



Report to West Wiltshire District Council

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PLANNING AND COMPULSORY PURCHASE ACT 2004

SECTION 20

**REPORT ON THE EXAMINATION INTO THE
WEST WILTSHIRE LEISURE AND RECREATION
DEVELOPMENT PLAN DOCUMENT**

Document submitted for examination on 26 October 2007

Examination hearings held between 15 and 18 July 2008

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1 Introduction and Overall Conclusion

- 1.1 Under the terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004, the purpose of the independent examination of a development plan document (DPD) is to determine:
- (a) whether it satisfies the requirements of s19 and s24(1) of the 2004 Act, the regulations under s17(7), and any regulations under s36 relating to the preparation of the document.
 - (b) whether it is sound.
- 1.2 This report contains my assessment of the Leisure and Recreation DPD in terms of the above matters, along with my recommendations and the reasons for them, as required by s20(7) of the 2004 Act.
- 1.3 In the next section I consider the extent to which the submitted DPD meets the requirements of the Act and Regulations¹. In the succeeding sections I consider the soundness of the DPD against each of the tests of soundness set out in Planning Policy Statement 12: *Local Development Frameworks* 2004 (PPS12). A more recent version of PPS12 was published during the examination and this is a material consideration. However, given the examination was in progress prior to publication of the new PPS12 I have assessed the DPD in the light of the tests of soundness set out in the earlier version of PPS12. The changes I have specified in this binding report are made to comply with the Regulations and, otherwise, only where there is a clear need to amend the document in the light of the soundness tests. None of these changes should materially alter the substance of the overall plan and its policies, or undermine the sustainability appraisal and participatory processes already undertaken.
- 1.4 I consider the 9 tests of soundness in sections 3 to 5 of this report. Then, as I consider that the relevant matters and issues considered during the examination all fall within the terms of test 7, I develop and analyse these in section 6.
- 1.5 My main conclusion is that the DPD is essentially sound provided it is changed in the ways specified. This includes the deletion of two policies which are not soundly based. The principal changes which are required are, in summary:
- a) Appendix 1 (Proposals Map) should not be bound in to the DPD;
 - b) Appendix 5 is amended to comply with Regulation 13(5);
 - c) Policy TC1 (Trees) is deleted;
 - d) Policies LP1 and LP3 are amended, linked to a substantial revision of Appendix 2, which is split into two;
 - e) The reference to the production of a Supplementary Planning Document is amended;

¹ The Town and Country Planning (Local Development) (England) Regulations 2004.

- f) Part (ii) of Policy OS1 is deleted;
- g) Leigh Park, Westbury is substituted for the Lafarge Sports Ground in section (C) of Policy OS2;
- h) Policy IS1 is substantially amended;
- i) Policy YP1 is substantially amended;
- j) Policy WR1 is deleted;
- k) Policy WR4 is amended.

1.6 These, and other, changes which are necessary to make the DPD sound are set out in this report in emboldened text. Where these are as suggested by the Council they are set out in full in Annex 1 to this report. Annex 1 is a list of all changes put forward by the Council including minor changes which are necessary to ensure that the DPD is internally consistent. The list was subject to further consultation during September and October 2008. In this report I refer to the Council's suggested changes by the number in Annex 1 with the prefix "SC".

2 Compliance with the Act and Regulations

2.1 For the most part I am satisfied that the requirements of the Act and Regulations have been met. However, there are three exceptions. First, I am not satisfied that the DPD has been prepared in accordance with the Local Development Scheme as required by s19(1) of the 2004 Act. As this overlaps with test of soundness 1 I deal with the issue in the later section. Secondly, Appendix 5 of the DPD identifies the policies in existing plans which will be superseded by policies in the DPD but includes some policies which have not been saved. Furthermore, to accord with Regulation 13(5) this must identify which new policy supersedes which old one. The Council have acknowledged this and put forward an amended Appendix 5 as suggested change SC76. However, for obvious reasons, this could not take account of the recommendations in this report to delete policies WR1 and TC1. Consequently, Appendix 5 will require further amendment to delete these policy references.

Amended Appendix 5, as set out in Annex 1 to this report, shall be included in the DPD but with the exclusion of policies WR1 and TC1 from the table.

2.2 The third shortcoming relates to the submission proposals map. Regulation 6(1)(b) requires that this should "show how the adopted proposals map is to be amended as a result of the submission of the DPD".² Regulation 13(4) also relates to this. The submission proposals map has not been produced separately but is bound into the DPD, as Appendix 1, which consists of Ordnance Survey map extracts showing the boundaries of the 4 sites listed under Policy OS2.

² This Regulation has been slightly amended by 2008 SI1371 Regulation 2(4) to clarify that this relates to the amendments at adoption.

- 2.3 The sites listed in Appendix 2, which are subject to either policy LP1 or LP3, should have been shown on the submission proposals map. I deal with Appendix 2 in more detail in section 6. A second, related, point is that the sites subject to saved local plan policies R2 or R5 are not all to be protected under DPD policy LP1 nor carried forward as new sites under policy OS2. Such sites should have been shown as deletions on the submission proposals map.
- 2.4 I do not regard this oversight as fatal to the process. It is a procedural error which I consider is unlikely to have disadvantaged any of the consultees or members of the public; nor does it undermine the sustainability of the plan. Provided that a proposals map is prepared which, upon adoption of this DPD, fully complies with Regulation 14(4) I consider that the matter will have been satisfactorily resolved. This might be expected to show the information listed in SC3 except SC3(c) which applies only at submission (see above).
- 2.5 Consequently, **Appendix 1 shall be deleted from the DPD**. It should not be replaced (within this DPD) by an amended proposals map as in SCs 3 and 71. The proposals map should be produced (and reviewed) separately.

