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Mr M Pearson
Development Services
Wiltshire Council
Monkton Park
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SN15 1ER

Your Ref: 16/06978/FUL

Date: DRAFT

Dear Mr Pearson

Re: Proposed residential development of 48 dwellings, with public open space, associated access, infrastructure and landscaping.
At: Land south of Tewkesbury Way, Wiltshire

Thank you for your consultation letter dated 11 August 2016 in relation to the above planning application. In this letter I provide the comprehensive response of Swindon Borough Council, as the neighbouring local planning authority, to the application. This letter has been considered and endorsed by the Borough Council's Planning Committee.

The remainder of this letter is structured around the principal planning issues that the application is considered to raise, namely:

- Heritage
- Landscape
- Biodiversity
- Design
- Transport
- School places
- Planning policy, housing supply, and the overall approach to decision making

In summary, Swindon Borough Council **OBJECTS** to the application and requests that Wiltshire Council refuse to grant permission for the reasons outlined below.

Heritage

For the reasons outlined in detail below, our assessment is that the proposed development, by virtue of its location, siting and design, would cause harm to the setting of designated heritage assets including a number of listed buildings, amongst them the Church of St Mary's (Grade I). It would also cause harm to the setting of Lydiard Park, a Registered Park and Garden, within which those listed buildings are situated.

Legal and policy framework

In considering development proposals within the setting of a listed building, s66(1) of the Planning (Listed Building & Conservation Areas) Act 1990 requires that decision makers shall pay "special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

The 1990 Act creates a presumption in favour of the preservation of the setting of listed buildings. This affords the preservation of listed buildings considerable importance and weight in decision making.

The duty in s66 is also reflected in section 12 of the National Planning Policy Framework (NPPF), which sets out the government's policies on the historic environment. The NPPF makes clear that, in the consideration of the effects of development upon the significance of all designated heritage assets, the conservation of those assets is to be afforded great weight (para 132 NPPF). This supports the requirement for development to be sustainable environmentally in protecting and enhancing the built and historic environment (para 7 NPPF).

The NPPF states that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal" (paragraph 134, NPPF).

Wiltshire Council Core Policy 58 (Ensuring the conservation of the historic environment) requires that "Development should protect, conserve and where possible enhance the historic environment. Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance".

Heritage assets affected by the proposed development and the contribution of the application site to their significance

The main conservation-based considerations are the effect of the proposed development upon the historic environment, in particular the setting of listed buildings and the setting of the Registered Park and Garden.

The proposed development site is situated directly adjacent to the boundary of the Registered Park and Garden of Lydiard Park ('the registered park') abutting it along its northern edge (National Heritage List, NHL 1001238).

Whilst there are no listed buildings within the proposed development site boundary, there are a high number situated within and associated with the park. The listed buildings include the highly graded Church of St Mary ('the church') and Lydiard Mansion ('Lydiard House').

Lydiard House is listed in Grade I (National Heritage List, NHL1198420) and is a significant component of the estate. It is a substantial mansion house and demonstrates 17th century construction periods. It was remodelled in the 18th century. This remodelling extended to the park and its features, including the revetments to the dam (National Heritage List, NHL 1352665) and the erection of the walled garden (National Heritage List, NHL 1023478), these are situated to the north east and north west of the mansion respectively.

The Church of St Mary (Grade I), a parish church dating from the 13th century (National Heritage List, NHL 1023470) and also a significant component in the registered park, is situated immediately to the north of the mansion.

Other listed buildings of relevance to consideration of this application by virtue of their location and group association include the walled garden, dam wall (revetments) and those structures within and associated with the churchyard. The assets are identified spatially within the submitted Heritage Statement, albeit via a very small figure (figure 2.1, page 4)

These comments are made in respect of those designated heritage assets that fall within the boundary of Swindon Borough. These comments do not address heritage assets that fall wholly within Wiltshire Council's administrative boundary. All the listed buildings within the registered park are within the administrative boundary of Swindon Borough. The registered park falls within both the Swindon Borough and Wiltshire Council administrative areas. The part of the registered park that abuts the proposed development site is within Wiltshire.

All the assets within Lydiard Park have a relationship historically and functionally and contribute to the overall significance. The registered park reinforces and positively contributes to the setting of listed buildings and the ability for them to be experienced.

There is also strong communal value, not least because the Lydiard House and park was bought by the Corporation of Swindon in the early 1940's and this ownership has great significance to the local population. This is demonstrated by its designation as an Asset of Community Value.

The setting to the registered park includes the fields to the north and north west of the park. This is acknowledged by the submitted Heritage Statement which states "The setting of the registered parkland to the north is formed of large undeveloped agricultural fields which slightly slope downwards from the registered boundary, forming a small valley and interspersed by tree belts and hedgerows" (para 4.9).

Many of these fields were added to the registered park boundary following a review in August 2013. They include former glebe land, purchased in the early 19th century by Lord Bolingbroke. This "enabled the replacement of the parsonage, new stables

and the new separate drive to the church". The drive is still extant and now provides a main access to the park from Hay Lane and is clearly defined in the landscape by a lime tree avenue.

Prior to inclusion within the registered boundary, this land was identified and defined as the being the "essential setting" to the landscape (Figure 20, Lydiard Park Restoration & Development Plan 2003, Nicolas Pearson Associates for SBC). That identified essential setting includes the proposed development site.

In determining the appeal for land north of Hook Street, the Inspector noted "I have made a brief assessment of the effects of the proposed development on the setting of both Lydiard House and St Mary's Church. In this context, I was struck on both my site visits by the vistas of open countryside that remain to the north west and west when seen from the area immediately around the House and church. These firmly establish a rural setting for the House, church and RPG." (para 55, Appeal Ref: APP/U3935/A/13/2195124, September 2013).

