

Planning Policy and Economic Development
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02 April 2024

Dear Sir/ Madam

Draft Local Plan 2040 – Regulation 18 (Stage 2) Consultation

We act for Mr and Mrs A. Boyle, of The Old Rectory, Rudd Lane, Upper Timsbury SO51 0NU and make the following representations on the Regulation 18 (Stage Two) Local Plan (“the draft Local Plan” consultation and associated evidence base reports produced by Test Valley Borough Council (“the Council”).

We made detailed submissions at Regulation 18 (Stage 1), and these are appended to this letter. We made detailed comments on the settlement boundary for Michelmersh and identified a parcel of land in the centre of the village (owned by our client) which should be included in the settlement boundary based on its character and functional use. These comments remain valid.

A key issue of concern is the approach to the settlement hierarchy, and the proposal to remove the settlement boundary from 9 settlements, including Michelmersh and Timsbury. The Council proposes that Michelmersh be in Tier 4, and so treated as open countryside, where no windfall development is allowed. This conclusion has been reached on the basis that it does not satisfy all four of the revised criteria for inclusion in Tier 3 (as set out at paragraph 3.30 – these include a primary school, food store, sports facility and community facility).

This represents a significant change in the policy position for landowners in these rural settlements. The manner in which this significant proposed change has been communicated, is flawed. The proposed policy map continues to show a settlement boundary at Michelmersh. Yet the text of the draft Local Plan itself (at page 37) says that it is proposed to remove the boundary. It is suggested that the plan identifies ‘a potential settlement boundary’ following the revised methodology so as to invite comment on this. The council is not proposing a settlement boundary at Michelmersh; so the proposed policy map should accord with the text of the draft Local Plan. This approach to the consultation is clearly flawed.

In summary, we submit that:





- 1) The housing requirement (and specifically the rural housing requirement) needs to be increased, to ensure that the plan period looks forward 15 years from adoption. Furthermore, it is questionable whether the proposed rural housing supply is 'deliverable' (within the NPPF definition).
- 2) The methodology for deciding on the settlement hierarchy is wrong in principle and inconsistently applied.
- 3) It is wrong in principle to abolish the settlement boundary for the 9 Tier 4 settlements.
- 4) The combined villages of Michelmersh and Timsbury have sufficient facilities and are sufficiently close to the major centre of Romsey for them to be treated in principle as suitable places for further development, provided that such development takes place within the appropriate envelope of the existing settlement. They should be included in a higher tier of the Settlement Hierarchy (Tier 3), where windfall development is allowed.
- 5) There is a plot of garden land in the centre of Michelmersh (owned by our clients) which is eminently suitable for development as it lies within the true envelope of the settlement. A Call for Site Submission form accompanies these representations. This site was the subject of representations at Regulation 18 (Stage 1) stage (attached), setting out why it should be included in the boundary, but no reference has been made to these in the Council's Settlement Boundary review. The exclusion of this land from the current settlement boundary is a historical anomaly based on a configuration of the land which ceased to exist 36 years ago. It is functionally linked to the settlement, not the countryside; it is a residential garden and so its character is more closely linked to the settlement than to the countryside. Applying the Council's methodology, it should be included in the settlement boundary. Sites such as this, located in the centre of a rural village, provide opportunities for small scale growth and development which allow the settlement to grow and thrive in an appropriate manner.

We discuss each of these points in more detail below.

(1) Spatial Strategy, the overarching Housing Requirement and the Rural Housing Requirement

The plan period (2020-2040) needs to be extended to at least 2041 and additional housing supply identified to meet this. Paragraph 22 of the National Planning Policy Framework ("NPPF") makes clear that strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities. The Council's current programme, as set out in the Local Development Scheme ("LDS"), last updated in November 2023, targets adoption by Q2 of 2026. As such, the policies should look ahead to 2041. The Housing Trajectory which has been produced (Jan 2024) only sets out a trajectory up until 2039/40. The local housing need of 550/year over the plan period 2020-2040 (a total of 11,000), should be increase by at least 500, to account for an additional year in the plan period (2041). In addition, the rural housing requirement (Policy SS4) should equally be increased to cover the additional year.

At present, the draft Local Plan proposes that 5% of the housing requirement will come forward in rural locations (Policy SS4 sets a requirement for 542 dwellings), yet a significant area of the borough is in fact rural. Rural areas are the least affordable, and the NPPF is clear that planning policies should identify opportunities for rural villages to grow and thrive. We submit that the spatial strategy, at present, does



not go far enough to allow some limited growth in the rural settlements to ensure their sustainable growth and ongoing support and demand for rural facilities, such as schools and local shops.

Furthermore, the draft Local Plan proposed that 90% of the rural housing requirement will come forward via neighbourhood planning – yet this is not a mandatory requirement and requires considerable time and expense for local communities. There is a risk that the rural housing anticipated to come forward via Neighbourhood Plans will either take significant time, or not come forward; which could have implications for the housing trajectory, and for the soundness of the overall strategy and plan at examination.