3 Procedural Tests (1-3)

Test 1 - Consistency with Local Development Scheme

- 3.1 In line with section 19(1) of the Act, test 1 is not only whether the DPD has been prepared in accordance with the timescale set out in the Local Development Scheme (LDS) but also whether the content of the DPD accords with the purposes and objectives identified in the LDS.
- 3.2 In the revised LDS (March 2007) it is stated that the DPD would be submitted in September 2007. It is also stated, in appendix 4 of the LDS, that the DPD "Sets the policy framework for the future provision of open space within the District, including the allocation of sites".
- 3.3 I regard the missing of that milestone by only a month as a technical failure of no real import. I also do not agree with the criticism that the whole of the second part of the DPD under the heading "Other spatial policies" goes beyond the scope of this DPD as defined in the LDS. I consider that, with one exception, the policies are broadly linked to the provision of open space and thus come within the general terms of the LDS.
- 3.4 The exception is policy TC1 on trees. This derives from a recommendation in the Kit Campbell report in recognition of the relatively limited tree cover in the district but there is nothing in the policy nor in the accompanying text which has anything to do with

either leisure or recreation. I interpret the word "amenity" as a reference to visual issues, landscape, townscape, habitats and species protection. All of those issues fall outside the scope of this DPD as defined in the LDS.

- 3.5 Therefore, I conclude that the submitted DPD has not been prepared entirely in accordance with the local development scheme and so fails test of soundness 1.

In order to make the DPD sound, Policy TC1 and its supporting text, i.e. the whole of page 47, shall be deleted from the DPD.

- 3.6 Also in relation to the LDS is the reference on pages 28, 38, 41 and 49 to the intention to prepare a Supplementary Planning Document (SPD). Under the legislation as it stands any SPD must be included in the LDS for its preparation to be authorised. The approved LDS contains no reference to this SPD. It certainly could not be "developed by the end of 2008" as stated on page 49. The DPD is unsound against test 1 in this regard. I understand the desire of the Council to produce such a supplementary document and there is no reason why the DPD should not indicate an intention to schedule it in a future revision of the LDS.

- 3.7 To this end, the Council have put forward SCs 36, 54, 57 and 67 but I remain concerned that the guidance referred to in SCs 57 and 67 could be construed as being outside the Local Development Framework. Consequently, those suggested changes should not be made. Instead, the DPD should be amended as listed at points 3. and 4. below.

- 3.8 **In order to make the DPD sound, the following changes shall be made:**

1. **The sixth paragraph on page 28 shall be amended in accordance with Suggested Change 36, as set out in Annex 1 to this report;**
2. **On page 38, the last sentence of the final paragraph shall be amended in accordance with Suggested Change 54 as set out in Annex 1 to this report;**
3. **On page 41, last paragraph, add at the end of the third sentence the words "to be included in a future revision of the Local Development Scheme."**
4. **On page 49, in the paragraph under the heading "Supplementary Planning Document", delete the words "by the end of 2008" and add a new sentence to read "A timetable for the production of this document will be included in a future revision of the Local Development Scheme."**

Test 2 - Compliance with Statement of Community Involvement (SCI) and Associated Regulations

- 3.9 The SCI has been found sound by the Secretary of State and was formally adopted by the Council in June 2006. It is evident from the documents submitted by the Council, including the Regulation 28 and 31 Statements and its Self Assessment Paper, that the Council has followed the SCI procedures for public consultation closely. The broad extent of comment through the representations demonstrates amply, to my mind, that these requirements have been met and the submitted DPD is sound in this regard.

Test 3 - Sustainability Appraisal

- 3.10 It is evident (CD2) that the Council have carried out a process of sustainability appraisal alongside the preparation of the DPD. Supplementary sustainability appraisal work has also been carried out on the Council's suggested changes (Annex 1). This is satisfactory.
- 3.11 A first screening stage for an Appropriate Assessment was undertaken in accordance with the Habitats Directive (CD3), and none of the policies or proposals in the DPD have been found to have any significant effect on the SACs or the Salisbury Plain SPA. Accordingly, I am satisfied that it was not necessary to prepare a full assessment. Test 3 has been met.

4 Conformity tests (4 and 5)

Test 4 - Spatial Plan, Consistency with National Planning Policy and Conformity with Regional Spatial Strategy.

- 4.1 This test has four parts; whether it is a spatial plan; whether it is consistent with national planning policy; whether it is in conformity with the Regional Spatial Strategy and whether it has properly had regard to other plans, policies and strategies relating to the area or adjoining areas.
- 4.2 The key principles of spatial planning are set out in paragraphs 30-32 of Planning Policy Statement (PPS)1: Delivering Sustainable Development, paragraphs 1.8-1.11 of PPS12 and the companion guide to PPS12 – Creating Local Development Frameworks. Additionally the latest version of PPS12 published in June 2008 sets out the aims of local spatial planning as a process of place shaping and delivery. There is no need for the tests of soundness to be included in the adopted DPD and Appendix 7 is superfluous, as would be SC78. Deletion would be a minor change.
- 4.3 As stated in PPS1, spatial planning goes beyond traditional land use planning. This has been recognised in this DPD with its somewhat specialist theme. This means that a number of the policies do not

rely for their implementation on decisions or actions which have conventionally been within the province of town and country planning, but rather involve corporate activity, especially that of the Council's recreation department. Individual policies are unduly aspirational in tone and I consider these under matter 3 below but I am satisfied that the DPD as a whole is a spatial plan.