The house and park's elevated position is a core component in the determination historically of its siting and contributes to its significance. The undeveloped fields contained in the northern part of the registered park provide a rural character. The fields further north and north west of the registered park boundary, which include the proposed development site, continue the pastoral landscape and provide a rural setting to the registered park.

In this area the ability to appreciate the situation of the registered park within that rural setting is afforded by the relative openness and by its elevated topography. This can be experienced looking out from the proposed development site and vice versa.

Looking south toward the registered park from the application site enables visibility of the church within the park. The church and the tower is visually evident and a significant feature within the wider landscape and park setting. The ability to experience this in a rural setting includes from the proposed development site, in particular (but not exclusively) from the public footpath which crosses the proposed development site from the top north-east corner heading south west towards the designated park boundary.

From within the registered park boundary looking north, the proposed development site is visible including from the lime tree-lined avenue that visually reinforces the eastern access into the park from Hay Lane, towards the church. The drive from Hay Lane contributes to the historic significance of the park and church with its development to allow specific access for the church congregation but also to the park stables beyond. The planting of the avenue accentuates its status by aesthetically forming a deliberately designed and formal approach.

Whilst the access and subsequent planting in this location is later in date, it is an important component within the registered park and was enabled by the purchase of Glebe land in the early 19th century. In travelling westward along the drive, other component features contained within the park become revealed. The castellated revetments of the dam appear (in part) to the south side, albeit obscured along some

of its length by the tree belt to its northern side. These castellations date from the 18th Century and form part of the significant remodelling of the park and house at that time. At the location from which these revetments are experienced, the undeveloped former glebe land to the north is also experienced. Although the proposed development site is not immediately visible at this point due to the topography, as progress is made westwards along the drive the open park land to the north and west becomes increasingly evident. At the point just before the church, the development site is visible in the wider rural setting.

The churchyard, immediately north of and adjacent to the church, is defined by and contained within a walled and railed boundary. The boundary and numerous tombstones are independently listed in grade II but exhibit significant group value. Lydiard House is situated immediately to the south. To the north west of the house and church are the 19th century stables built following the creation of the eastern access afforded by the historic acquisition of the Glebe land. Beyond is the listed 18th century listed walled garden. All these assets form an important group within the registered park.

The undeveloped rural setting to the north of the park, including that provided by the proposed development site, contributes positively to the registered park at this point and to the component assets within it. It reinforces the position of the park in its rural landscape setting which provides a rural backdrop to its more formal elements and features; this includes the eastern access, the church and stables.

Harm resulting from the proposed development

Development of the application site would be seen as an intrusion of built form into that established rural setting. It would be visible from vantages external to and from within the registered park boundary. Erosion of the established rural landscape forming the setting of the registered park which positively contributes to its significance would be harmful. That harm would extend to the appreciation of component features, many of which are designated as listed buildings, within that setting. Furthermore, the creation of a new settlement that portrays itself as being historically associated and forming part of the Lydiard Park estate, a fictional farm and village pastiche, would undermine the established historic significance of the park within its open rural setting and further the identified harm.

The Council therefore considers that the proposed development, by virtue of its location, siting and design, would cause harm to the setting of designated heritage assets including a number of listed buildings, amongst them the Church of St Mary's (Grade I). It would also cause harm to the setting of Lydiard Park, a Registered Park and Garden, within which those listed buildings are situated.

The proposal fails to preserve the setting of the registered park and the setting of listed buildings contained within the registered park. The proposed development is therefore in conflict with Wiltshire Core Strategy Core Policy 58, which seeks to ensure the conservation of the historic environment including the settings of designated heritage assets. The proposed development also conflicts with the presumption in favour of preserving the setting of listed buildings, afforded by s66 of the 1990 Act.

Where harm to a designated heritage asset is identified, the NPPF requires an assessment to be made of whether the proposed development would cause 'substantial' or 'less than substantial' harm to the significance of that asset. In our assessment, the level of harm that would result from the proposed development is, for the purposes of the NPPF, 'less than substantial'. As is set out above, where 'less than substantial harm' to a designated heritage asset is identified, that harm should be weighed against the public benefits of the proposal. In applying that test, it is important to note that the NPPF states that the conservation of all designated heritage assets should be afforded great weight. Further, "The more important the asset, the greater the weight should be". Among the designated heritage assets to which harm would be caused by the proposed development is the Grade I listed Church, a heritage asset of exceptional significance, being among the most significant 2.5% of all listed buildings. The preservation of the setting of listed buildings in accordance with s66 of the 1990 Act is a matter to which considerable importance and weight should be given, and this applies irrespective of whether the harm is assessed to be 'substantial' or 'less than substantial' for the purposes of the NPPF¹.

In light of the importance afforded to the conservation of the heritage assets harmed by the proposal in law, national policy and local policy, the public benefits necessary to outweigh that harm would need to be high. In this case, they are not considered to be sufficiently high to justify harm to the heritage assets.

Finally, we would point out that, in determination of the application, given the type and status of the assets affected, there is a requirement for the decision maker to consult with The Gardens Trust (formerly the Garden History Society) and Historic England.

Landscape

From a landscape stance the proposal is considered to be unacceptable in principle for a number of reasons.

As identified above, the application site forms part of the essential setting and outlying features of the designed landscape [of Lydiard Park] as defined in fig 20 of the Lydiard Park Restoration and Development Plan commissioned from Nicholas Pearson Associates by Swindon Borough Council in January 2003. Within this landscape context, the site is currently an agricultural field and part of a tranquil rural landscape, not an urban fringe landscape. From the site you are not aware of Swindon, which is contained east of Hay Lane and north of Tewkesbury Way.