Paragraph 3.79 of the Regulation 18 plan recognises this uncertainty, in stating that the Council will monitor delivery of the rural housing requirement and undertake a plan review if this is not forthcoming, five years after adoption. Any such review and additional allocations (via a Development Plan Document) would take further time and would result in under delivery in the rural area for a significant period of time. Rather, the Council should make appropriate provision now, in the draft Local Plan, for the rural housing which is needed over the plan period. 90% of the supply of rural housing (against the rural housing requirement) is proposed to come from housing completions and commitments yet these have not been shown to be “deliverable” within the NPPF definition. The NPPF is clear that when relying upon such sites, there must be clear evidence that completions could begin on these sites within 5 years. No such evidence has been set out, and this must be rigorously tested at examination.

(2) The methodology in the settlement hierarchy is wrong in principle and has been inconsistently applied.

We focus here on the treatment of the nine settlements proposed for inclusion in Tier 4, based on their alleged unsustainable location/ lack of facilities. The methodology gives decisive significance to the presence of all four of the relevant facilities – lack of any one is said to be fatal to inclusion of that settlement in Tier 3. This is not an appropriate basis upon which to decide whether a settlement should be allowed to bring forward small scale windfall development (which would be the result of inclusion in Tier 3). The NPPF requires that all rural areas should have the opportunity to grow and thrive. Lack of a sports field or village hall should not change this. Not all households will require use of a local primary school. The methodology is too rigid at present.

At Regulation (Stage One), the Council were of the view that 6 key facilities would be necessary for inclusion in Tier 3 (food store, public house, primary school, outdoor sports facility, community or village hall, and a place of worship), together with good public transport. This has been changed, at Stage 2, in two important respects. First, the requirement for good public transport has been dropped, in recognition of the significant uncertainty over the future of rural services in the short term, as well as over the longer plan period to 2040. In Test Valley, a largely rural borough, it is accepted that a number of journeys will need to be via car, cycle or on foot, save for limited journeys on the railway. A similar conclusion could be reached in respect of commercial facilities (for example, food shops), given that Permitted Development rights (Class MA) allow conversion of these to residential use, without the need to apply for planning permission.

In reducing the key facilities from 6 to 4, the Council has lumped together the 3 previously separate categories of a public house, community/ village hall and place of worship. This means that a settlement which has a public house, a village hall and a place of worship will now only score 1 rather than 3. However, it is obvious that the social function and importance of a village hall, a public house and a place of worship are not at all the same, and the logic of putting them together is faulty. Each of them has independent importance, as the previous consultation recognised.



In the case of Michelmersh and Timsbury (which are a single Parish, albeit treated as two settlements in the draft Local Plan), there is a village hall, 2 pubs and 2 churches, but this still only leads under the new system to a single “community facility” being present, because of this lumping together.

The alleged purpose of this change of methodology is to avoid a situation in which marginal differences between Tiers 3 and 4 would be eliminated (see paragraph 3.28). However, that problem remains with the revised proposal. Under the proposal affecting the 9 settlements, the lack of any one of the four revised key facilities leads to the consequence that the settlement is to have its settlement boundary abolished, and with it with the presumption in favour of development within that boundary.

Thus, a thriving settlement which has (for example) a primary school, a shop and village hall but no outdoor sports facility will for that reason alone lose its settlement boundary. It is obvious that such a settlement is in principle suitable for development notwithstanding the absence of a sports facility.

There are three further flaws in the approach now taken in the revised draft Local Plan.

First, it recognised that some settlements can properly be grouped together so that the presence of some facilities in one settlement can be added to other facilities in another settlement so as to create a group which taken together comprises a viable place for further development. But the principle on the basis of which this has been done has not been clearly articulated or consistently applied.

Thus, the villages of Middle Wallop, Over Wallop and Nether Wallop have been treated as a single unit, as have the villages of Palestine and Grately, presumably on the basis that they are sufficiently close to each other to share the relevant facilities. But this principle has not been applied to other settlements which share facilities. For example, the residents of Michelmersh and Timsbury are within the school catchments of facilities in other nearby villages. Local children travel a short distance to Awbridge, or Braishfield. It is illogical that the assessment methodology allows some settlements to rely on the use of nearby schools in other villages, and so be placed in Tier 3, whilst others are not, and are placed in Tier 4.

Michelmersh and Timsbury are a single parish and joined together by the presence of development along the major road axes in both villages. This has obliterated the historic distinction between the ancient hill top village of Michelmersh centred on the Church there and the village of Timsbury next to the River Test centred on a different Church. The Village Hall, which serves both, is at the centre of the combined settlement. Why should Michelmersh and Timsbury not be joined together as a single settlement for the purposes of the local plan if others can be? The basis of this distinction is not explained. What was done for the Wallops should be done for Michelmersh and Timsbury.