- 4.4 Although the relationship of individual policies to various aspects of national planning policy has been called into question, one of the key aspects of the DPD is to establish a planning framework for the future protection and development of open space and recreational provision in order to comply with the guidance in PPG17. It was precisely with this objective that the Council commissioned a Leisure and Recreation Needs assessment (CD4) and having heard further evidence on the matter I am satisfied that this provides a robust and credible evidence base underpinning the core policies of the DPD.
- 4.5 Although the DPD was prepared before the current review of the RSS (RPG10) the Regional Planning Body has confirmed that the DPD is in general conformity with both adopted RPG10 and the emerging RSS and has indicated support for individual policies. I am satisfied that this aspect of soundness has been fully met. I note that SC15 would update the document in respect of the RSS and I endorse it.
- 4.6 Finally on test 4, the policy context provided by other plans and strategies is spelt out on pages 8-10 of the submitted DPD but this requires updating and because there is, as yet, no Core Strategy I agree that there should be reference to the Wiltshire County Structure Plan, as in SC16, for the DPD to be sound. Superseded policies will be set out in a revised Appendix 5 (see paragraph 2.1 above). Other related strategies and programmes are clearly referenced as delivery mechanisms. I agree that the AONB Management Plans are directly relevant to recreational issues and I endorse the updates in SCs74 and 75.

In order to make the DPD sound Suggested Change 16, as set out in Annex 1 to this report, shall be made.

Test 5 – Community Strategy

- 4.7 The relevant elements in both the West Wiltshire and the county community strategies are spelt out on page 9 of the DPD. I consider these to be closely aligned to the spatial objectives for the DPD as set out on page 19. It is very clear how important the policies in the DPD are in the achievement of the themes of the community strategies to encourage enhanced recreational activity in the interests of the health and wellbeing of the population.
- 4.8 Test 5 is met.

5 Coherence, Consistency and Effectiveness Tests (6-9)

Test 6 - Coherence and consistency within and between development plan documents

5.1 There are cross-boundary issues within the AONB areas but the reference to the Management Plans on page 84 of the DPD (see paragraph 4.6 above) covers that aspect. There is also a cross-boundary issue under policy WR4 but there is nothing in the policy which is incompatible with progress being made on canal restoration in North Wiltshire.

5.2 There is, of course, a need to ensure consistency within the DPD itself but this can be achieved for the most part through minor amendments which do not raise issues of soundness (Annex 1 to this report). Also, as there is, as yet, no Core Strategy and this is the first DPD produced under the LDF for West Wiltshire, there are no issues of inconsistency between DPD documents. Test 6 is met.

Test 7 – the policies in the plan are the most appropriate in all the circumstances, having considered the relevant alternatives, and they are founded on a robust and credible evidence base.

5.3 I consider that the issues arising under the main matters for examination of this DPD come primarily within the terms of test 7. These are set out in more detail in section 6 of this report.

Test 8 – there are clear mechanisms for implementation and monitoring.

5.4 Table 1 on page 50 of the DPD sets out the Leisure and Recreation Action Plan, which provides a project plan for the implementation of the DPD policies and proposals but this requires updating. This would be achieved by replacing it with the table in SC68 (to become Figure 3), which I endorse. In addition, the delivery mechanism for each policy is set out under the policy itself in the main part of the document. I note that the Council suggest, in SCs 23, 31, 40, 43, 47-49, 53 and 58, that a reference to the forthcoming Community Infrastructure Levy be added to the delivery section of a number of policies. However, at the time of writing the Planning Bill, of which this is but one provision, remains before Parliament. There can be no certainty that it will be enacted in its present form, if at all. Regulations will also have to be made. Thus it would only be sound to add this reference once the statutory processes are complete. I cannot, therefore, recommend that these changes be made now. Nevertheless, I agree that it would be appropriate to add these references should the statutory processes be completed before the DPD is adopted.

5.5 A Monitoring Framework is set out as Table 2 on pp. 51 to 55, which includes indicators, targets and sources of monitoring for

each component, together with an indication of the frequency of monitoring of each. The rather generalised nature of some of the policies and the reliance for future implementation on other strategies, not of all of which have yet been prepared, leads to the inclusion of some targets and indicators which are not "SMART". There are also omissions within the monitoring framework, such as policy WR3, but that is a development control policy for which it is difficult to set precise targets and indicators. However, subject to updating, as set out in SCs 69 and 70, I consider the approach to be a sound one and test 8 is met.

Test 9 – the plan is reasonably flexible to enable it to deal with changing circumstances.

- 5.6 This DPD is explicitly stated to be an interim document which will be reviewed as required. This is in recognition of the fact that the document has been produced for a specific, and rather narrow, purpose in the absence of a Core Strategy. Indeed, a Core Strategy is now to be produced by the new unitary council for Wiltshire after that comes into being in mid-2009.
- 5.7 I consider that the terms of policy LP3 provide a good deal of flexibility as to possible outcomes of the review process. Furthermore, the identification of additional open space areas in policy OS2 is intended to ensure that the shortfalls identified in the PPG17 needs assessment are made good whilst not preventing additional provision through the development control process in accordance with policy LP5.
- 5.8 Given the nature of the document I do not consider it necessary, or appropriate, for additional provision to be made in advance of decisions as to the location of any additional housing developments required to satisfy the emerging RSS revision. I consider that test 9 is met.

6 The Main Issues (Test 7)

Matter One – The levels of provision Policies LP1-5.

Issue 1.1 – the extent to which Policies LP1 and 3, and the related lists of sites in Appendix 2, represent a clearly inter-related "package" of policies for the protection and review of open space provision.

- 6.1 Although the Council have stressed the inter-relationships between all 5 of the "key" policies LP1-5, I regard policies LP1 and LP3 as the most closely related since reference is necessary to Appendix 2 to understand the application to individual open spaces of the various types. The other three policies in this group are essentially development control policies in that they indicate how the Council will respond to proposals which require planning permission.