The proposed development would have a profound and harmful effect on this landscape. It would not be a contained extension to Swindon. Instead it would be isolated, and would have no direct links to the existing urban area. It would fail to protect, conserve or enhance landscape character and is therefore in conflict with Core Policy 51 (Landscape) of the Wiltshire Core Strategy. The proposed development also conflicts with NPPF paragraph 109, which states that the planning

¹ Forge Field Society v Sevenoaks DC [2014] EWHC 1895 (Admin)

system should protect and enhance valued landscapes and with the NPPF's core principle of recognising the intrinsic character and beauty of the countryside and taking account of the different roles and character of different areas. The importance of harm to landscape character as a material consideration in the determination of planning applications was confirmed in a letter from the then planning minister to the chief executive of the Planning Inspectorate in March 2015².

In terms of visual impact, the proposed development would have an unacceptably negative impact upon views from Lydiard Park and Tewkesbury Way. Importantly, the applicant's Landscape and Visual Assessment was undertaken in May 2014 when trees were virtually in full leaf. That assessment accordingly does not consider the worst case scenario in terms of visual impact, particularly from Lydiard Park³. Visual effects would also be felt from Tewkesbury Way, from where the proposed development would be seen in the immediate foreground of Lydiard Park. The proposed development would thus, contrary to Core Policy 51, fail to conserve important views and visual amenity.

The landscape design of the development is likewise unsatisfactory. In view of the site's sensitive location and in the context of a full planning application, the Council considers that it is inappropriate for detailed landscaping and planting proposals to be deferred to be dealt with under a planning condition. For example, the Design and Access Statement (at para 2.4) refers to significant planting, but this does not appear to have been carried through to the Housing Layout Plan. It is therefore unclear what planting is proposed. These matters are fundamental to assessment of landscape impact and mitigation (in accordance with Wiltshire Core Strategy Policy 51 and the NPPF) and need to be considered in the determination of the application rather than at the implementation stage.

Similarly, the application is not supported by a lighting strategy nor a SUDS strategy. These should both be important drivers of planting and landscape design and it is, in the Council's view, not acceptable for these matters to be deferred to be dealt with under planning conditions. In this rural location, which forms part of the setting of important heritage assets and is detached from the existing settlement edge, lighting will be important to the assessment of landscape and visual effects, as is acknowledged in Core Policy 51's reference to the need to protect against intrusion from light pollution. Similarly, paragraph 125 of the NPPF states that planning decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

In relation to SUDs, the two indicative flood attenuation basins are at the end of the SUDs train but there is no indication of how the water will reach them. The basins

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418657/150327_Brandon_Lewis_MP_to_Simon_Ridley.pdf

³ It also does not appear that viewpoint 2 of the LVIA, which accompanies paragraph 2.2, is taken from the viewpoint shown on the plan. It is therefore misleading. Additionally, para 2.7 refers to the 1999 version of the National Landscape Character Areas document; NCA Profile 108 (Upper Thames Clay Vales) was revised in 2014.

are not proposed in sufficient detail to judge whether or not they will be perceived as safe water bodies.

Overall, the proposed landscape design of the development is in conflict with Wiltshire Core Strategy Core Policy 51 which requires landscape character to be conserved through careful design. It also conflicts with Core Policy 57(xii), which requires development to achieve high standards of landscaping, and paragraph 58 of the NPPF which requires development to incorporate appropriate landscaping. We would highlight the following shortcomings in particular:

- The layout presents few if any opportunities for planting in the public realm. What planting there is appears to be entirely trees (no shrubs) but size and species are unspecified.
- Extensive use of close boarded fence to effect garden enclosure as on units 4, 5, 28, 29 and 30 is inappropriate. Brick or stone walls would be far more appropriate for the location.
- It is not clear what boundary treatment is proposed on the western boundary of units 30-45. This should be clarified.
- The development lacks any play facilities. In this respect it does not accord with saved North Wiltshire Local Plan Policy CF3 (Provision of Open Space) which requires on-site provision of 3m² of play areas per person. Were this development in Swindon there would be a requirement for a LEAP as the development is for more than 25 units (Swindon Borough Local Plan Policy EN3).
- The division of the site along the line of the existing public right of way creates a harsh boundary to the development where it passes close to units 4 and 5. The applicant has missed an opportunity for the dwellings to overlook the footpath which would add to the perceived security of the footpath. This proposed new field boundary appears arbitrary and the use of a stock proof fence demonstrates a lack of consideration of landscape design.

Biodiversity

We are concerned about the proximity of development to the existing badger setts. The Ecological Survey includes a badger survey, but it needs updating as it is now 2 years old. Similarly bat surveys are now 2 years old so will need updating.

Design

As will be outlined in detail below, the proposed development is considered to be in conflict with Wiltshire Core Strategy Core Policy 57 (Ensuring high quality design and place shaping) in that it does not achieve a high standard of design; is not an appropriate townscape response in terms of layout, form, materials or streetscape (criterion iii.); creates issues of amenity and privacy (criterion vii.); does not create a legible, safe and accessible public realm (criterion ix.); and does not (as highlighted above) include high standards of landscaping (criterion xii.).

Similar design objectives are reflected in section 7 of the NPPF, in particular paragraph 58 which requires development (amongst other things) to function well and add to the overall quality of the area; use streetscapes and buildings to create attractive places; create safe and accessible environments; not undermine community cohesion; and be visually attractive and the result of good architecture and landscaping. NPPF paragraph 61 makes clear that planning decisions should address the connections between people and places and the integration of new development into its natural, built and historic environments. The NPPF states that development of poor design should be refused (para 64).

