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26<sup>th</sup> May 2016

Planning Inspectorate  
Room 3L Kite Wing  
2, The Square, Temple Quay House  
Bristol  
BS1 6PN

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT**  
**Appellants Name:** Manton House Estate  
**Appeal Site:** Land off Rabley Wood View, Marlborough, Wilts  
**Proposed Development:** Residential development and associated works  
**Inspectorate Reference:** APP/Y3940/W/16/3147797  
**Appeal Start Date:** 21 April 2016



Marlborough Town Council is against the appeal proposals in terms of the appellant's rebuttal of the 3 LPA refusals as set out in the Appeal Statement for the following reasons:

**REFUSAL REASON 1 - The proposed development is located within the North Wessex Downs Area of Outstanding Natural Beauty, at the interface between the built-up area of Marlborough and the countryside beyond. Government policy, as set out in the NPPF (paragraph 115), is that great weight should be given to conserving the landscape and scenic beauty of this area. The proposed development would conflict with this policy and would have a harmful impact on the landscape of this part of the AONB, through the change of use and associated works required to convert that part of the site lying within the water meadows to casual open space, and through the works required to the landscape screen between the water meadows and the proposed equipped play area and MUGA, which would open up the new housing to direct view from nearby rights of way and would reduce the existing screening of the built-up area that currently enhances the setting of the town at this rural/urban interface. This would conflict with Core Policy 51 of the Wiltshire Core Strategy.**

## **Landscape**

The Planning Appeal Statement sets out no exceptional circumstances permitting development at this site and little consideration has been given to conserving the landscape and beauty of the area. This is in breach of Wiltshire Strategy Core Policy 51 and NPPF paras. 115 and 116.

The Planning Appeal Statement makes reference only to the housing need under Wiltshire Core Strategy (WCS) Policy 14 dealing with the Marlborough Area Strategy and makes no mention that under 5.77, development should be planned to ensure minimal impact on landscape assets. At 5.78, there is also specific reference to the conservation of the designated landscape of the AONB and at 5.79 it sets out that the River Og provides an environmental asset to the area (the River Og is recognised as an important tributary to the River Kennet, a rare chalk stream with SSSI status). The report by WH Landscaping Ltd confirms that the course of the River Og is designated as a County Wildlife site.

Furthermore, the RCC Statement makes no mention of the key role of the AONB Management Plan 2014-19 in implementing WCS Policy 51 through its Landscape Character Assessment or of the site's proximity to the Marlborough Downs Nature Improvement Area.

At para. 5.12, of the Appeal Statement, it states that the water meadow bears no characteristics or features of being a water meadow only a *former* water meadow. This directly contradicts representations made by Action for the River Kennet (ARK), a stakeholder partner listed in the North Wessex Downs Management Plan 2014-19. ARK stated that it had grave concerns about the proposal to drain a substantial area of the existing water meadow in the flood plain. As well as their ecological importance as habitats and their role in reducing pollution, water meadows act like sponges and fulfil the vital function of absorbing water in periods of substantial rainfall. ARK has recently carried out substantial river corridor and habitat improvements to this part of the River Og. These were funded by DEFRA to improve habitats, reduce erosion and pollution.

In addition, Thames Water has committed to a £25m investment to protect the habitat of the Og and Kennet by reducing water abstraction. Draining the water meadows along the River Og reduces the value of this investment to protect the environment. It will involve laying drains across the water meadow which will damage the wetlands environment which should be protected under NPPF 115. NPPF para 17 refers to one of its core planning principles to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this framework. Again, the appellant's statement appears to be in conflict with this principle.

#### **Boundary tree line and hedgerow**

Works to the landscape boundary will clearly restrict the existing screening – Wiltshire Council's Tree Officer has stated that it is essential that the existing tree cover bordering the open space is maintained to offset the visual disruption to the existing dwellings with significant planting of established gaps. This is supported by statements made by WH Landscaping Ltd in its Landscape and Visual Impact Assessment which recommended additional hedge planting at the boundaries.

Unauthorised work has already taken place by the appellant with tree limb removal even though Enforcement Officers visited the site and confirmed that this work should not go ahead on Wiltshire Council owned land without prior permission.