Secondly, in some instances, the revised draft Local Plan permits a settlement to be in Tier 3 notwithstanding the absence of one of the four ‘key’ facilities. For example, four villages near Andover lack a primary school, but are included in Tier 3 (Chilbolton, Thruxton, Weyhill and Enham Alamein) on the basis that there is a primary school close by, albeit in another village. This shows that the insistence on the presence of all four revised facilities as the criterion for inclusion in Tier 3 is illogical, and recognised as such in placing these four villages, each of which lack a primary school, in Tier 3. If it works for those villages, why does it not work for others? If a village can be in Tier 3 without a primary school where does that leave the principle that all four facilities are required for other villages? What is the basis for allowing this exception in some cases and not others? How close does the school have to be to the village in question to be in Tier 3? None of these questions are addressed and the required logic and consistency which should underlie the formulation of the principles of the settlement hierarchy is lacking.



We pointed out in our letter dated 7 April 2022 that there are primary schools in Braishfield and Awbridge. Why should the proximity of those schools be ignored in the case of Michelmersh and Timsbury, but taken into account in the cases of Chilbolton, Thruxton, Weyhill and Enham Alamein?

Thirdly, proximity to major centres is taken into account in some instances but not in others. An example where this has been taken into account is Chilworth, near Southampton. Chilworth scored low on the presence of the relevant facilities, but has nevertheless been placed in Tier 2, because of its proximity to Southampton. There is no primary school in Chilworth, but the draft Local Plan reaches its conclusion that Chilworth should be in Tier 2 on the basis that there are schools in Southampton. However, Southampton is a different education authority, and there is therefore no guarantee of a school place at a Southampton school for those living in Chilworth. The catchment school for Chilworth is in North Baddesley, and there is no bus from Chilworth to North Baddesley. This is particularly relevant to Michelmersh and Timsbury. The combined settlement is very close to Romsey, which is a major, thriving centre. Why should Chilworth get into Tier 2 because it is close to Southampton but Michelmersh and Timsbury languish in Tier 4 notwithstanding that they are close to Romsey? There is an obvious lack of logic and consistency in the approach taken.

The data on which the Settlement Hierarchy has been developed dates to 2021. Much has happened in the intervening period, including the pandemic affecting small business, and the Government's relocation of rule for conversion of commercial space to residential use. There is no guarantee that a pub or shop which was open in 2021 is still open now, still less that this will be the case in the 15 year plan period in future. The NPPF requires that rural villages should be able to grow and thrive over the plan period to 2040; the approach which has been selected severely limits the ability to do so, and is based on information which is/ could readily become out of date before the plan is even adopted.

The methodology, and the four factors relied upon, are not the most appropriate means of directing growth. Other factors, such as being near a major town, or being near a school which is not in the settlement, are obviously relevant as well, and the draft Local Plan recognises this. The problem is that it only recognises this in some instances and not others, and does not explain this inconsistency. No attempt appears to have been made to judge the suitability of the 9 settlements for inclusion in Tier 3 by taking all relevant factors into account, such as proximity to schools outside the settlement and proximity to major towns.

(3) It is wrong in principle to abolish the settlement boundary for the 9 Tier 4 settlements.

The draft Local Plan confirms, at paragraph 3.41 that:

"Settlement boundaries are a planning tool to direct development to the most sustainable locations whilst protecting the character of the countryside. They provide greater certainty to communities, landowners and developers over where certain types of development are likely to be acceptable in principle. Those areas outside the defined boundaries are classed as countryside for the purpose of planning policy".

The proposal to remove the boundary from Michelmersh and treat it as open countryside goes against this principle.

Presently, communities and landowners in Michelmersh (and the other affected Tier 4 settlements) have clarity as to the type of development which will be accepted in the village envelope. Within the settlement boundary, the principle of development is acceptable; outside the boundary, it is not, save for the limited circumstances set out in policy. Now, at a stroke, the Council proposed to restrict



development within the existing settlement boundaries of these 9 settlements, so that windfall development would no longer be possible. The existing settlement boundary, and existing Local Plan was adopted on the basis that the suite of policies would afford adequate protection to the countryside. This has been the position for many years, leading to the reasonable certainty of planning outcomes referred to in paragraph 3.41 in the draft Local Plan, and creating a legitimate expectation as to those outcomes amongst communities, landowners and developers. The existing boundaries were developed following consultation with communities as to the precise boundaries which should exist.

Now, the Council proposes to reverse that view, in a way which applies in blanket terms to 9 separate settlements without evidence demonstrating why windfall development in those settlements would have an unacceptable impact on the countryside. The Council has recently permitted two residential developments in Michelmersh, including 3 dwellings at Smallbery Hill and 2 at Hillside Cottage. Both were in the settlement boundary where the principle of development was acceptable. This change would prevent such schemes from coming forward, prejudicing the ability of rural settlements to grow and thrive and in an organic manner. The council was content that those developments were acceptable in terms of their impact on the countryside. This shows that small scale development can be accommodated in the village without unacceptable impact.

It is wrong in principle to alter the established approach to these 9 settlement simply on the basis of an alleged failure to satisfy four prescriptive criteria, particularly where a) the consultation materials are misleading (with the proposals map not showing the boundary removed); and b) the methodology has been inconsistently applied with some villages able to rely on schools in other settlements, and some reliant on proximity to a larger settlement. There is a lack of robust evidence as to the need for this change and a lack of clear reasoning set out.

