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22 May 2026

Dear Ms Carney

**Land at White Street, West Lavington (“the Site”)**

**Erection of 47 dwellings with associated access, internal roads, parking, public open space, landscaping, drainage, and associated infrastructure (“the Application”)**

1. Introduction

I am a planning lawyer and am acting for Mr Andrew Doman in relation to the Application. Mr Doman lives at West Lavington Manor, a Grade II listed house located adjacent to the east of the Site.

As the LPA will be as aware, the Application has been subject to numerous objections. The purpose of this letter is to avoid (where possible) repeating comments which have already been made by these objectors and instead focus on matters of planning law which will be relevant to the determination of the Application by the Planning Committee (following the request by Councillor Muns).

For the reasons set out below (and in addition to the many other points of objection raised by others), Mr Doman objects to the Application.

2. Principle of development

In its pre-application response (20 August 2025) (“the Response”), the LPA set out the key policy issues which will be relevant to the determination of the Application in relation to the principle of the development and the settlement hierarchy. The key policies are also set out in the detailed objection letter submitted by Gemma Ackerman MRTPI. Accordingly, they do not need to be repeated at length.

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Briefly, therefore, Core Policy 1 states that it “identifies the settlements where sustainable development will take place...”, whilst Core Policy 2 sets out the delivery strategy for development within these sustainable settlements. It is sufficient for the purposes of this letter to note that the Site is within the open countryside and is not within any of the settlements identified in Core Policy 1 of the Core Strategy. It is also outside the settlement boundary of the West Lavington Neighbourhood Plan.

The LPA will be familiar with the law relating to the assessment of policies within a statutory development plan:

- (i) section 38(6) of the Planning and Compulsory Purchase Act 2004 (“the 2004 Act”) requires that “where in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise”;
- (ii) section 70(2) of the Town and Country Planning Act 1990 (as amended) requires that “in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations”;
- (iii) the statutory context for planning decision-making, therefore, is that a decision must be made in accordance with the policies in the statutory development plan, unless there are material planning considerations which would outweigh those policies;
- (iv) the policies in the statutory development must be read as a whole (s38(3) of the 2004 Act); and
- (v) the decisions of an LPA are administrative decisions in public law and, accordingly, unlawful decisions are susceptible to judicial review;

In relation to the interpretation of policies, the Court explained as follows in *St. Modwen Developments Ltd v Secretary of State* [2017] EWCA Civ. 1643:

“4. Planning policies are not statutory or contractual provisions and should not be construed as if they were. The proper interpretation of planning policy is ultimately a matter of law for the court. The application of relevant policy is for the decision-maker. But statements of policy are to be interpreted objectively by the court in accordance with the language used and in its proper context. A failure properly to understand and apply relevant policy will constitute a failure to have regard to a material consideration, or will amount to having regard to an immaterial consideration (see the judgment of Lord Reed in *Tesco Stores v Dundee City Council* [2012] P.T.S.R. 983, at paragraphs 17 to 22).

The Court has affirmed that the interpretation of policy is an objective question for the Court to determine, read in accordance with the language used and its proper context (*Mead Realisations Ltd v SSLHUC* [2024] EWHC 279 (Admin). In *Mead*, the Court explained the importance of correctly interpreting policy as a pre-requisite to applying it:

“72. Many policies are framed in language the application of which requires the exercise of judgment, which may only be challenged if irrational or perverse (see *Tesco Stores Limited v Dundee City Council* [2012] PTSR 983 at [18] to [20] ). But a genuine issue about the interpretation of a policy is logically a prior question to the application of that policy.”

From these decisions (and many others), the position in law is that if a policy can be easily understood based on its words and context (its “express language”), there is no legal basis to interrogate it to elicit further meaning. However, if the policy is a strict policy and/or is unclear, the Court may use its power to explain its meaning, so that the planning judgement of the LPA may be lawfully applied to that policy. Explanatory text may be used to

understand the context and meaning of the policy (*R (oao Cherkley Campaign Ltd) v Mole Valley DC* [2014] EWCA Civ 567).