- 6.2 The "raison d'être" for the DPD was the last local plan Inspector's recommendation that a PPG17 compliant recreation needs assessment and open space audit should be undertaken as a priority. The work commissioned from Kit Campbell Associates is the foundation stone for this document and I am fully satisfied that it represents robust and credible evidence in support of the classification of sites in Appendix 2 and the identification of needs. It follows PPG17 advice closely.
- 6.3 As became apparent in discussion, the identification of spaces as of either high or low value and/or quality is derived from the systematic evaluation of those spaces against strict criteria. Any such process must necessarily involve an element of judgment and there is understandable concern in the community about the values attributed to individual spaces, such as the Berryfield allotments in Melksham. The Council chose to use an average score within each category: above the average is "high" (and thus protected under Policy LP1) and below it is "low" even though there might only be two percentage points between the two. The significance of this in terms of the retention of individual spaces is not as critical as it might at first appear and I consider the assumptions made to be as valid as any alternative approach, such as using the median score.
- 6.4 Some weaknesses in policy formulation have been identified through examination. In particular, Policy LP1 might be read to mean that to be protected open spaces have to be both of high value and high quality whereas the Council's intention, as stated in the plan text, is that spaces which are either of high quality OR high value (or both) should be protected. Thus the policy is unsound but would be made sound by the amended wording in SC22. The suggested splitting of Appendix 2, with a new preface section to clarify that the new Appendix 2 lists all sites to which Policy LP1 applies, would assist in interpreting the plan and make this section of the DPD sound (SC 72 refers).
- 6.5 At the hearing, the Council stated that Policy LP3 is intended to apply to sites of low quality as well as those of low value and initially put forward a suggested change to that effect. However, from an exchange of written views it has become apparent that this would cause a good deal of confusion. Sites of high value but low quality or low value but high quality would come within the terms of both policies. On its face, that is illogical, and therefore unsound.
- 6.6 The table on page 84 of the Kit Campbell report makes it clear that those sites which are of either high value or of high quality (or both) should be protected, but there is what amounts to a caveat for those sites which are of low value but high quality. It could be held that low value but high quality sites should not be protected under policy LP1. However, I consider that the approach in Policy LP1 is not directly contradicted by the Kit Campbell work.
- 6.7 I consider that to properly reflect the evidence base represented by the Kit Campbell report, policy LP3 should be revised as set out in

SC27 accompanied by the new Appendix 3 (SC73) which would list all of the sites subject to the policy.

- 6.8 Although Policy LP3 reads as a statement of intent that does not, in itself, render the plan unsound. The policy allows a number of different factors to be taken into account as part of the review including, for example in villages, the availability of alternatives. There will also be community involvement before any such decision is taken within the terms of the adopted SCI. The policy sets a clear order of priority which indicates that disposal will be a last resort linked to the details of the process set out on page 25. I do not read this as any kind of green light for the disposal of surplus open space by the Council. Indeed, the policy is a corporate one which binds the Council to use any money gained from the sale of land to enhance other open spaces or community facilities. Relegating the policy to the text would not assist.
- 6.9 There is the further complication in that pitches and courts had been attributed a value in the Kit Campbell assessment but omitted in error from Appendix 2 in the submitted DPD. This would be corrected by SCs 72 and 73. There is also an error in that, as shown in the table of shortfalls and surpluses on page 12, it is Melksham and not Westbury to which reference should have been made in Policy LP3. In this regard I agree that this part of the policy (and Policy LP2) fails test 9 in that it does not take account of the fact that the implementation of policy OS2 should result in the existing shortfalls being made good. The policy may be made sound by re-wording to make it more flexible. Otherwise, I endorse SC27.
- 6.10 With the changes identified I consider that the relationship between policies LP1 and LP3 will be clear.

In order to make the DPD sound:

Policy LP1 shall be changed to commence "High value and/or high quality open space" in accordance with SC22 in Annex 1 to this report.

Policy LP3 shall be changed by the addition of the following text "Sites of low value but high quality are protected under Policy LP1 but will also be reviewed under this policy to find ways of improving their value. Only if that is not possible will priorities (ii) or (iii) apply." Also, the final paragraph of the policy shall be changed to read "Particular regard should be paid in applying these policy tests to settlements where there is an identified lack of open space provision or local deficiencies in accessible open space."

Appendix 2 of the DPD shall refer only to sites of high value and/or high quality. All spaces of low value, irrespective of quality shall be listed in a new Appendix 3, as set out in SC72 and 73.

Issue 1.2 – the relationship of Policy LP2 to Policies LP1 and LP3

- 6.11 I consider that there is benefit in the retention of a separate development control policy which can be applied in all situations when a proposal would result in the loss of open spaces of sport or recreational value. This policy must be read alongside both policies LP1 and LP3 as well as other relevant policies. Having a separate policy is sound.
- 6.12 On a similar theme, I do not accept that it is necessary to include a criterion to allow "other over-riding benefits to the community" to be weighed in the balance. Such a criterion would not be in the spirit of PPG17 to protect open spaces. Such issues as the need for housing or employment land can be weighed under policies in other parts of the LDF and RSS. I consider that the criteria under Policy LP2 provide the necessary flexibility to ensure that the policy is operated in a sufficiently dynamic way to achieve the optimum results for the community.
- 6.13 However, the submitted DPD policy is unsound in so far as it is repetitious in part. This is recognised by the Council's suggested change (SC25) but the revised wording would not make clear what the outcome of applying the policy tests is intended to be. I recommend an alternative to the introductory part of the policy which will also clarify what is meant by "significant".
- 6.14 As with Policy LP3, I agree that the last paragraph is unsound in so far as it does not sufficiently allow for changing circumstances.

In order to make the DPD sound, the introductory paragraph of Policy LP2 shall be changed to read:

Proposals that result in the loss of open spaces or sport and recreation facilities will be permitted only if this would not cause significant harm to nature conservation interests, to the landscape or settlement character and at least one of the following policy tests is met:

and the final paragraph shall be changed to read:

Particular regard should be paid in applying these policy tests to settlements where there is an identified lack of open space provision or local deficiencies in accessible open space.