The alleged justification, at para 2.3 of the Settlement Boundary Review, states:

“Table 1 sets out the criteria for determining which settlements have a settlement boundary and those that will not have a boundary. It is proposed that all settlements in Tiers 1, 2 and 3 will have a settlement boundary. Settlements within Tier 4 of the settlement hierarchy will not have a settlement boundary as they are located in open countryside, lack key facilities (school, shop, community facility) and are less sustainable to accommodate growth. However, this does not prohibit housing development such as rural exception sites and community led development which could come forward in these locations in accordance with the proposed Local Plan policies. As a result of this approach there is no need to establish any new settlement boundaries as all villages within Tier 3 already have a boundary.”

The reasoning, as advanced there, is that the settlements are located in the open countryside, which is not correct. All 9 of the affected settlements contain significant amounts of built form – they are surrounded by countryside, but the actual settlements themselves are built up areas. The justification regarding facilities is addressed above. The justification regarding sustainability, in general, is overemphasized. The size of the existing settlement and its proximity to a major town are obvious factors of relevance, and have been completely ignored in the methodology of the draft Local Plan.

Of particular relevance here is paragraph 2.4 of the Settlement Boundary Review. This states:

“The approach corresponds with the methodology applied to revised Local Plan settlement hierarchy. The NPPF does not refer to settlement boundaries but paragraphs 83 and 84 set out guidance on development in rural areas which confirm the importance of locating housing in sustainable locations where it will enhance or maintain the vitality of rural communities and provide the opportunity for villages to grow and thrive. Furthermore planning policies should avoid the development of isolated homes in the countryside.”



The methodology which has been used relies too heavily on the concept of accessibility and not enough on the social aspect of sustainable development. New housing, in rural villages, supports this social limb of sustainable development – new homes can allow for younger people to move out of home and stay in the village where they have grown up; it can allow adults to move to a village to live near/ care for their ageing parents. Small scale limited growth in a village such as Michelmersh would not result in isolated homes in the countryside, and would be consistent with the NPPF's aim to deliver sustainable development and significantly boost housing numbers.

(4) The combined villages of Michelmersh and Timsbury should be included in Tier 3 where windfall development is allowed.

In our response to the Stage 1 Consultation (letter dated 7 April 2022), we pointed out that rural settlements can be considered together where they can easily share facilities, and that this approach was recognized in paragraph 79 of the NPPF, which requires that the Local Plan identifies opportunities for villages like Michelmersh and Timsbury to grow and thrive. We pointed out that Michelmersh and Timsbury had 4 of the 6 key facilities then said to be required for inclusion in Tier 3 (pubs – of which there are two – outdoor sports facility, community hall and places of worship – again, there are two churches). We acknowledged that the settlement lacks a shop and a primary school, but pointed out there is a local shop in Braishfield nearby and primary schools in Braishfield and Awbridge. We also pointed out that Michelmersh is 4.95 km from Romsey railway station, and 3.7 kms from Dunbridge railway station.

To treat Michelmersh and Timsbury as separate entities flies in the face of reality. There is no clear division between the two settlements, and they are administered at a local level as a single parish. Inset map 48 shows the reality very clearly. The combined settlement consists of houses and gardens either on one side or on both sides of 6 roads: Stockbridge Road, New Road, Hill View Road, Haccups Lane, Manor Farm Lane and Rudd Lane. In the way that it has been allowed to develop, the original core villages of Michelmersh (based on its Church at the hill top) and Timsbury (based on its Church in the original settlement by the River Test) have been joined together by ribbon development over many years along the foregoing arteries.

The village hall at the foot of New Road is at the geographical centre of the combined settlement and serves them both.

A key element in the foregoing expansion of the combined settlement has surely been its proximity to the thriving market town of Romsey. From the nearest point of the Timsbury to Romsey town centre is a mere 3.5 kms. From the top of New Road is a mere 5.25 kms. The attractiveness of the settlement as a place to live is enhanced by the fact that a journey of less than 10 minutes brings one from any part of the settlement to the town centre, without (ever) any traffic jams and with ample parking available in the town. Whilst restricting car use may be a desirable objective in principle, it is impossible of attainment in Test Valley because of the absence of any public transport.

Many people now shop extensively online, and all the major supermarkets in the area (including Waitrose, in Romsey, and Sainsbury's in Winchester) organise home deliveries, and there is the ability to select a delivery slot when a vehicle will already be in the local area. Those who live in Michelmersh and Timsbury who wish to shop in person can do so in Romsey where there is a department store, artisanal bakery, family butcher, and numerous supermarkets. It is clear also that many children are already required to travel to school by car, given multiple villages contribute pupils to rural primary schools in selected villages. The lack of a school in an individual village should not be determinative, given the short distance travelled to the nearest facility.



The reality is that Michelmersh and Timsbury is truly to be regarded as a satellite settlement of Romsey. Whilst there is no shop in Michelmersh and Timsbury itself, ample shops are a very short distance away and there are primary schools in Braishfield and Awbridge, as well as Romsey itself.