A helpful summary of the approach of the to ascertaining the meaning of planning policies was recently given by Sir Keith Lindblom SPT in (*R. (on the application of Plant) v Lambeth LBC* [2023] EWCA Civ 809 at [34]):

“Well established principles are engaged (see the judgment of Lord Reed in *Tesco v Dundee City Council*, at paragraphs 17 to 22). Development plan policies must be interpreted with realism and common sense, and with a proper understanding of their practical purpose. The court must keep in mind that this exercise is not the same as construing provisions in a statute or the terms of a contract. The formulation of the policy in question may not be perfect, especially perhaps if it is the product of re-drafting in successive processes of plan-making. But whatever shortcomings there may be in its drafting, the object in interpreting the policy is always to ascertain the true meaning of its language and the effect it is intended to have in guiding planning decision-making. A policy must, of course, be seen in its context. And it is also essential to view the policy itself in its entirety, avoiding a disjointed reading of individual criteria or phrases within it, and thus gain a true sense of how its constituent parts fit with each other and work together as a whole. A practical and coherent interpretation, if that is possible, should be the aim.”

The general approach to the interpretation and application of development plan policies, therefore, is well settled. Policies must be interpreted objectively in accordance with the language used, read in their proper context: *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13. Explanatory text may be used to understand the context and meaning of the policy. While the meaning of policies is a question of law, when the application of a policy requires matters of judgement, those judgments are exclusively for the decision-maker to resolve: *Suffolk Coastal District Council v Hopkins Homes Ltd* [2017] 1 WLR 1865.

Given this legal context, and having reviewed the Planning Statement lodged with the Application, it is clear that the Application fails entirely to comply with the development plan’s spatial strategy. As Core Policy 1 explains, development which does not accord with the Settlement Strategy will not be sustainable development. This position is reinforced in paragraph 4.6 of the Core Strategy, which confirms that “The Spatial Strategy sets the foundation for how ‘sustainable development’ is defined and applied within Wiltshire”. By definition, therefore, the Application is not sustainable development within the meaning of the statutory development plan.

The Planning Statement seeks to square this policy circle in the section headed “Test 1 – Sustainable Location” (paragraphs 5.12 – 5.15). However, its attempts to do so fail on each occasion:

- (i) paragraph 5.12 – whilst it is agreed that “West Lavington is defined as one of six ‘Large Village’ within the Devizes Community Area where new development is acceptable”, the Site is not within the settlement boundary of West Lavington, meaning this point goes nowhere;
- (ii) paragraph 5.13 – although the Site was “previously identified as a potential area for housing allocation in the West Lavington Neighbourhood Plan”, it was not included in the adopted Neighbourhood Plan, meaning this point goes nowhere;
- (iii) paragraph 5.14 – whilst the Site is close to the edge of the village, by definition the Site is within the countryside and, per the statutory development plan, is unsuitable for residential development due to such development being unsustainable; and
- (iv) paragraph 5.15 – whilst it is asserted that “the proposed development will provide a positive approach to sustainable growth”, this assertion necessarily pre-supposes that the Site is in a sustainable location, which it is not, meaning this point goes nowhere.

Taken together, therefore, the principle of development is unacceptable given that the Site is in an unsustainable location in the countryside. It is simply wrong for the Planning Statement to conclude in its Planning Balance and Conclusion (section 6) that the principle of development should be accorded a 'positive' finding. As a matter of law, it must be accorded a negative finding. It is agreed that 'significant' weight should then be given to this finding.

### 3. The 5 Year Housing Supply

Both the Planning Statement and the Response address the Council's lack of a 5 year housing supply. It is agreed that as a result of the shortfall, paragraph 11(d) of the NPPF is engaged.

The Planning Statement accepts that the NPPF's presumption in favour of sustainable development is engaged. However, it asserts that the conflict with Core Policy 1 and Core Policy 2 is "outweighed" by the housing shortfall.