Issue 1.3 – whether Policy LP4 should contain a clearer order of priority in line with the statement on page 28.

- 6.15 There is no indication within Policy LP4 that the four options for developer requirements are listed in any order of priority, as in Policy LP3. Thus, the policy does not reflect the statement on Page 28 that the Council's priority is to enhance new existing provision rather than seek new facilities as the result of new development.

At one extreme it could be held that the policy is of very little value because it covers all possibilities and states the obvious.

- 6.16 On the other hand, I do not consider this necessarily makes the plan unsound. The policy is certainly flexible in that it recognises that the chosen option will depend on the particular circumstances. The important link is that it introduces the quantity standards (subject to SC32), the quality standards in Appendix 3 and the distance thresholds on page 27. It also relates to the "Development Control line of thinking" taken from the Companion Guide to PPG 17. On that basis, I consider that the policy read together with the supporting text represents a sound approach.

Issue 1.4 – the appropriateness of the reference, on page 28, to use of contributions to enhance district-wide provision.

- 6.17 The advice in Circular 05/05 with regard to the requirements for s106 Planning Obligations is that any contributions must be related to the development proposed. I consider it unlikely that the scale of development would justify an enhancement to district-wide provision and the statement is misleading and unsound in terms of test 4. Deletion of this reference leads to a simplification to avoid duplication.

In order to make the DPD sound, the second paragraph on page 28 shall be deleted and replaced by the following text:

The Council, at its discretion, will use any contributions that developers provide to enhance local provision, or make new provision, as close as practicable to the proposed development. The Council may, at its discretion, aggregate contributions from two or more developments in order to achieve worthwhile benefits for local communities.

Issue 1.5 – Policy LP5 and the sequential approach to location

- 6.18 The use of the term "will be supported" in policy LP5 is acceptable on the basis that the delivery mechanisms listed beneath the policy go beyond the sphere of local planning authority decision-making. That is a reflection of a spatial planning approach. SC37 is not necessary.
- 6.19 The Council have accepted (SC38) that the reference to the sequential approach in the last paragraph on page 29 is not sound in that the reference in paragraph 20 of PPG17 is only to the more intensive recreational uses. The words "most accessible location possible" contained within the policy itself is sufficient, apart from which it is not necessary to repeat national policy in a DPD.

In order to make the DPD sound, the last paragraph on page 29 shall be deleted.

**Matter Two – Provision for outdoor and indoor sport
(Policies OS1&2, IS1&2)**

Issue 2.1 - The lack of a clear spatial dimension within policies OS1 and IS2.

- 6.20 Neither policy OS1 nor IS2 include any indication of which school sites are likely to be chosen for artificial turf pitches and an athletics facility (OS1) or indoor sports facilities (IS2). To my mind this highlights the fact that this document does little more than signal work to be done in future strategies in a very generalised manner.
- 6.21 However, the priorities set out in these policies are common sense ones and for the most part they derive from the Needs Assessment work and consultant's recommendations. The lack of detail does not lead me to conclude that the DPD is fundamentally unsound, but there is an exception in the reference under Policy OS1 (ii) to the provision of an athletics facility. There is no evidence to support the statement that "opportunities exist" to support such a facility. Indeed, the needs assessment report, page 148, concludes that West Wiltshire is probably too small to have a full size dedicated athletics track although it would be desirable to provide a training track, possibly at a school site.

In order to make the DPD sound, part (ii) of Policy OS1 shall be deleted and reference to an athletics facility removed from the accompanying text.

Issue 2.2 – whether the approach to the identification of sites under policies OS2 and IS1 has properly considered alternatives

- 6.22 This issue relates to the approach to policy-making rather than to the choice of individual sites. That is considered under the site-specific matters below. I am satisfied that the alternatives under Policy OS2 have been subject to consultation through the preferred options and although I think the policy might have been more positively worded it is not unsound in principle.
- 6.23 On the other hand, policy IS1 is unsound. The indoor facilities listed comprise all 8 of the Council owned leisure centres in the District and the policy states only that a programme will be developed to consider either refurbishment or replacement of them. At the hearing, it was conceded that the indoor facilities strategy which would carry forward this programme is on hold pending further consideration by the new unitary authority for Wiltshire.
- 6.24 The Council have suggested a change to Policy IS1 (SC55) which contains more detail on the proposed feasibility study and is spatially specific, differentiating between different centres supported by reference to evidence obtained through the needs assessment work. The revised wording is essentially a statement of

intent and, in so far as it is specific reflects what is in the text of the submission DPD. I am satisfied that the DPD is sound provided the change is made.

In order to make the DPD sound, suggested change 55, as set out in Annex 1 to this report, shall be made.

Matter Three – the value and relevance of the “other spatial policies”

Issue 3.1 – The lack of a clear spatial or local dimension to policies CR3, GM1&3, SC1, YP1&2, WR2 and TC1

6.25 This issue also comes within the terms of test 4. Again the difficulty is that the policies are of a very generalised nature with no locational detail. Many are simply statements of intent to implement through the development of future strategies which have not been identified within the LDS as part of the LDF. In part this may be due to the introduction of policies covering subjects, such as maintenance, which is not within the conventional planning remit. Nevertheless, with the exception of Policy TC1 (see paragraph 3.4), I accept that these policies are relevant to the implementation of the overall strategy for the enhancement of open spaces to provide improved recreational opportunities in the district and, as such, I find them to be sound.

6.26 In its submitted form policy YP1 is a statement of intent with regard to the development of a play strategy which I do not consider to be a sound approach. However, the Council have, through SC56 put forward a totally revised version of Policy YP1 in recognition of the fact that the children's play strategy has now been produced. It has been consulted upon and made subject to sustainability appraisal with no adverse comment. The revised policy sets out a series of action points for implementation through the play strategy which I consider to be appropriate, and sound.