We set out our comments below by reference to the criteria in Core Policy 57 and NPPF section 7.

Poor quality townscape in terms of layout (Policy 57iii. and ix. and NPPF paragraph 58)

The proposed development displays an erratic, sprawling street pattern which fails to adhere to basic urban design principles in that:

- Housing along the main street does not address the main street but presents gable ends to it.
- Critical vistas in the site layout are not adequately terminated e.g. the vista at the end of the main street is terminated in the garage block to units 33 and 34, this should be a landmark building. Other streets terminate in side elevations (plot 27) and oddly shaped incidental space (plot 9).
- There is an overly massed and non-legible entrance to the site along the main street, with a 'wall' of development presented by plots 1-4.
- The layout incorporates car-parking-dominated courtyards with oversized hard surfaced areas, the worst of which are directly behind plots 1-9. These courtyards will not appear as they do in the graphic presented on the front cover of the Design and Access Statement, which omits the 1.8m high close board fences.
- The concentration of parking in large blocks and/or garage courts not only leads to some of the parking being remote from the host dwelling (e.g. unit 45) but also means that the parking may not be perceived as safe, potentially leading to random parking on nearby grass verges etc. (see in particular the rear courtyard parking on plots 10-17).
- Orientation of structures is inconsistent with fronts facing onto backs in the west of the proposed development.
- The western mews road behind units 18-24 will be dominated by parking and garden fences creating an unattractive environment. This results from a Radburn-type layout with the private backs of units 18-23 and 27-28 turned to face the public street.

- The garden to unit 45 has an unconventional relationship with the dwelling. It appears that the garden will be enclosed with a 1.8m high fence. If so, the open space which abuts the garden and the proposed footpath link to the bus stop will not be well overlooked.
- Plot 1, House Type B has a large and apparently incidentally shaped garden as a result of the poorly designed layout.
- It appears that access from the gardens of units 1-7 will be difficult if the adjacent car parking spaces are occupied.

Inappropriate form and materials and poor quality streetscape (Policy 57iii., NPPF para 58)

The proposed form, materials and streetscape do not meet policy requirements in that:

- The house types display excessive variation in aesthetic and materials. A wide-ranging study of the locality is provided with the Design and Access Statement, but the choice to take a pick 'n' mix approach to local precedents results in the emulation of far too many types. This undermines the creation of any coherent character and leads to a development that is far removed from the 'country estate' aesthetic that is being promoted.
- As noted above, extensive use of close boarded fencing is inappropriate. Brick or stone walls would be far more appropriate for the location.
- Views from Lydiard Park will be considerably different to that shown in the illustration on page 5 of the Design and Access Statement. Plots 28-30's fences together with the elevations of house type A will result in a considerably more 'walled off' aesthetic than that shown in the application material.
- Building lines, owing to the erratic layout, are weak and do not guide a visitor around the development, nor do they create a consistent sense of scale or rhythm.

Inadequate attention to the quality of the public realm (Policy 57ix. NPPF para 58) and lack of attention to the connections between people and places (NPPF para 61)

As identified above, it is unsatisfactory that details of hard and soft landscaping, planting, lighting and SUDs have not been provided with the application. This prevents full assessment of the scheme.

Within the development the public green appears to be an incidental space. The space could be improved through landscape design and the introduction of quality street furniture.

There are numerous further examples of incidental green space throughout the development and a more general lack of clear distinction between public and private space and lack of defensible space.

As is discussed below, the development would also provide poor quality pedestrian links to neighbouring areas. Those routes are not overlooked, are circuitous and are partially unlit. The existing pedestrian routes also do not connect at all to key pedestrian destinations, such as the bus stops on Tewkesbury Way.

Amenity issues (Policy 57vii. And NPPF para 17)

The social housing seems to have small gardens which are likely to be overshadowed by the mature trees on their western boundary. This will lead to rather dingy living conditions within the proposed houses, and to gardens that lack sunlight and ultimately pressure upon these trees to be felled, these houses need moving away from this crucial boundary.

Lack of social cohesion (NPPF para 58)

The proposed layout clusters the affordable housing into the far north-west corner of the site. This non-blind tenure layout will result in a poorly mixed community. The cluster of affordable units are also the most distant from pedestrian links to neighbouring areas.

Overall comments on design

Overall, in our assessment the design is of poor quality and fails to adhere to the principles of good design outlined in Wiltshire Core Strategy Policy 57 and section 7 of the NPPF.

Transport

Detailed comments on the Transport Assessment have been made by Swindon Borough Council's Service Manager, Transport Development and Street Works and are appended to this letter as **Appendix 1**.

The transport comments identify the need for junction modelling to be validated against queue length data and for junction geometry and Road Safety Audits to be submitted for assessment.

In addition, the transport comments show that there is a need for the reassessment of pedestrian and cycle connections to the areas surrounding the site. There are particular issues in the crossing of Tewkesbury Way and access to nearby bus stops.

In light of these issues, it is considered that the proposed development is not in accordance with Core Policy 61 (Transport and new development) of the Wiltshire Core Strategy. The proposed development at present conflicts with this policy in that it does not encourage the use of sustainable transport alternatives to the private car because it inadequately caters to the needs of pedestrians and bus users. Similarly,

the development conflicts with NPPF paragraph 35 which states that development should be designed to give priority to pedestrian and cycle movements and have access to high quality public transport facilities. Finally, it also conflicts with paragraph 69 of the NPPF which states that developments should be accessible and create legible pedestrian routes.

It is not completely clear from the application that a pedestrian link to Hay Lane and beyond to the pedestrian underpass will be provided, but, if a connection is made, it will join an existing route under Tewkesbury Way to Brookhouse Farm which is poorly lit, inconveniently circuitous, not overlooked and would be unattractive to users at night.

