

Guidance on responding to the Wiltshire Core Strategy consultation

The consultation began on 20 September and ends on 1 November at 5.00pm. Comments on changes made since the last consultation must be submitted before the deadline.

There are several ways to submit your response:

- Complete the appropriate form on the council's website;
- Download one of both of the forms from the site and use your word processor to fill it in and then email it as an attachment to the planning department;
- Write your comments by hand on a printout of the appropriate form and post it to the strategic planning department in Trowbridge. (See 'Contact details', below)
- Write a letter to the planning department, using the guidance in this message or in documents lodged in public libraries and WC offices around the county.

It's a complicated consultation. The 180 changes are spread over three separate schedules of changes. There are two types of form;

Use **Form A** when you want to comment on whether or not a change is legally 'compliant' or 'sound';

Use **Form B** for general comments and comments on changes to the *Sustainability Appraisal*;

Use **Form B** to comment on *conformity with the National Planning Policy Framework (NPPF)*.

You can look at all the relevant documents by going to this website address - <http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/wiltshirecorestrategy/wiltshirecorestrategyfocussedconsultation.htm>

You can download any you want to study - and the two kinds of response form - from the above web address. All the documents and forms should also be available at libraries and public information points round the county. (See 'Contact details', below). If you want to respond on line you can go to the 'consultation portal' and log on to submit a response at http://consult.wiltshire.gov.uk/portal/spatial_planning/wcs/wcssubpc

The Consultation Portal should guide you to the correct form to use for the kind of response you want to make. You will have to provide a name and contact details for your comments to be taken into account. You don't need to be a resident of Wiltshire or a registered voter. You will need to complete a separate form for each policy

change you are commenting on. The form is designed to find out if you consider the changed policy 'legally compliant' and 'sound' (these are the questions the Inspector has to ask when examining the whole plan). If you don't know whether the proposal might be unlawful you can leave this box blank.

The tests of 'soundness' are set out on the form: WC says that *'Sound' means the Modifications to the Wiltshire Core Strategy Development Plan Document are positively prepared, justified, effective and consistent with national policy.* You should say why you think a changed policy would be unsound or not legally compliant. The grounds for objection include most common-sense reasons. For example, a change cannot be 'justified' if the council has no evidence to justify it – or has already produced evidence against it.

Some changes you may want to comment on

Below we have listed some of the changes that our member organisations are likely to oppose:

Renewable energy

The Council's extraordinary meeting on 26 June 2012 approved an amendment laying down separation distances between wind turbines and homes, with the minimum distance being 1km, unless supported by the local community. This was such a major policy change, made without consulting the public, that further consultation and further delay were almost inevitable. The proposal has divided environmental groups in West Wiltshire. The White Horse Alliance is glad that the public can now have their say on the proposed change of policy on an issue that might have been less contentious if local communities trusted Wiltshire's planners to defend them from inappropriate development of any kind.

Change 180 *Core Policy 42: Standalone renewable energy installations.*

CP42 was examined in the previous *Sustainability Appraisal report*. Paragraph 5.44. supported it subject to appropriate safeguards being applied: *'the location of such facilities away from residential areas and important areas for biodiversity will be important considerations.'*

The revised *Sustainability Appraisal report* [Para 4.44.14] says that the change will *'improve amenity for residents but the result may be that fewer proposals come forward and this could reduce Wiltshire's ability to generate energy from non-renewable sources...'* Para 5.44.15 warns that *'Those proposals that do come forward may have greater landscape impacts because they will have to be located in more remote areas that are a significant distance from residential properties ...'*

Transport

Change 107 Safeguarding routes for major roads. Change 107 provides for safeguarding of 'other realistic proposals on the strategic transport network.'

Safeguarding the route of a future A350 Westbury eastern bypass in the Core Strategy and adding it to the 'Proposals Map' in July this year may be a warning of what Wiltshire's planners could get up to in future. The old West Wilts District Council removed the safeguarding of this route from its Policy T1a in 2005 because it had failed to attract the government funding that was a condition of safeguarding. The bypass planning inquiry in 2008 led to a damning Inspector's report recommending rejection of the scheme because it was not good enough to justify the environmental damage it would have done. The government axed it in 2009. If this dead-parrot of a road qualifies as a 'realistic proposal', any hopeless old scheme could qualify for safeguarding!

Safeguarding a route with little prospect of being approved or funded in the near future is likely to be judged as 'unsound'. It is hardly 'justified' when no evidence has been produced to back the proposal - and it can't be said to be 'effective' if there is no transport case or funding to make it 'deliverable'.

Change 107 also manages to mislay the '**strategic bus network**' from the wording used in the pre-submission draft.