In order to make the DPD sound, suggested change 56, as set out in Annex 1 to this report, shall be made.

Issue 3.2 – Whether Policy CR1 is unduly restrictive.

6.27 On its face the policy appears not to contemplate the possibility that diversion to existing rights of way may need to be permitted to facilitate otherwise desirable development and is thus not sufficiently flexible (test 9). However, I accept that the policy refers to the *network* rather than individual rights of way and it recognises that changes will be necessary to extend and enhance so that it is “fit for purpose”. This is a sound approach.

Matters A-C. Whether the sites listed under Policy OS2 represent the most appropriate in all of the circumstances, having considered relevant alternatives.

Matter A – Issue A1 – Whether an alternative site at Leigh Park would represent a more appropriate option for new grass provision at Westbury than the allocation (C) of land at Lafarge Sports Ground.

- 6.28 It became obvious at an early stage that the options the Council have favoured for making good the shortfalls in open space provision, as identified in the needs assessment, are those which would provide the greatest certainty of delivery within a reasonable plan period and at least cost to the public purse.
- 6.29 In itself that is a laudable aim but it does not, necessarily, result in the most sustainable options being selected. In this case, the evidence was highly persuasive that the Lafarge ground is relatively distant from the population it is intended to serve, in Westbury, and should the bypass be constructed, would be on the “wrong” side of it. On the other hand, the alternative site at Leigh Park, put forward at an early stage of the DPD process and subject to full consultation and sustainability appraisal attracted a wide measure of support at the Regulation 33 stage. It is closer for the majority of Westbury’s population.
- 6.30 Prior to the hearing the Council had been notified that Lafarge Cement were no longer willing to make their site available for general public use and so could not be delivered. By definition (test 8) the allocation is unsound and does not represent the most appropriate. Further discussions have taken place and the Council now support a change to the DPD to substitute an allocation at Leigh Park and have put it forward as suggested change 41 (Policy OS2) and 45 (text page 31). This has been subject to further publicity.
- 6.31 I fully support this replacement allocation. I consider that, in principle, it would meet the need for grass pitch provision in Westbury in a sustainable manner and can be delivered within a reasonable timescale. Layout details are not a matter for the DPD.

In order to make the DPD sound, suggested changes 41 and 45, as set out in Annex 1 to this report, shall be made.

***Matter B – Land at Woodmarsh, North Bradley (Trowbridge)
– The appropriateness of the allocation.***

Issue B1 – The suitability of the site for football pitches

- 6.32 The site is located on the southern edge of Trowbridge off the A363 road which has a moderately good bus service along it. It is close to the existing football pitches at Woodmarsh playing field. I have heard nothing to convince me that the location is an unsustainable one and alternatives have been properly evaluated.
- 6.33 It is stated in the text on page 31 of the DPD that the site would meet the needs of the Trowbridge Football Club with an “all weather training facility, indoor artificial turf provision and a clubhouse”. Thus, it is clearly envisaged that there would be an element of built-form on the site but that is far and away from facilitating the approval of the commercial proposals which are currently the subject of a planning application. As with other sites, the stated interest of a football club makes implementation of the proposal reasonably likely and would provide a community facility, including a much needed artificial pitch, at minimum cost to the public purse.

Issue B2 – the effect on the open gap between North Bradley and Trowbridge.

- 6.34 The primary concern of the Parish Council and local residents is to maintain what they see as a “buffer” of open land between the village and Trowbridge which also links westwards to the Southwick Country Park. To some extent this function will be maintained by the existing Woodmarsh playing fields which have been evaluated as both high value and high quality in the open space audit and so will be continue to be protected under Policy LP1.
- 6.35 I agree that the land in question provides an important visual gap between the village and the White Horse Business Park located along the A363 bypass of North Bradley. The Council's own appraisal of the site identifies the inherent landscape sensitivities and states “Conserve the field pattern with the network of hedges. Ensure that any major development respects the scale and character and does not adversely affect open views.” It also states that any buildings should be ancillary and floodlighting needs to be considered. I agree with this analysis. Considerable care is needed to ensure that the proposed open space use does not reduce the openness or reduce hedgerow and tree cover.
- 6.36 Policy OS2 itself contains the safeguard that any development should protect and, where possible enhance, wildlife habitats, historic and landscape features. I consider that to be a sound policy approach. Any proposals by the football club, including any built structures and club house would have to come within that stipulation. The existing text on page 31 referring to the aspirations of the landowner and football club is not consistent with

this and should be deleted as in SC44. Furthermore, for the sake of internal consistency within the DPD (test 4) I recommend an additional sentence in the text to follow the reference to the football club.

In order to make the DPD sound, the paragraph on page 31 which refers to the Woodmarsh, North Bradley site, shall be amended in accordance with SC44 in Annex 1 to this report and the following sentence added to it: "Any buildings should be ancillary to the use for sports pitches and should not reduce the openness of the area."

Matter C – The allocation at Woolmore Farm, Melksham and the suitability of alternative sites in and around the town.

Issue C1 – The future of land off Dunch Lane, Melksham

- 6.37 The land on each side of Dunch Lane is in use as playing fields forming part of the George Ward School. It is currently subject to adopted local plan policy R2 and shown as such on the proposals map. As clarified during the examination the two areas are listed separately in Appendix 2 under both categories of multifunctional greenspaces and pitches and courts. Both areas are high value but that to the north of Dunch Lane is low quality whereas that to the south is high quality. The result is that both areas come within the terms of Policy LP1.
- 6.38 Policy OS2 relates to new sites, that is those which are not in open space or sports pitch use at the moment but which are proposed to become so. Thus it is not appropriate to include existing playing fields in that policy. To do so would create an inconsistency, which would be unsound.
- 6.39 The main purpose of the representations is to prevent the loss of the southern school playing fields once the school has closed, to be relocated to the Woolmore Farm site, for which planning permission has been granted and development commenced. That permission provides for the replacement and enhancement of the school sports facilities. Moreover, as I have indicated above, policy LP1 through Appendix 2 (subject to amendment) is justified through the open space audit which I have concluded represents a robust and credible evidence base. It is a sound policy.