This unattractive route would be the only means of reaching bus stops on Middleleaze Drive. While there are further bus stops in reasonably close proximity to the site on Tewkesbury Way, there is currently no pedestrian routes at all to access these stops. A “potential route to bus stop on Tewkesbury Way” is shown on the Housing Layout Site Plan but it is difficult to determine how this route to the bus stop would be achieved without significant alterations to levels and vegetation, the impacts of which are impossible to judge from the drawings provided.

As a result of these shortcomings the pedestrian links from the site are clearly unsatisfactory and do not promote walking or bus use contrary to Core Policy 61 and the NPPF. Swindon Borough Council would ask to be party to any future discussions about how off-site improvements could address some of these issues in the existing pedestrian network.

School Places

As the proposed development lies on the western edge of the Swindon urban area, the closest schools are within Swindon Borough. Accordingly, the Swindon Borough Commissioner, Education Place Planning has calculated the expected pupil generation from the development and compared this to capacity in nearby schools. Her calculations are included as **Appendix 2**.

Those calculations show that demand for spaces in west Swindon already exceeds capacity at both the primary and secondary levels and that this would be exacerbated by the proposed development. The proposed development would increase the shortfall to the following:

Primary: 0.8FE
Secondary: 1.5FE

This means that at present the proposal does not accord with Wiltshire Core Strategy Core Policy 3 (Infrastructure requirements) as the necessary education infrastructure to support the development is not available.

In the event that Wiltshire Council is minded to grant planning permission, Swindon Borough Council would be keen to discuss with the developer the provision of financial contributions towards the provision of education in the Borough to assist in mitigating the shortfall of school spaces to serve the development.

Planning policy, housing supply and the overall approach to decision making

The starting point for decision making is that planning applications are required to be determined in accordance with the development plan unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004). The development plan for Wiltshire includes, amongst other documents, the Wiltshire Core Strategy and the remaining saved policies of the North Wiltshire Local Plan 2011.

In the discussion above we have drawn out numerous aspects in which the proposal conflicts with development plan policy in relation to heritage, landscape, design, transport and education. In addition, the proposed development conflicts with saved North Wiltshire Local Plan Policy H4 (Residential development in the open countryside) which seeks to restrict development outside of settlement boundaries save in specific circumstances, none of which is applicable to the application. The proposed development similarly conflicts with Core Policy 1 (Settlement strategy) and Core Policy 19 (Spatial strategy: Royal Wootton Bassett and Cricklade Community Area) of the Wiltshire Core Strategy in that it is not in a location in which new development is supported.

The applicant's planning statement says that the application site is proposed to be an allocation for development within the Lydiard Tregoze chapter of the North East Wiltshire Villages Neighbourhood Plan. As a draft of that chapter has not yet been published (let alone subject to examination), it is not capable of being afforded weight in the determination of a planning application. It is relevant to note that one of the 'basic conditions' which neighbourhood plans are required to meet under paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 is that "having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order [or plan]".

As the proposal is in conflict with the development plan, the next stage is to look to other material considerations which might indicate against determination of the application in accordance with the development plan. National policy is an important such material consideration.

The applicant's planning statement argues that Wiltshire Council is unable to demonstrate five year's supply of deliverable housing sites and in consequence development plan policies for the supply of housing should, pursuant to paragraph 49 NPPF, be regarded as out of date and be afforded less weight. We do not comment on the ability of Wiltshire Council to demonstrate a housing land supply, but if the applicant's assertion is correct, policies H4 and Core Policies 1 and 19 should be treated as out of date. It would then be a matter for Wiltshire Council as decision maker as to how much weight to afford to those out of date policies, although national policy indicates that they will carry less weight.

A further matter for the decision maker to determine would then be whether or not other applicable policies of the development plan - such as those designed to protect heritage assets and landscape character, or achieve acceptable access arrangements, appropriate infrastructure provision and high quality design - should be regarded as 'policies for the supply of housing' to which paragraph 49 applies. The Court of Appeal's decision in *Suffolk Coastal v Hopkins Homes Limited & SSCLG, Richborough Estates Partnership LLP v Cheshire East Borough Council & SSCLG* [2016] EWCA Civ 168 provides judicial interpretation of the meaning of that phrase, albeit that the Court's decision is currently being appealed to the Supreme Court.

The *Cheshire East* case affirms that whether or not a policy is 'for the supply of housing' is a matter for the judgment of the decision maker, but that it "extends to plan policies whose effect is to influence the supply of housing land by restricting the locations where new housing may be developed—including, for example policies for the Green Belt (...) [and other national constraints] and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development."

As noted above, even if policies are adjudged to be 'out of date' for the purposes of the NPPF, the level of weight to be afforded to those policies remains a matter for the decision maker to decide. It is our view that policies designed to achieve the basic planning objectives or conserving the historic environment, promoting satisfactory design and achieving access for pedestrians should still be given considerable weight even if adjudged to be 'out of date'.

Following the NPPF's decision making sequence, overlaid on the legal presumption in favour of the development plan is the national policy presumption in favour of sustainable development. Where paragraph 49 of the NPPF is engaged and development plan policies are to be regarded as 'out of date', the decision maker is directed to paragraph 14 which creates a presumption in favour of granting planning permission unless: adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; OR specific policies in the Framework indicate development should be restricted.