You may want to comment on Change 171 proposed for Core Policy 60 (CP60) and the way it proposes using 'relevant strategic objectives of the Wilts LTP [Local Transport Plan]' as a performance target. Large parts of the LTP including **local transport strategies** for Trowbridge, Chippenham and Salisbury are still missing. This puts the council in breach of its duty to prepare its core strategy in accordance with the **Local Development Scheme** (LDS). *Verdict: Unsound!*

It also calls into question the soundness of the *Sustainability Appraisal*: can environmental and other impacts of the council's plans be signed off as 'sustainable' when we still don't know, for example, what roads are to be built round Trowbridge and what effects they might have on traffic volumes, carbon emissions, air quality and protected wildlife? (See also compliance with NPPF, below).

The National Planning Policy Framework (NPPF)

You can read the National Planning Policy Framework at <http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicyframework/>

Certain themes run right through the new planning framework. They are quality of urban design ('characterless developments' to be avoided); vitality of town centres;

integration of new developments with existing settlements; making sure that new developments are served by sustainable transport (rather than building car-dependent estates served only by new access and distributor roads).

While the council has made small changes to policy prompted by the NPPF we don't believe it has carried out the fundamental revisions to its entire spatial strategy that would be required to make it fully 'compliant' with the new priorities of national planning policy.

Whether or not this makes Wiltshire's planning strategy 'unlawful' or merely 'unsound' is a matter of argument. We will argue that a spatial strategy based on large urban extensions in open countryside without sustainable transport links (trains, buses, footpaths and cycleways) to town centres required **complete revision**, not a bit of minor tinkering, to make it comply with national planning policy.

The council and the Inspector have agreed that the consultation document should ask respondents to *'provide details of how you believe the submitted core strategy should be amended to ensure conformity with the National Planning Policy Framework or Planning Policy for Traveller Sites.'* This appears to mean you can **suggest changes to any part of the core strategy that are not in compliance with the NPPF**, whether or not the council has proposed amending them.

Below we have listed some of the key objectives of the NPPF that you may want to study to see if Wiltshire Council's draft development plan meets the government's requirements. Ask yourself if WC's plans for the Trowbridge, Chippenham, Melksham, Warminster and Westbury areas resemble anything set out below! Does the NPPF support the idea of building huge 'urban extensions' (new settlements of hundreds of houses) in the open countryside orientated around bypasses and major distributor roads financed by developers paying the council an 'infrastructure levy' on every house built?

If your previous objections to the council's preference for 'green-field sprawl' over town-centre and brown-field-first sites have been ignored you might like to quote

NPPF Para 17. This says the planning process should **empower local people to shape their surroundings, working with them creatively to enhance and improve the places where they live.**

Design and planning priorities

Paragraphs 7 and 9 stress the importance of a **high-quality built environment** as an integral part of sustainable development. **Paragraph 23** asks that **town centres** are recognised as the heart of their communities and that needs for retail, office and leisure are met in full with a need to expand and assess other brown-field sites

accordingly. **Paragraph 22** says that **where town centres are in decline** councils should plan positively for their future economic activity. They should **encourage residential development** on appropriate sites because this plays an important role in ensuring the vitality of town centres. **A sequential approach** should be used, giving preference to accessible sites well-connected to the town centre; **edge-of-centre sites should be considered only if town-centre sites are not available.**

Paragraph 159 expects councils to do a Strategic Housing Market Assessment (SHMA) to **assess the full housing need** of the area and to work with neighbouring authorities where housing market areas cross administrative boundaries.

Paragraph 124 on Air Quality is especially relevant to places which have Air Quality Management Areas (AQMAs) - Salisbury, Westbury, Bradford-on-Avon, Marlborough and Devizes.

Para 124 says that '*Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.*'

There is no current air quality action plan for Wiltshire. The latest AQ document which is available on the web indicates that '*Proposed actions for subsequent Review and Assessment reporting duties will include: Completion and submission of an updated Wiltshire Air Quality Action Plan (to bring together the old District Council Action Plans into one document and update with the new AQMAS of Marlborough and Devizes)*' [Executive Summary, Wiltshire Council's 2012 *Air Quality Updating and Screening Assessment for Wiltshire*, May 2012]

In the absence of a current local air-quality action plan there is no means of ensuring that proposed developments in locations with high levels of air pollution would be consistent with such a plan, or showing that the increase in traffic from proposed developments would not lead to deterioration in air quality.

Brown-field sites: NPPF Para 111 gives support for use of **previously developed sites** and for the re-use of **empty houses and buildings** - The NPPF requires (Para 51) that '*Local planning authorities should identify and **bring back into residential use** empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers.*' We have not yet found evidence that WC has identified their empty buildings and developed a strategy for bringing these back into use.