**REFUSAL REASON 2 - The proposed development would result in the loss of the main part of the existing and long established open space and recreational area at Rabley Wood. This existing space provides residents of nearby houses with a valued, safe and accessible area that enjoys open and elevated views of the surrounding landscape of the area of outstanding natural beauty and that enjoys a maturing landscaped boundary that provides a natural form of enclosure at the interface with the countryside beyond. The proposed replacement facilities would be less accessible from many of these houses, and in some cases would involve the crossing of a road to serve the new dwellings, making them less safe and given the greater distance involved, the new area would also have less oversight from existing dwellings. The proposal would therefore fail to meet the requirement in NPPF paragraph 74 in that the loss resulting from the proposed development would not be replaced by equivalent or better provision in terms of a suitable location that enjoys the benefits the current location offers. This would conflict with Core Policy 52 of the Wiltshire Core Strategy, which requires replacement green infrastructure to be equal to or above its current value and quality and that maintains the integrity and functionality of the green infrastructure network.**

#### **Loss of Recreational Area**

The RCC Appeal Statement, at paras. 5.23 – 5.29, emphasises the poor quality of the existing open space and play area. The equipment in the fenced off play area is well maintained (as confirmed in the Appeal Statement) if outdated. This and the Youth Shelter is run, under licence from Wiltshire Council, by Marlborough Town Council. Town Council staff litter pick and regularly check for safety and maintenance issues. The poor state of the remainder of the recreation land is the responsibility of Wiltshire Council which, due to cutbacks, has reduced litter picking and grass cutting at this and other

sites. It no longer supplies bins and once damaged, the bins are removed and not replaced. That said this area is not an area known for excess litter and dog fouling is no worse here than elsewhere. The sloping nature of the site is not relevant. It is not a formal pitch, it is for informal games only – a kick about area. Formal pitches, maintained by the Town Council, are at Elcot Lane, Salisbury Road and The Common.

The area is well used not for formal matches but for informal recreation throughout the year from ball games in the summer to sledging in the winter.

The compensatory land does not offer a like for like equivalent and does not therefore comply with NPPF para 74 or WCS 52. For much of the year this meadow land is not usable, even if it was satisfactorily drained. On completion of a new water pipe connecting north and south Swindon to Farmoor reservoir, abstraction at Ogbourne will cease. This will increase both the flow of the river and its depth. It will also raise the overall water table in the flood plain adjacent to the river.

An objection was lodged by Sport England which stated that the proposal was in breach of para.74 of the NPPF as the area currently used as an informal playing field would be lost.

### **Safety Issues**

The proposed SUDs pond may cause a danger to children and special measures should be put in place to ensure the safety, particular of young children. (It is supposed, unrealistically, that young children will not use the compensatory land but remain in the new purpose built play facilities). There is no reference to how this risk will be countered.

### **Maintenance of compensatory recreation area**

Furthermore, there is no satisfactory entrance for the machinery needed to maintain the area – known for rough grassland, nettles, rushes and coarse tussock grasses. WCS 52 stresses the importance of long term management of green infrastructure. Few measures about how this will be achieved are set out clearly in the Appeal Statement other than the need for a 'Grampian' condition.

**REFUSAL REASON 3 - The archaeological assessment submitted with the application has indicated some potential for archaeological remains to be impacted by the proposed development. In these circumstances, it is considered necessary for a field evaluation to be carried out to fully assess the potential impact on any heritage asset of archaeological interest, in accordance with paragraph 128 of the NPPF.**

At the start of the Appeal the investigative works had not taken place for an evaluation to ensure that the requirements of para 128 of the NPPF were met and the historic environment was protected.

A misleading notice has been issued about the archaeological assessment which also gives the impression that the Town Council supports the proposal. It does not.

### **OTHER ISSUES**

#### **Housing**

This site currently falls outside of the current settlement boundary map for Marlborough (the appellant refers to it being a windfall site). The requirement for additional housing is set out under at WCS 14 (Spatial Strategy: Marlborough Community Area) and is being properly analysed and assessed via an emerging Neighbourhood Plan which will incorporate a fresh and thorough Housing Needs Assessment last undertaken by Wiltshire Council in 2011.

#### **Breach of Agreement**

A planning condition attached to the permission for development at Rabley Wood under application K/16218 on 12<sup>th</sup> September 1990 and concerning the current recreation area states that:

*Condition 4. The areas defined on the approved plans for public open space, amenity land and play areas, shall be retained in perpetuity for those uses and not incorporated into private garden land or other uses. Reason: To ensure these are not fragmented and remain to fulfil their original functions.*

The proposal is in breach of this condition.

#### **Wiltshire Council Involvement**

There appears to be a lack of transparency and a possible conflict of interests around the involvement of Wiltshire Council in the proposals - a financial beneficiary if the development goes ahead as well as being the landowner and the LPA responsible for processing this planning application. This has been highlighted in the public notice recently erected at the site about the archaeological works and referred to under Reason 3 above. The notice also refers to making the best use of assets with no mention of any housing need or requirement in Marlborough. It states: *"In its capacity as landowner, Wiltshire Council subsequently entered into a legal agreement ('the Promotion Agreement') with the neighbouring landowner to promote and to apply for planning permission for the concept and to then sell it."*

This conflict of interests has been reported by the local press.

#### **Conclusion**

Marlborough Town Council asks the Planning Inspectorate to uphold the reasons for refusal on the grounds of the detrimental effect on the protected landscape and environment and the lack of like for like and adequate compensatory recreational space.

Yours faithfully