Applying paragraph 14 to the current application, it is clear that the second limb of the policy is applicable: specific policies in the Framework do indicate that development should be restricted. The High Court's decision in *Forest of Dean DC v SOSCLG & Anr* [2016] EWHC 421 (Admin) confirms that where harm to a designated heritage asset is identified, a 'specific policy indicating that development should be restricted' is engaged. This applies irrespective of whether that harm is assessed to be 'substantial' or 'less than substantial' for the purposes of the NPPF.

Where the harm to a designated heritage asset is 'less than substantial' this means (as noted above) applying paragraph 134 of the NPPF which requires the weighing of that harm against the public benefits of the proposal. That ordinary balancing exercise is, as the *Forest of Dean* case outlines, to be applied in the context of the presumption in favour of preserving listed buildings contained in s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. As the *Forge Field* case (R

(Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin)) referred to in *Forest of Dean* makes clear, the preservation of listed buildings and their settings is a matter to which considerable importance and weight should be given. Similarly, the NPPF makes clear that great weight should be given to the conservation of all designated heritage assets.

In our view the harm that would occur to the setting of the listed park and listed buildings is not outweighed by public benefits of the proposal. The proposal would make a limited contribution to providing new housing to boost supply in the north and west Wiltshire Housing Market Area. It would also provide some on-site public open space, although that open space would be of limited public recreational value and no landscaping details have been provided. Furthermore, there is already a large amount of accessible public open space in the area around the application site.

It is stated in the design and access statement that it is proposed by the applicant to transfer 31ha of land to Lydiard Tregoze Parish Council. This is cited by the applicant's consultants as a public benefit of the proposal. The land to be transferred is not identified within the application and limited further information is provided. For example, no information is provided in relation to what restrictions (if any) the transferred land would be subject to. The mechanism for the transfer and how it is said to relate to the current planning application is also not explained.

It seems to us that such a transfer would not serve any clear planning purpose. Lydiard Park provides excellent accessible public open space to local residents and public footpaths connect the park with neighbouring agricultural land. As such, we question what public benefit would be provided by the proposed transfer of land ownership of agricultural land. In our assessment, any public benefits which the proposal might bring to the Parish Council of Lydiard Tregoze would be outweighed by the strong public disbenefits that would be felt by the wider population of the Borough and north Wiltshire as a result of harm to irreplaceable heritage assets with strong community value.

Overall, we do not consider that the benefits of the proposal outweigh the harm to designated heritage assets. The proposal should therefore, in accordance with paragraphs 134 and 14 of the NPPF, be refused. In such circumstances, as specific policies of the NPPF indicate that development should be restricted, the 'significantly and demonstrably' test in the first limb of paragraph 14 is not applicable.

Notwithstanding that, as we have identified above, when assessed against the policies of the development plan and the NPPF, there are significant other adverse impacts which should (in our view) constitute additional reasons for refusing to grant permission (and would significantly and demonstrably outweigh the benefits). In summary:

- the proposed development would harm landscape character and visual amenity;
- the proposed development is poorly related to the existing urban area of Swindon and would appear as a separate village in the countryside;

- the proposed development would be of poor quality design in terms of its layout, form, materials, street scene, amenity, social cohesion and public realm;
- the proposed development would provide for poor pedestrian access, including poor access to bus stops; and
- there is at present insufficient capacity in local schools to accommodate the additional pupils generated and no current proposal to mitigate that shortfall.

Conclusions

For the reasons we have outlined, the proposed development is not sustainable development and should be refused.

Swindon Borough Council places great emphasis on delivering new housing to meet the future needs of residents. However, the policy imperative to deliver new housing does not outweigh the harm that the proposed development would cause to the settings of irreplaceable heritage assets, nor does it justify the departure from basic principles of good planning and design.

As is demonstrated in this letter, the proposed development conflicts with policies of the development plan and of the NPPF and with the legal duty in s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. We therefore request that Wiltshire Council refuse the application.

Thank you again for the opportunity to comment on this proposal, I hope you find these comments useful to your deliberation on the scheme.

Yours sincerely

Richard Bell
Head of planning, regulatory services and heritage
Swindon Borough Council

Appendices:

1. Full comments of Swindon Borough Council Service Manager, Transport Development & Street Works
2. School place requirements and capacity calculations

APPENDIX 1 Full comments of Swindon Borough Council Service Manager, Transport Development & Street Works



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12th September 2016

Dear Sir,

**RE: PROPOSED RESIDENTIAL DEVELOPMENT OF 48 DWELLINGS, WITH
PUBLIC OPEN SPACE, ASSOCIATED ACCESS, INFRASTRUCTURE AND
LANDSCAPING**

AT: LAND SOUTH OF TEWKESBURY WAY, SWINDON, WILTSHIRE

PLANNING APPLICATION: 16/06978/FUL

I refer to the above planning application, as registered with Swindon Borough Council (SBC) dated 3rd August 2016. This letter provides the Council's views on the application in highway terms, focusing on the Transport Assessment (TA) which has been provided by MJA Consulting (MJA).

For ease of reference the following review considers each of the TA chapters in turn save for Chapter 1, which solely provides a brief introduction.

Chapter 2 – Policy Context

The Policy Context chapter discusses what are considered to be the relevant documents that relate to the development at both national and local levels. The TA extracts a number of individual policies from current documents, although fails to mention that the land covered by the development proposals is not allocated for residential use within the adopted Local Plan. As such, whilst the transport related policies may be relevant to the development, they do not mention it specifically.

Chapter 3 – Site Description and Highway Network

This provides a description of the site and surrounding highway network in the vicinity of the development. The proposed development is located on a 3.5ha site which is currently used as agricultural land. The land is located to the south of Tewkesbury Way and to the west of Swindon. It is bounded by Tewkesbury Way to the north and existing residential development to the east.