Funds from developers of sites proposed in the core strategy (local development plan)

Local authorities have legal powers to collect a 'Community Infrastructure Levy' (CIL) from developers. Councils set a CIL tariff levied on each house in a development to pay for the 'furniture' of a new development, including schools, clinics, sewerage and, of course, roads. Wiltshire has not yet set a tariff and is unlikely to have one in place until next summer.

Paragraph 175 says *'Where practical, Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan. The Community Infrastructure Levy should support and incentivise new development, particularly by placing control over a meaningful proportion of the funds raised with the neighbourhoods where development takes place.'*

It would be reasonable to ask why Wiltshire did not synchronise the setting of CIL charges with the CS process. Concerns over neighbourhoods getting a fair share of CIL funds could be expressed via the current public consultation on the rate and distribution of the levy. See Wilts. County Council website at: www.wiltshire.gov.uk/communityinfrastructurelevy

Sustainability Appraisal (SA)

This *should* be the most important document in the whole mass of paperwork surrounding the Core Strategy. It is supposed to examine the entire plan and the proposals within it to make sure that they are 'sustainable'. In the absence of any real belief at local or national level that councils are actually bound by a legal duty to ensure that their plans will ensure a better and more habitable world for us and future generations, councils tend to assume that even the most blatantly unsustainable plans will end up being rubber-stamped

Strategic Environmental Assessment

Fortunately the flabby process of sustainability assessment contains a kernel of hard law – the European directive on strategic environmental assessment (the SEA directive). Like the EU Habitats Directive that protects our most endangered wildlife and their habitats, this is strict law. The new national planning policy framework (NPPF) actually concedes that its notion of 'sustainable development' is trumped by these directives.

The SEA directive requires planning authorities to consider the cumulative and in-combination effects of *all* plans and projects in the plan area; to examine reasonable alternative ways of meeting planning or transport objectives and to choose the least damaging. This duty is wider than most councils think; they are obliged to select the least damaging spatial *strategy*, not just choose between alternative sites at already decided locations. Different options must be considered in an even-handed way,

open to public scrutiny. Reasons for rejecting an alternative strategy – for example deciding not to concentrate new development on derelict sites in town centres – must be clearly stated and backed by proper evidence.

Recent High Court judgments have shown that the SEA directive has teeth; it can bite councils that do not give proper consideration to reasonable alternatives before plonking vast new settlements onto green-field sites far from town centres. When those sprawling settlements and *en-suite* employment areas threaten the habitats of European protected species the duty to consider alternative development strategies becomes even more imperative.

We do not believe that Wiltshire Council has understood this duty. Natural England warned it in 2009 after the publication of its first draft of the core strategy (‘*Wiltshire 2026*’) that large housing allocations south east of **Trowbridge** could be in breach of the Habitats Directive. Instead of reconsidering its whole ‘green-field-first’ strategy for expanding Trowbridge, the council decided to rely on small modifications intended to ‘mitigate’ the harm that its plan could do to the colonies of bats in ancient woods between the site and the A350.

At the time of writing, the council is still negotiating with the developer and Natural England over publication of **guidance documents** that it hopes will protect the Bechstein’s bat colonies in woods SE of Trowbridge from extinction by disturbance and by isolation from their underground hibernation roosts within the European conservation area (SAC) around Bath, Bradford-on-Avon and Box. The scale of development proposed round **Bradford-on-Avon** is also a potential threat to the integrity of the SAC, raising concerns from Natural England and bat ecologists striving to conserve the populations of Greater and Lesser horseshoe bats as well as Bechstein’s bats that roost here.

As these guidance documents have not been published yet, there is no way of knowing if they might provide effective safeguards for the conservation of the UK’s rarest and most endangered mammals. The Habitats Directive does not permit this level of uncertainty.

Equally, it is doubtful whether the council can demonstrate compliance with the SEA directive when the layout of **new distributor roads** east of Trowbridge has not been decided.

While the council has paid some attention to ‘mitigation’ of development impacts on the bat colonies in Green Lane and Biss Woods, no such attention has been given to an important maternity roost of the same Bechstein’s species in **Picket and Clanger Woods, south east of Yarnbrook**. The core strategy proposes a 30 hectare wedge of housing and employment land extending southwards towards Yarnbrook. **New roads are proposed to relieve congestion on the A350 at Yarnbrook and West**

Ashton. The sustainability appraisal contains no mention of Picket and Clanger Woods.

Below we reproduce extracts from the CS and SA and the very slight **changes to CP50** that the council hopes will reduce the effects of the proposed 1,200-house Ashton Park estate on bats in Biss and Green Lane Woods and of developments around Bradford-on-Avon on the 'Natura 2000' site (European special area of Conservation, or SAC). Our underlining emphasises the uncertainty over the council's plans for mitigating - rather than avoiding - harmful effects on wildlife.