To focus on the absence of a shop and a school for the purposes of the settlement hierarchy is therefore wrong. Michelmersh has two pubs, a village hall, an outdoor sports field, and two Churches, and is close to a Tier 1 town recognized as one of the largest settlements in the Borough with the widest range and number of facilities. Settlements such as Michelmersh and Timsbury may be less likely to have a local shop, given their close proximity to Romsey. The methodology penalizes them, in effect, for being close enough to a larger town so as not to need a village store.

Michelmersh and Timsbury are thriving communities for whom the absence of a school and a shop has not been an impediment to significant and continuing growth. Michelmersh and Timsbury do provide a sustainable location for additional housing, as the Council itself has recognised in granting permission for the 3 houses at Smallberry Hill as well as other developments in the village.

(5) Settlement Boundary for Michelmersh/ call for sites submission

As set out in our Regulation 18 (Stage 1) submissions, our client's land should be included in the settlement boundary for Michelmersh.

The land in question is identified in Figure 1, below, hatched in blue, in the center of the village. That land is in use as residential garden and has been for some 35+ years. Other residential gardens are included in the boundary, and so too should this parcel of land.

Until 1980, the land was countryside, in use as part of a field called the Gore, lying between the Michelmersh Brickworks and Haccups lane.

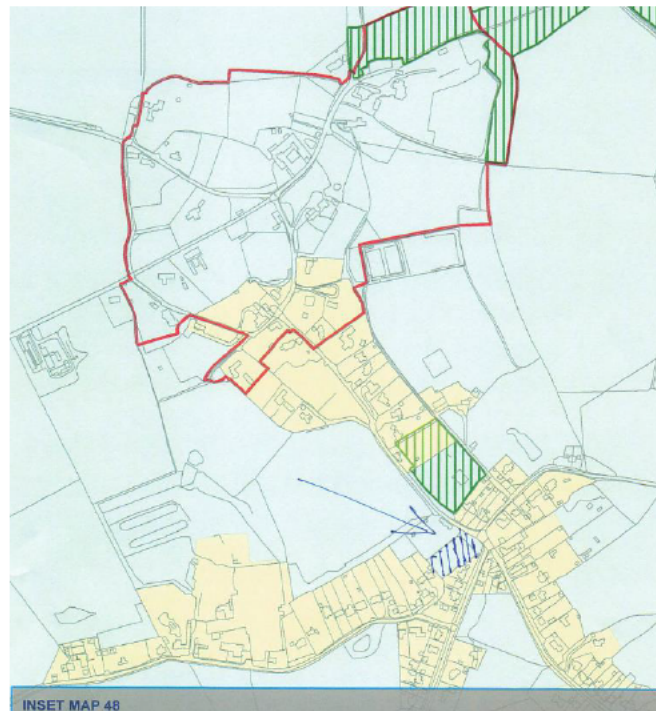


Figure 1 Land which should be included in the settlement boundary (hatched blue)



Figure 2, below, is the plan contained within a conveyance of the land, dated 20 November 1980, when the Church sold The Old Rectory (shown outlined red) along with the parcel of land in question (shown in blue). The adjacent land was clearly open countryside at that time.