There is currently no vehicular access to the site via the public highways however the south-eastern boundary of the site abuts a Public Right of Way (PROW LTRE39). Site vehicular access is proposed to be taken from the existing Tewkesbury Way / Middlelease Drive roundabout junction, through the creation of an additional arm.

At present, Tewkesbury Way is around 7m wide and subject to a 40mph speed limit. No pedestrian or cycle facilities are present on the carriageway. Middlelease Drive is 6m wide and subject to a 30mph speed limit, with 1.8m footways on both sides of the carriageway.

Chapter 4 – Development Proposals

The development proposals are for up to 48 mixed residential dwellings, 40% of which will be affordable with the remaining 60% being privately owned.

As discussed above, site access is proposed to be via a new arm at the existing Tewkesbury Way / Middlelease Drive roundabout. The new arm will have a carriageway width of 5.5m and 2m wide pedestrian footways on either side. These footways will stop before the carriageway meets the Tewkesbury Way / Middlelease Drive roundabout in order to deter pedestrian movements on Tewkesbury Way which has no pedestrian provision.

119 allocated parking spaces are to be provided to serve the 48 dwellings. This is in addition to 34 garages and a further eight visitor car parking spaces which are to be positioned around the site. This is in line with standards adopted in the current local plan.

Chapter 5 – Walking and Cycling

The TA sets out existing footway and cycle provision in the area. This includes a number of Public Right of Way (PROW) routes and National Cycle Routes which allow access to destinations further afield as well as local routes which allow access to various areas of Swindon. An NMU audit has also been carried out which details the current condition of the infrastructure.

The TA states that the site is well connected for pedestrians and cyclists. However, as outlined below, there are a number of areas in which the pedestrian network is unattractive or not up to standard. There is access to a number of Public Rights of Way (PROW) footpaths as well as National Cycle Routes. Local amenities including a primary school, secondary school, convenience store, post office and gym can all be accessed on foot in less than 20 minutes. Swindon Town Centre and Swindon Railway Station can both be accessed via bicycle in around 20 minutes.

The TA proposes no additional pedestrian or cycle facilities outside of the site. In addition, it is unclear what provision has been made for pedestrian crossings within the proposed development. As a minimum, facilities should be provided to enable the safe crossing of the spine road leading through the site.

Pedestrians crossing Tewkesbury Way are encouraged to use the existing pedestrian facilities located to the east of the site. This would involve pedestrians travelling under Tewkesbury Way and emerging at the Brookhouse Farm pub. A lack of lighting on this route may make it undesirable for use at night by residents of the proposed development. An assessment of the attractiveness of this route should be made, and proposals put forward which will encourage trips on foot.

Chapter 6 – Public Transport

The TA sets out the bus routes that serve the site along with their frequency and destination. Five services serve the site, the most frequent of which is the 1 (which in reality is the 1 and 1A), which operates every 20 minutes. Both the eastbound and westbound stops are located close to the proposed development; a walk of approximately 240m westbound along Tewkesbury Way. As above however, there are currently no pedestrian infrastructure to assist people in reaching this bus stop.

As noted above, pedestrians are encouraged to cross Tewkesbury Way via the existing facilities, taking them under the carriageway. In order to reach the bus stops, pedestrians would then need to use the existing footpath which runs to the north of Tewkesbury Way. Again, this is poorly lit, and is not overlooked, making it unattractive for night time usage.

Once at The Elms, there are no pedestrian facilities to access the bus stops; access is via a grass verge to reach both the eastbound and westbound stops. Improvements to the bus stop access are considered necessary in order to make this a desirable mode choice for residents of the proposed development.

It is considered that the current bus service frequency offers a reasonable level of provision.

The TA also sets out a summary of train services from Swindon Station, which is some 5.5km from the site. Provision is reasonable however rail is unlikely to be utilised for regular commuting trips given the distance from the site.

Chapter 7 – Trip Generation and Distribution

Vehicular trip rates for the proposed development have been calculated by MJA using the TRICS database. The category 'Houses Privately Owned' has been selected in order to provide the most robust assessment possible. Results of this exercise resulted in 28 two-way trips being generated by the proposed development in the AM peak and 25 two-way trips generated in the PM peak.

It should be noted that, as set out above, pedestrian facilities and access to bus stops from the proposed development is not at a standard which is likely to foster use of either mode. There is the potential that this will reduce the use of sustainable modes and consequently increase the number of car trips generated by the site. This

may need to be considered in the trip generation calculations if facilities cannot be improved.

Trip generation for the proposed development has been distributed and assigned to the local highway network in accordance with existing traffic distribution. This approach is accepted.

Chapter 8 – Traffic Flows and Committed Developments

In order to determine the level of background traffic on the local highway network, a number of off-site junctions surrounding the proposed development site were subject to manual classified traffic surveys. These were undertaken on 23rd April 2015. Data from these surveys has also been used in order to distribute traffic generated by the development.

TEMPRO 6.2 has been utilised to determine growth factors used to predict the level of traffic during both the planning application period and the future year. This equates to the years 2017 (the anticipated date for the submission of the planning application) and 2022 (5 years post planning application submission).

Our consultants have undertaken a TEMPRO exercise using the recently released TEMPRO 7.0 software. This includes more up to date datasets and allows growth rates to be calculated based on Middle Super Output Area (MSOA) boundaries. Results from the TEMPRO 7 exercise are not materially different to those included within the TA and values included in the TA are accepted.

Trips generated by committed developments have also been considered and added to the highway network, where appropriate. In order to identify which committed developments should be included in the assessment, discussions have taken place between the MJA, SBC and Wiltshire Council. The outcome of these discussions concluded that the following developments be included:

- Ridgeway Farm, Wiltshire – 800 residential units
- Land north of Hook Street, Swindon, - 97 residential units

SATURN outputs have also been obtained through SBC. This includes a number of additional committed developments (with varying completion dates) in addition to those mentioned above. For ease, the TA has assumed that around half of these additional committed developments will be built out after 5 years and the remainder will be completed by 2026. This approach is accepted by SBC.