Issue C2 – The alternatives of Bowerhill Playing Fields and Pathfinder Way compared to the Woolmore Farm site.

- 6.40 The Bowerhill Playing Fields are identified in the open space audit as the Christie Miller Sports Ground which is listed in (amended) Appendix 2 under "pitches and courts" as of both high quality and high value. Consequently, it is protected by Policy LP1. It is an existing site and, as for Dunch Lane, it is not appropriate to list it under Policy OS2.

- 6.41 On the other hand the land at Pathfinder Way is currently in agricultural use but was proposed for future recreational development under Policy R5 of the adopted local plan. Policy R5 is listed under Regulation 13(5) (Appendix 5 subject to SC76) to be superseded by DPD Policy LP5 but although that policy is permissive of proposals coming forward, it does not positively allocate land. So, contrary to what the Council say in their Regulation 31 and 33 statements, the allocation of the land at Pathfinder Way will cease upon adoption of this DPD unless it is allocated under Policy OS2.
- 6.42 I do not regard Bowerhill as an alternative to Woolmore because it is an existing site and, despite the concerns of the local community, the DPD does not provide for the redevelopment for other uses although the existing local plan provides for a new link road along the Lancaster Road frontage.
- 6.43 I accept, however, that Pathfinder Way would provide a credible alternative which would be more easily accessible on foot and by cycle from within Bowerhill than the Woolmore Farm site which is on the "wrong" side of the A365. The site, at over 10 ha., would be large enough to make good the shortfall in provision identified in the needs assessment for Melksham and allow for the relocation of the disused Christie Miller Athletics track which is allocated in the local plan for employment development.
- 6.44 I heard that the Woolmore school site has 13.2 ha. available for playing fields out of a total 19.7 ha, but in addition there is provision for 7.6 ha. of informal public open space between the school and "The Spa". The DPD (policy OS2) shows additional land for playing fields to the east. In all there is ample land available for sports pitches to meet identified needs. Although feasibility work is still on going into drainage provision and ecological mitigation measures I heard nothing to suggest that these would represent any undue constraint.
- 6.45 I agree that, at the present time, the Woolmore Farm area is relatively inaccessible and this has been recognised in the Sustainability Appraisal. However, it is also recognised in the SA that access improvements are to be made for the new school, including a new crossing of the A365. I also do not consider that Bowerhill should be considered in isolation. The local plan provides for a major urban extension of Melksham to the east, which will be to the north of the Woolmore site. There is also no reason to suppose that once these developments have taken place there should not be improvements to the local public transport network.
- 6.46 There also has to be a degree of certainty in terms of the likelihood of implementation within the plan period. The evidence is that the owner of the Pathfinder Way site has been seeking alternative development value and so has not been willing to sell for recreational purposes. That would not be a reason in itself to choose the Woolmore site but the DPD strategy looks to the

development of joint use school/community sports facilities as a priority. The Woolmore site will facilitate this. Not only that but development is under way which means that the much needed facilities can be delivered in a reasonably short time frame. Those are compelling arguments in favour of the DPD allocation.

- 6.47 In terms of test 7 I am satisfied that in all the circumstances the development of additional grass pitches at Woolmore Farm is a sound strategy. It would not make the DPD sound should the alternative at Pathfinder Way be substituted.
- 6.48 I do not intend to discuss further the issue of the relocation of the Christie Miller Sports Centre and Blue Pool as part of a new "wet and dry" community sports facility in a new building adjacent to the school at Woolmore. This is because, as I indicate in paragraphs 6.21 and 6.22 above, the Council acknowledge that further work is required to substantiate this as an option. There will be further opportunity for community involvement in the development of an indoor facilities strategy.

Matter D – The appropriateness of including both Westbury and Shearwater in Policy WR1 and whether an alternative should be pursued.

Issue D1 – The inclusion of Shearwater in the policy.

- 6.49 It has been clarified that the option is no longer being pursued to consolidate sailing activities at Shearwater. Not only is that lake at capacity but it is controlled by the Longleat estate. The lake is in a very rural location, not easily accessible other than by car, although enhancement of existing recreational facilities would be advantageous. It is the encouragement for existing uses to continue which is the aim here.

Issue D2 – The future of Westbury Sailing Lake

- 6.50 Westbury Sailing Lake is used by the West Wilts Youth Sailing Association under licence. It is evidently a very popular facility but the lake has been slowly silting up and the club does not have the necessary finance to have the lake dredged. The future is therefore uncertain as stated in the text on page 43 of the DPD although the option of a replacement at Southwick Country Park has now been ruled out.
- 6.51 It is recognised in the adopted local plan, policy R13 (which has a long pedigree), that the lake will be affected to a degree by the need to provide access along the southern lake shore between residential and employment development on land to the east, involving a crossing of the railway line, and Station Road. This would also provide relief to Oldfield Road as part of a distributor road from Leigh Park. However, the text in the local plan and the submitted DPD places this in a positive light as "The development of

adjacent land ... will provide better access to the lakeside, including access along the southern edge of the lake."