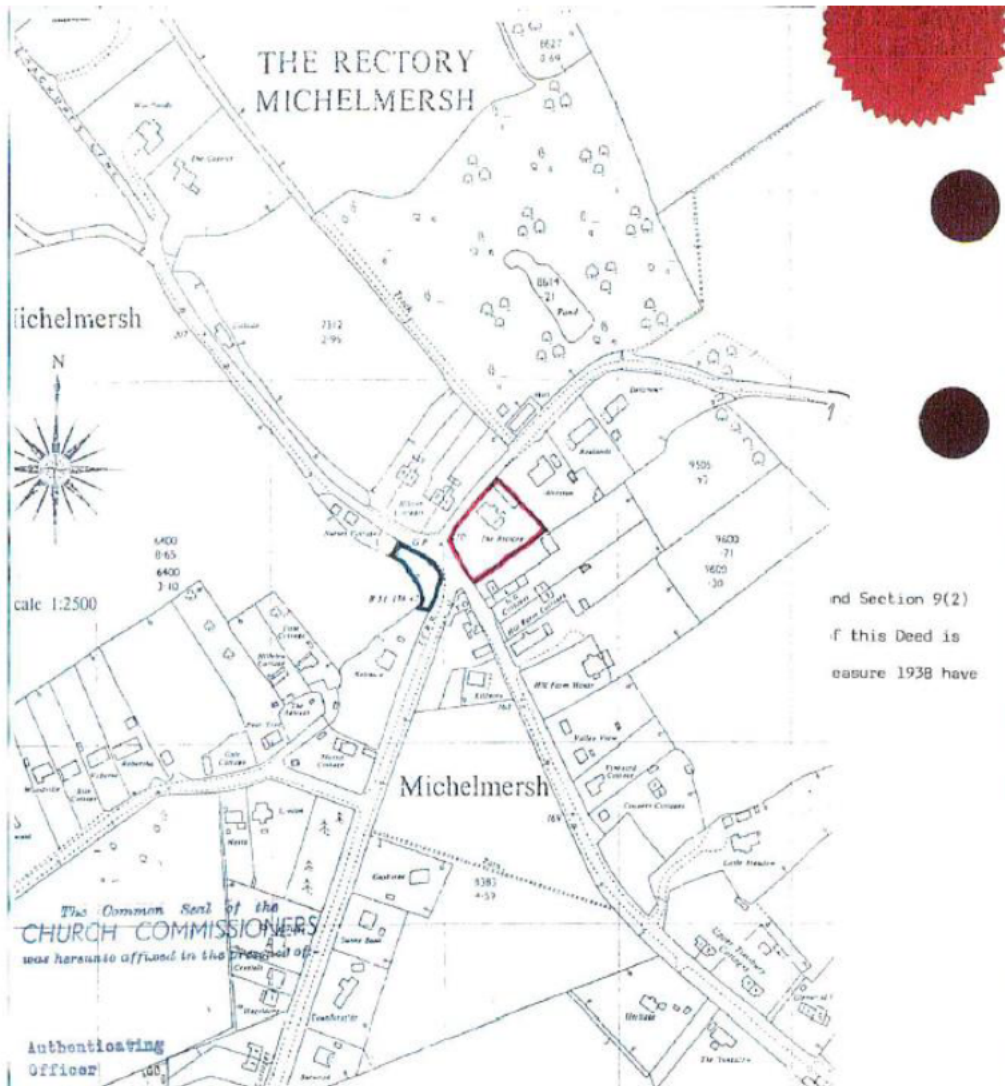


Figure 2 Plan attached to a conveyance of the land in 1980

In 1988, this situation changed, with part of the field being converted to residential garden associated with Nurse's cottage (to the west of our client's land in Figure 3). The land shaded pink and blue (Figure 3) was sold to the owner of the Old Rectory for use as its garden space. Such use continues to date.

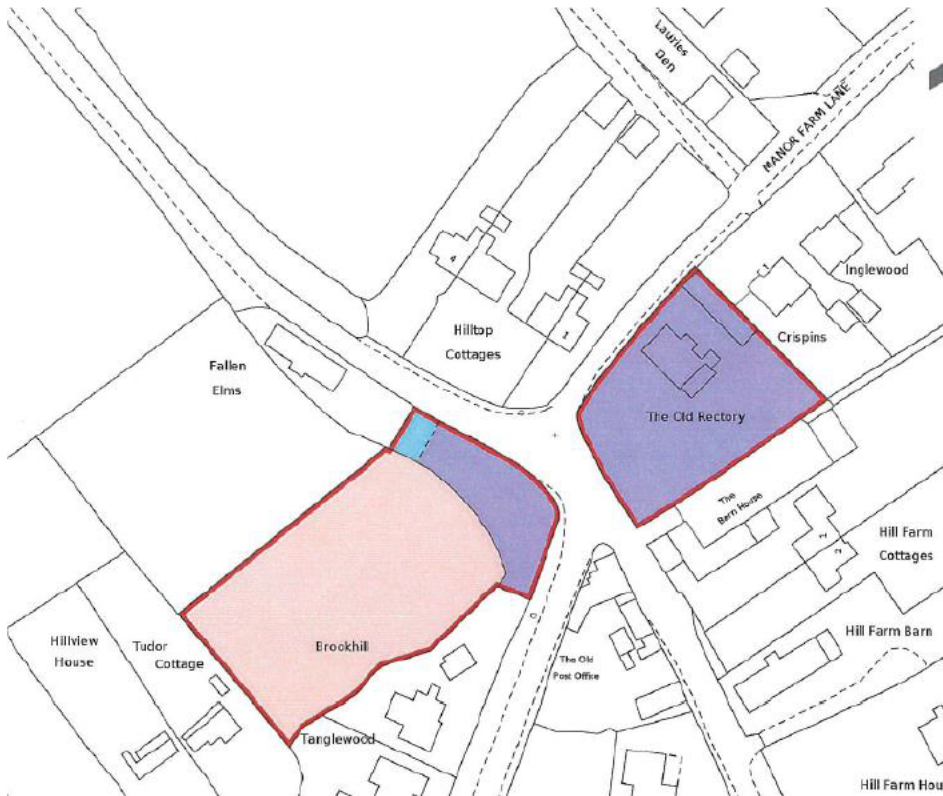


Figure 3 Residential garden land associated with The Old Rectory

It is clear from both the historic aerial images, and the use of the land, that the status was changed from agricultural field to residential garden/ amenity space at least 35 years ago. The land has accommodated children's play equipment, amenity planting, garden shed, fruit trees and wood store. Figure 4 shows the character of the garden land (firstly, our client's land and secondly, the adjacent parcel).