Chapter 9 – Junction Capacity Modelling and Chapter 10 - Highways Impact

The following junctions have been assessed in the TA using the Junctions9 modelling package:

- Tewksbury Way / The Elms T-junction
- Tewksbury Way / Middleleaze Drive roundabout (site access)
- Tewksbury Way / Roughmoor Way / Tregoze Way roundabout
- Tewksbury Way / Ramleaze Drive roundabout
- Tewksbury Way / B4534 Whitehill Way roundabout

The following scenarios have been considered for the above junctions:

- Scenario 1 - 2015 Observed flows (AM and PM peaks)
- Scenario 2 - 2017 Base (AM and PM peaks)
- Scenario 3 - 2017 Base + Committed (AM and PM peaks)
- Scenario 4 - 2022 Base (AM and PM peaks)
- Scenario 5 - 2022 Base + Committed (AM and PM peaks)
- Scenario 6 - 2022 Base + Committed + Development (AM and PM peaks)

Our consultants have checked traffic flows included within the junction models against the raw data, TEMPRO growth and TRICS exercises. It has been confirmed that, disregarding differences attributed to rounding, values have been calculated and input in to the models correctly.

Junction geometry could not be checked as no CAD plans have been provided within the TA. These should be provided to enable the geometric parameters to be checked. In addition, it is unclear whether the base models have been validated against existing conditions so that their operation in Scenarios 2-6 inclusive is likely to be representative. The TA states that a comparison of the modelling results from Scenario 1 to manually classified traffic surveys, a 'close correlation' can be seen, thus deeming the modelling acceptable. As the manually classified counts included no queue length data, this correlation cannot be justified.

Consequently, as the 'Scenario 1 - 2015 Observed Flow' models have not been validated against queue length data, they may not represent existing operation correctly. As such, no further modelling scenarios presented in the TA will be assessed until this has been undertaken: Scenario 1 has not been validated yet provides the Baseline for all other scenarios.

Results currently derived from Scenario 1 show that only one of the junction arms modelled is operating at capacity (with an RFC over 0.85). This is the 'Whitehill Way (n)' arm of the Tewksbury Way / B4534 junction. An RFC of 0.88 was recorded in the AM peak, as was a queue length of 6.5 PCU's.

'Roughmoor Way', part of the Tewksbury Way / Roughmoor Way / Walter Close junction, also operates close to (although not at) capacity during Scenario 1. An RFC of 0.83 in the AM peak was modelled.

The highest RFC shown in the PM peak was the 'Tewkesbury Way (e)' arm, which has an RFC of 0.73 and a queue of 2.6 PCU's.

Chapter 11 – Accident Analysis

A total of 78 accidents have been recorded in the vicinity of the site between 1st January 2010 and 31st December 2014. Seven of these were classified as serious in severity while the remaining 71 were classified as slight. No fatal accidents were recorded during this time period.

Analysis of the serious accidents shows that incidents were caused mainly due to driver error and an individual's actions. We do not consider that geometry at any junction within the vicinity of the site has contributed to the number of incidents

recorded. As such, it is accepted that the proposed development will not have a negative impact on the accident statistics in the vicinity of the site.

Chapter 8 – Summary and Conclusions

This chapter provides a summary of the TS's findings, a number of which the Council cannot agree with at the time of writing due to concerns highlighted above.

Conclusions

In conclusion this review has accepted the number of trips generated by the proposed development. There is however further work required including the reassessment of pedestrian and cycle provision required in the areas surrounding the site. Junction modelling also needs to be validated against queue length data. Junction geometry and Road Safety Audits also need to be submitted for assessment.

Yours faithfully,

Claire Cornelius
Service Manager, Transport Development & Street Works

APPENDIX 2: School place requirements and capacity calculations

I am writing in response to Taylor Wimpey's planning application 16/06978/FUL for 48 dwellings north of Lydiard Park.

Whilst we are aware that this land lies in the Wiltshire area, it will form part of the extension to West Swindon. We therefore wish to make the following comments to make with regards to education in this area.

The major pressure on school places in this area relates to the knock-on impact of housing developments elsewhere.

The building of 48 dwellings on the West Swindon border would increase the existing educational pressure we have in this area.

Primary Needs

No. of houses	X	Primary pupil yield (0.231)	/	No. of primary year groups (7)	=	No. of primary pupils	/ 30	=	No of Forms of Entry (FE)
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Secondary Needs

No. of houses	X	Secondary pupil yield (0.165)	/	No. of secondary year groups (5)	=	No. of secondary pupils	/ 30	=	No of Forms of Entry (FE)
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Using the formula above, we calculate that these houses would bring in an additional:

Primary: $48 \times 0.231 / 7 = 1.584 / 30 = 0.528$ FE (forms of entry)

Secondary: $48 \times 0.165 / 5 = 1.584 / 30 = 0.528$ FE (forms of entry)

Based on the figures in our recently published Swindon School Place Planning Study (Sept 2016), our figures were based on the figures below:

	Capacity	Existing pressure (in excess of capacity)	Demand from new housing growth	Demand for places	Peak	Demand for places including the Peak
Secondary	7.4FE	1FE	0FE	1FE	0FE	1FE
Primary	12FE	0.3FE	0FE	0.3FE	0FE	0.3FE

These additional homes would bring those existing pressure totals to:

Primary: 0.8FE

Secondary: 1.5FE