However, such an assertion does not stand up to scrutiny. Core Policy 1 and Core Policy 2 do not solely concern residential development. They are the backbone of the Council's Spatial Strategy, informing planning decisions for all types of uses including regeneration, employment, residential and natural resources. Whilst the residential aspects of these policies may be out-of-date, the importance of locating development in sustainable locations is not, and continues to inform policy decisions regarding development in unsustainable locations: residential developments do not exist in isolation from their environmental, socio-economic and economic planning impacts.

The need for sustainable development runs through the statutory development plan. It is the land-use planning objective described in the first paragraph (1.1) of the Core Strategy, which states that "the policies and proposals contained within this strategy [ie a strategy focussed on delivering stronger, more resilient communities], taken as a whole, constitute what sustainable development in Wiltshire means in practice for land use planning".

Sustainable development is also the 'golden thread' running through the NPPF. Development which does not accord with the requirements of sustainability set out in the NPPF, when taken as a whole, is, by definition, unsuitable for the long-term.

It is not accepted, therefore, that the housing shortfall means that the policies in the development plan which require sustainable development are "outweighed". Not only are these policies not out of date (save in relation to the specific requirements for residential development within defined settlements) but their proper application goes to the heart of how the Council plans for the growth of Wiltshire's stakeholders and communities.

The weight to be given to the out-of-date element of parts of Core Policies 1 and 2 is a matter of planning judgement for the LPA. However, given the numerous requirements throughout both the development plan and the NPPF for sustainable development, it is not the case that the balancing exercise should simply be a case of weighing those out-of-date residential elements of the policies against the housing shortfall. The development plan and the NPPF both stress and rely upon sustainable development in all its forms, and the Application must be weighed against the totality of this requirement, rather than just one part of it.

### 4. Other land-use impacts

The letter from Gemma Ackerman provides detailed reasons for why the Application should be refused in relation to its unacceptable impacts on designated heritage assets, its overdevelopment, its density, its design quality and its effect on local highways and accessibility.

In addition, the objection from Mr Fletcher Robinson of CPRE emphasises and expands on some of these issues, whilst also addressing flooding, surface water drainage and loss of agricultural land.

For the purposes of this letter, the short point is that Mr Doman fully endorses these well-articulated objections.

## 5. Conclusion

The essence of the Application will not be lost on the LPA. It is a typical, speculative attempt to secure planning permission in an unsustainable location due to an existing housing shortfall. As with most applications of this type, the shortfall is not to be found in the village where the development is proposed, in this case West Lavington. Indeed, it is notable that in the Planning Statement's 33 pages, there is not one reference to there being a housing shortfall within the village.

The absence of any demonstrable need for new housing within West Lavington, again, underlines the importance of ensuring that development is located in sustainable locations in accordance with the development plan. As there is no need for new housing in West Lavington, it would be unsustainable to provide such housing in West Lavington: put simply, a development is unsustainable in planning terms if there is no need for it.

The Site is demonstrably not supported by Core Policy 1 or Core Policy 2. It is within the countryside, where strict, countryside-appropriate planning policies apply. The Application is for a form of unsustainable development, contrary to the spatial strategy. The Planning Statement's attempt to 'square the policy circle' fails, and significant weight should be given on the planning balance to this failure.

In relation to the out-datedness of Core Policy 1 and Core Policy 2, both these policies and many others within both the development plan and the NPPF which seek to ensure sustainable development remain in-date and relevant to the determination of the Application. To ignore the spatial strategy, and all it encompasses, would be to ignore the fundamental building blocks upon which the development plan was created. To ignore the need for sustainable development would also ignore the golden thread which runs through the NPPF.

There are many other aspects of the Application which are unacceptable (such as the impacts on heritage assets, its density and design). These matters have been explained by other objectors and should be taken into account by the LPA.

For all the reasons set out in this letter, the LPA is respectfully requested to refuse the Application.

Yours sincerely



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