- 6.52 Representations on the DPD seek the introduction of additional flexibility to the policy under test 9 to allow for the possibility that the lake will need to be partially or completely filled to provide the necessary access to Station Road, possibly leaving only a small wet area. This is despite the fact that the lake has considerable wildlife value. The developers have indicated a willingness to provide a replacement lake between Westbury and Trowbridge but accept that could be permitted under the last part of policy WR1.
- 6.53 In response to these representations the Council have put forward suggested change 59, with associated SCs 60 and 61, which would provide a fundamentally different policy approach to the submitted DPD. In effect, this is an admission that the DPD is unsound because it has not fully considered the options. It "acknowledges" the potential conflict and states that "if it is not reasonably practicable to accommodate these development without compromising Westbury Lake" then the Council will require replacement provision elsewhere.
- 6.54 Although there has not been any adverse comment through further consultation on this revised policy, I find such an approach to be seriously flawed, and unsound. In effect, the policy has not been derived from a robust and credible evidence base and it is premature. Further work needs to be done to establish exactly what would be the effect of the road works on the lake and, in particular, what the environmental impact on the wildlife site would be. If an alternative site is agreed for a new lake then that should be a specific provision under the policy after full evaluation.
- 6.55 As the submitted DPD policy is little different from policy R13 of the adopted plan, deletion of Policy WR1 will mean that the existing policy can continue to take effect, requiring an amendment to the Regulation 13(5) schedule in Appendix 5, see paragraph 2.1. above. Such a deletion would have little effect on the overall strategy for recreational provision in the district.

In order to make the DPD sound, Policy WR1 and the whole of the supporting text for the policy on page 43 of the DPD shall be deleted.

Matter E – The safeguarding of a specific route for the Wilts and Berks Canal through Melksham under Policy WR4

Issue E1 – Whether policy WR4 is inconsistent with other strategies and planning policies which support the canal project.

- 6.56 Apart from a few “tweaks” in the wording the DPD policy is the same as Policy CA4 in the adopted local plan and thus provides very little “added value” to the Development Plan process. It is the historic line of the canal which is protected from inappropriate development, as it is under still extant Structure Plan Policy RLT4.
- 6.57 I am informed that the line of the canal is protected in the adjacent North Wiltshire area as part of an ambitious project to see the restoration of the canal all the way from Semington on the Kennet and Avon canal to the south of Melksham to the River Thames at Abingdon and there is widespread support with active participation by local authorities along the route.
- 6.58 I do not doubt that it would be beneficial to achieve a continuous protected line in the various local authority policy documents and that a green corridor would be in accordance with emerging RSS Policy G11. The long-term benefit to tourism in the area (RSS Policy TO1) is also clear-cut. Nevertheless, the issue of safeguarding (i.e. prevention of development which would prejudice the scheme) is not to be taken lightly because of other possible economic effects through blight; quite apart from the environmental implications.
- 6.59 I do not agree that, in principle, the DPD policy is unsound against test 4 because it does not identify a specific route through Melksham. It is sufficient in terms of the other strategies and policies to give the clear indication of support for the project that it does. The policy is unsound, however, in that it does not represent reality on the ground. There is no point in protecting the historic line through the town where it has already been built on (i.e. it is not the most appropriate in all the circumstances). This is recognised in the Council's suggested re-wording in suggested change 63 which I recommend although I note that the section 1 km. north from the Semington basin is at an advanced stage.
- 6.60 I am also concerned that alternative alignments for the Melksham section of the canal were not considered during earlier stages of the DPD process. Option 8.4 at the issues and options stage was simply whether a line should be protected at all and it was then not chosen or evaluated as a preferred option re-appearing only at the stage 2 consultation stage. It is clear that despite the production of the Black and Veatch report in May 2007 the Council did not consider at the time of submission (October 2007) that the work had progressed sufficiently to warrant inclusion in the DPD.

- 6.61 To my mind, the fact that questions 69 and 70 in the issues and options report for the emerging West Wilts Core Strategy seeks views on the relative merits of alternative routes for the Melksham section strengthens the argument that it would be premature to include a specific route in this DPD. It would pre-judge the consideration of the issue in the Core Strategy, even though that will need to be merged into a new Core Strategy for the new unitary Wiltshire.
- 6.62 My conclusion on this issue is that far from being inconsistent with other plans and strategies, the approach taken in the DPD policy is sound because alternatives have not been fully evaluated through the planning process.

Issue E2 – The environmental impact of the proposals; sustainability and deliverability.

- 6.63 I heard much detailed evidence about the problems of water supply for the canal project and its ecological impact within the section of the River Avon through Melksham. I recognise that Appendix F of the Black and Veatch report deals in detail with the environmental impact. There are clearly outstanding issues which must be fully resolved before it would be appropriate to commit in a plan to the river line. I must also agree with the Council that this does not constitute a formal Sustainability Appraisal as required for the DPD process.
- 6.64 The scheme is also a very expensive one, with water retention and extraction problems as identified in the Grontmij study. I do not consider that it has been adequately demonstrated that the scheme can be delivered during the plan period (test 8), at least not such as to warrant the blighting effect of a safeguarding a line. This, and the environmental impact, will require full assessment through the emerging Core Strategy. To do otherwise now would be premature.

In order to make the DPD sound, Policy WR4 shall be changed in accordance with suggested change 63, as set out in Annex 1 to this report.

7 Minor Changes

- 7.1 As I indicated in paragraph 1.6 of this report, the Council have included within their list of suggested changes (Annex 1 to this report) a number of minor changes to the submitted DPD in order to clarify, correct and update various parts of the text. Although these changes do not address key aspects of soundness, and unless I indicate otherwise in this report, I endorse the minor changes on a general basis in the interests of clarity and accuracy. Furthermore, I am aware that the Council have produced a completely revised text which includes paragraph numbering and the correction of spelling errors etc. I agree to such consequential corrections.

8 Overall Conclusion

- 8.1 I conclude that, with the amendments I recommend, the West Wiltshire Leisure and Recreation DPD satisfies the requirements of s20(5) of the 2004 Act and the associated Regulations, is sound in terms of s20(5)(b) of the 2004 Act, and meets the tests of soundness in PPS12.

John R Mattocks

INSPECTOR
