Such examples include nearby Lydiard Park, the A417, mountain ranges, some world heritage sites (such as at nearby Avebury), moors, all London's royal parks, all heaths, Common Ground and some Village Greens. Of interest, 55% of all foreshore (including hundreds of beaches) is privately owned by the Crown Estate.

The appellant had always been working on the assumption that the POS would become publically adopted which is why reference to it was not made in the original drafting of the UU. It was only the more recent position of the Parish Council that they did not wish to take on responsibility for the upkeep of the grass and play equipment. This is regrettable given that the site is adjacent to other land which is under Parish Trust control.

The land in question will be, for all purposes, a Village Green (in all but name). Accessing the POS land is fully intended to be one of the main benefits of the scheme. Blocking access to the POS would defeat the purpose of including the Green in the site area in the first place.

At no point in the submission or during initial discussions with the Parish prior to the submission of the application has it ever been suggested that the land would be a private park for the enjoyment of the new residents only. In light of the Parish and the LA being unwilling to adopt the land, an amended UU has been submitted which includes the provision for a management company to be created to ensure the benefits persist. It remains the preference of the Appellant that this land is sold into public ownership for a peppercorn consideration.

To assist the Inspector in assigning due weight to the provision of a new village green in the heart of the historic core the village modifications have been made to the legal agreement.

### **Housing land supply**

The appellant did not plan to discuss the five year land supply. However, given that the new delivery test has been engaged earlier this month it is worth noting that no compliance statement has been made by the LPA to date, as per Paragraph 215 of the 2018 NPPF. It is also noted that housing targets are minimum figures not maximum targets.

A brief look at the supply claims of the LPA does bring forward some doubt that in the shorter term housing delivery will be as optimistic as envisaged. However dissection of 5YLS figures has become a modern-day obsession of planners (on both sides of the fence) rather than on making good “places”.

Rawlings Farm is expected, according to the submission of the LPA, to deliver 50 units in 2020. An outline application (15/12351/OUT) (submitted by Mark Doodles) was given resolution to grant by committee, but no decision notice has been issued. It is therefore highly unlikely that any units will be delivered within the next 18 months since the site has yet to be sold, reserved matters submitted, and conditions discharged. These delivery issues are intended to cast doubt over the assumptions made by the LPA, and reinforce the importance of smaller sites that do not require significant infrastructure to be erected/delivered prior to occupation.

### **The Rural Sustainability Trap**

Attached at Appendix B is a research report “*Sustainable Villages – Making Rural Communities Fit for the Future*” by Country Land and Business Association (CLA). The report, produced in July 2018, is particularly critical of Wiltshire Council. Wiltshire Council’s Local Plan (Core Strategy) classifies 168 villages as being “unsustainable locations” for housing growth. This is the second highest concentration in the Country with Cornwall being first. Whilst the large geographic area of Cornwall and the disparate nature of the villages (by virtue of the topography) is understandable the same is not true of much of Wiltshire’s villages which enjoy access to a wider range of services as part of “village network” (as per Paragraph 78 of the NPPF) and general spatial gains by virtue of being able to access jobs in the wider area.

The report makes for interesting reading but the conclusion brings to focus the findings and drives home the points made in the Planning Statement;

*“For too long, villages which have fallen into the sustainability trap have been left with too few options to change. Rather than abandon them, local authorities must be more proactive in seeking to improve these areas. Technology and digital connectivity have huge potential to achieve this and strengthen the rural economy. Ultimately, addressing the economic and social needs of the people who live in that area is the long-term solution to the rural housing crisis.”*

The central point of the report is that unless the cycle of rural decline is broken, more of the existing facilities and services of Lydiard Millicent (and other small villages) will decline rather than flourish. There is no doubt in the appellants mind that the rigorous application of the Core Strategy Policy for smaller villages will do nothing to assist this process. Schemes of 1-2 infill homes will not deliver new open space, play areas, affordable housing etc. The emerging Neighbourhood Plan is also not presently expected to be an Allocating Plan, meaning that this route to seek to make such provision is precluded. In other words there will be no “plan led” housing delivery (Paragraph 15 NPPF) beyond infill schemes of 1-2 units. In the year 2018 it is not an unreasonable assertion to make that many such sites have already been delivered in the village and it is likely that few remain.

### **Unilateral Undertaking**

The appellants welcomes the feedback on the UU, albeit at a very late stage. The following changes have been made to the UU.

1. References to the HCA and NPPF have been updated accordingly.
2. An OS Plan has been included at Appendix A
3. A Public Open Space plan has been included at Appendix B
4. Provisions are made to ensure the POS is not developed and remains open for public enjoyment.
5. Provision of a management company to be created to maintain the POS, along with the early delivery of the POS within the development life-cycle.

### **Conclusion**

The LPA in their SoC continue to disregard the many social economic and environmental benefits of the scheme which need not be repeated here and only identify problems and conflict. The appellants respectfully request the

Inspector make a balanced decision and assign due weight as appropriate to both the benefits and conflicts of the scheme.

End of closing comments

### **Appendices**

Appendix A - Appeal APP/Y3940/W/16/3156940

Appendix B - Sustainable Villages – Making Rural Communities Fit for the Future” by Country Land and Business Association (CLA)