Note that the final text of **CP50** specifies a planning zone of only 4km around the Bath and Bradford SAC. The areas of ancient woodland in West Ashton and Yarnbrook would fall outside this zone by several km. Greater and Lesser Horseshoe and Bechstein's bats are known to fly much further than that between summer and winter roosts. They have been logged as far away from the SAC as the southern end of the **Wellhead Valley, south east of Westbury.**

The environmental statement for the Westbury bypass said that the valley supported an 'Assemblage of bats of European importance.' This information does not appear anywhere in the CS, the Habitats Regulations Assessment or the Sustainability Appraisal.

The revised Sustainability Appraisal report contains proposed changes to community area policies and to the overarching CP50 on biodiversity. All these will rely on guidance described in Para 5.9.6 of the Sustainability Appraisal: 'Guidance is being prepared jointly by Natural England and Wiltshire Council and a Biodiversity SPD [supplementary planning document] is planned that will cover design guidance for bats.'

Core Policy 7 – Bradford on Avon Community Area [relies on 'mitigation' and requires development proposals to maintain the integrity of the SAC and to be in accordance with Wiltshire Council's 'Bath and Bradford on Avon Bats Planning Protocol'; project level HRA will be required at the Kingston Farm site].

Core Policy 11 – Corsham Community Area [will require development 'to be planned and delivered in accordance with Wiltshire Council's guidance to maintain the integrity of the SAC.]

Core Policy 28: Trowbridge Central Areas of Opportunity [relegates concerns over the impact of the development on the River Biss and 'two large areas of ancient woodland which contain Bechstein's bats roosts which are protected under the Habitats Directive' to a later planning stage. *'The master planning process for Ashton Park and the core policy contain a number of requirements for mitigating impacts on the woodland and Biss which include enhancement and providing better*

management of these biodiversity assets through woodland extension and buffers, alternative open space provision and access arrangements.]

Core Policy 50 – Biodiversity and geodiversity [Additional text has been added to the supporting text to this policy as follows: *‘Wiltshire Council is developing guidance for development surrounding the Bath and Bradford Bats SAC and associated roost sites. This will include guidance for developers and planners, and a procedure to ensure that any likely significant effects upon the SAC are identified and assessed at the application stage. Any development that would have an adverse effect on the integrity of a European nature conservation site will not be in accordance with the Core Strategy.*]

We do not believe that a core strategy can be ‘legally compliant’ with the strict requirements of European law in the absence of the following:

- Good scientific evidence (from environmental surveys, Habitats Regulations Assessment and ‘Appropriate Assessment’) that proposed developments will not harm the favourable conservation status of European Protected Species;
- A strategic plan that has assessed all the environmental risks from *all* developments planned in the area (including roads) and has adopted the least damaging *spatial strategy* for the location of developments.

We do not believe that the SEA directive (embodied in the Sustainability Appraisal) allows a planning authority to **defer assessment of environmental impacts on European species and European conservation sites from the strategic planning stage to the project level.**

This deferral of assessment implies either that there could be uncertainty over the risks that might result from the initial selection of development areas; or that mitigation will always be able to prevent harmful effects even when a potentially damaging site has not been screened out at the strategic planning stage. The effectiveness of routinely used mitigation measures, such as bat gantries over roads, is far from certain. ‘Significant effects’ on the *conservation status* of bats and on the *integrity of their special areas of conservation* should be regarded as ‘likely’ and therefore in breach of European biodiversity law.

More information on the consultation

All the documents can be viewed at Wiltshire Council libraries during normal opening hours and at the following Wiltshire Council office locations:

Salisbury: 27-29 Milford Street, SP1 2AP (Monday to Friday 8.30am to 5pm)
Trowbridge: County Hall, Bythesea Road, BA14 8JN (Monday to Thursday 8.30am to 5.20pm Friday 8.30am to 5 pm)

Chippenham: Monkton Park, SN15 1ER (Monday to Thursday 9am to 5pm; Friday 9 - 4.30)

Submitting your response to the consultation – contact details

The council prefers people to submit responses via the online consultation portal or on the standard representation form, which is available at the above locations. A **guidance note** is available to assist you in completing the form. A separate form should be completed for each representation you wish to make.

Email completed representation forms to

spatialplanningpolicy@wiltshire.gov.uk or posted to the following address: Economy & Regeneration, Wiltshire Council, County Hall, Trowbridge, BA14 8JN

For further information, contact the Spatial Planning team on 01225 713223 or email: spatialplanningpolicy@wiltshire.gov.uk

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