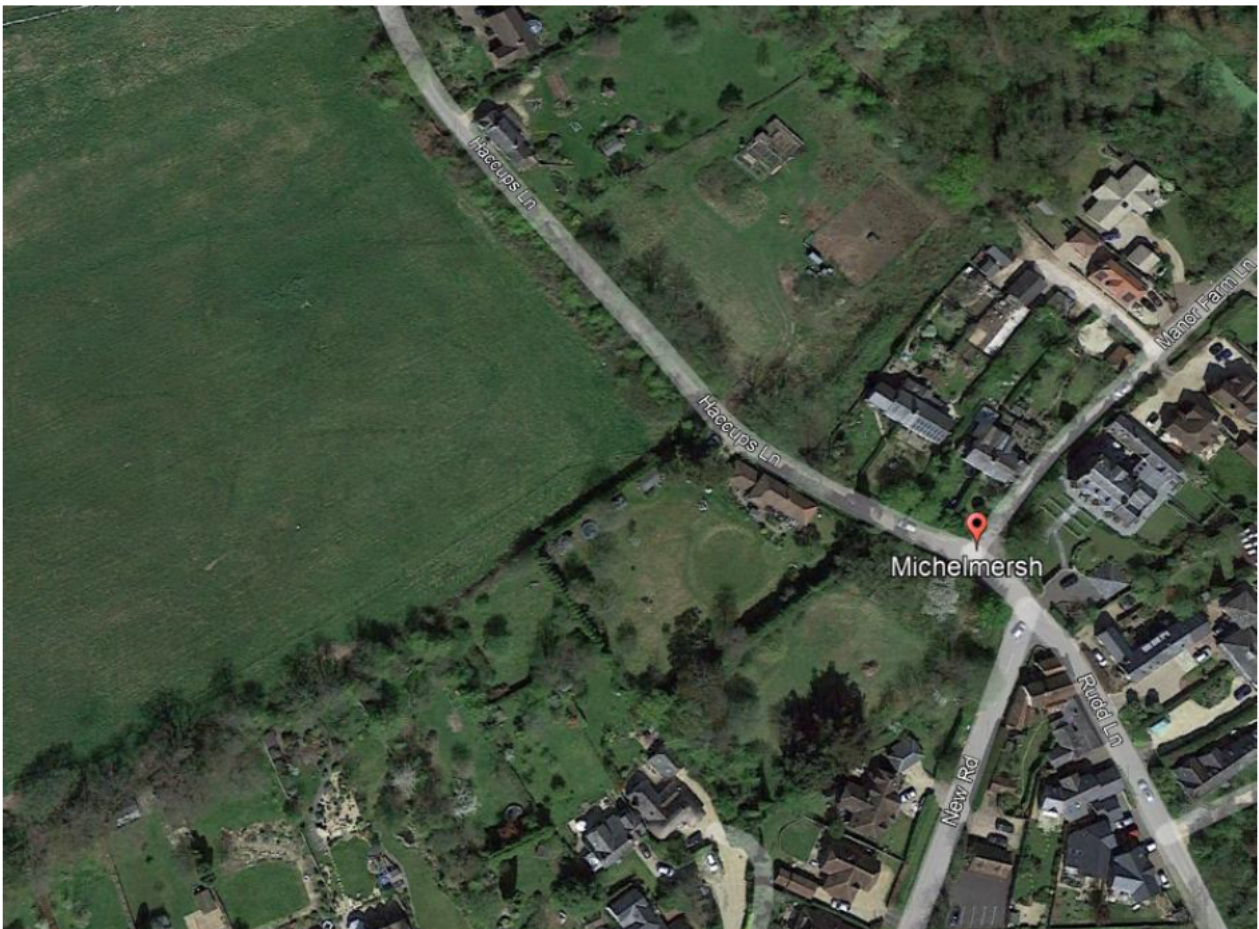


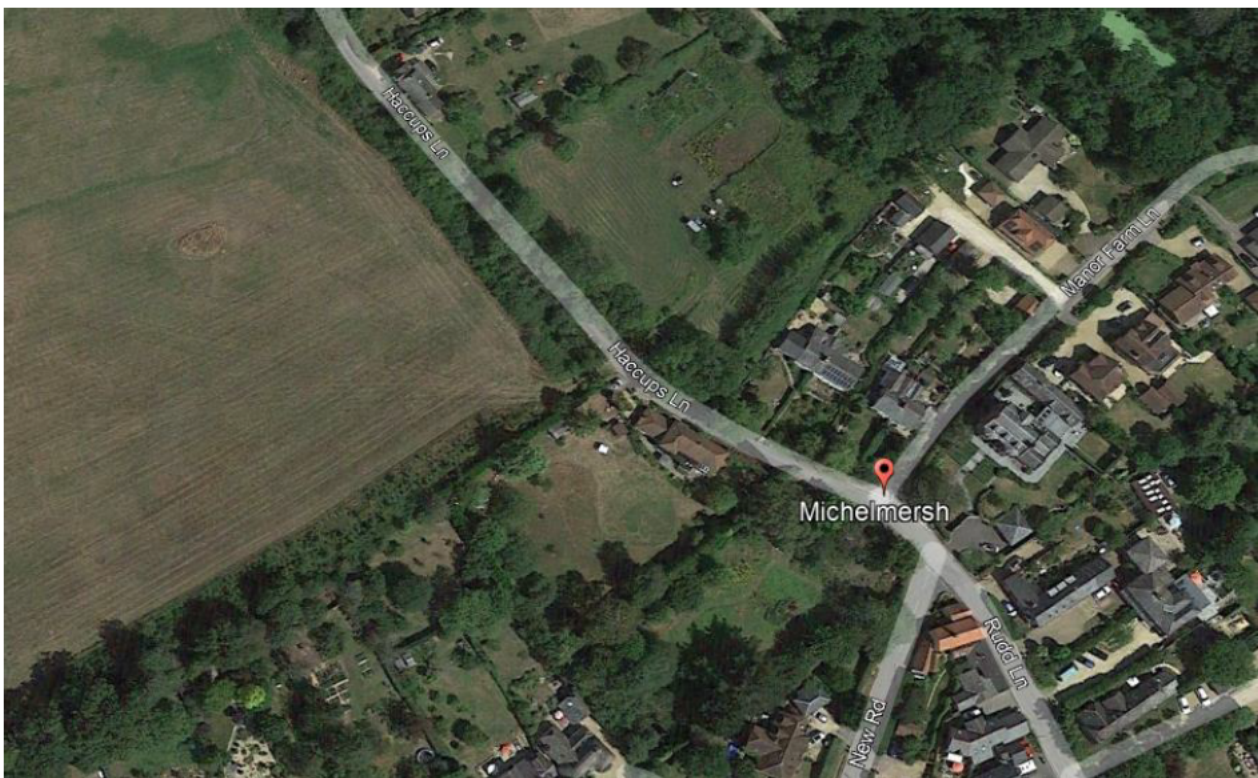
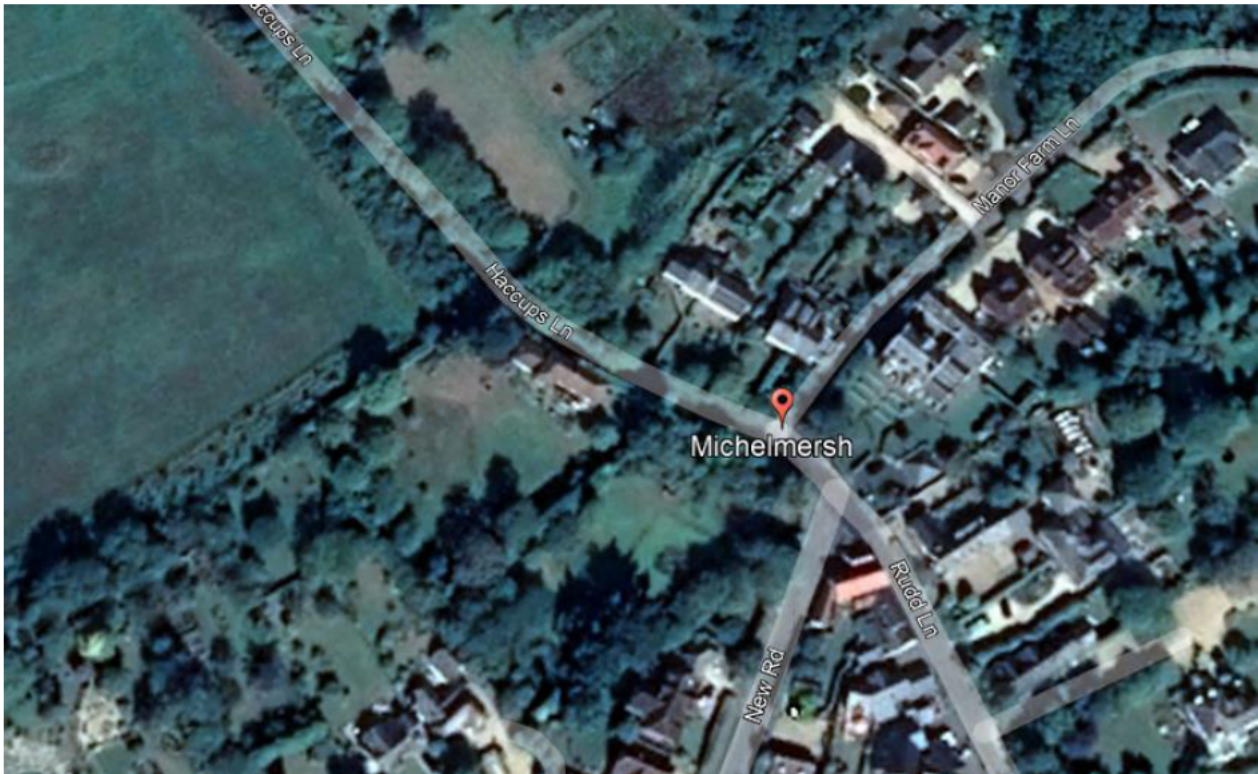
Figure 4 Aerial Photograph of land in use as residential gardens

Google Earth Pro shows the land in 1999, 2005, 2008, 2017, 2019 and 2020 (images provided below). It is clear that the land has been continuously separated from the agricultural fields to the west (by fencing and landscape planting) and has had the character of residential garden. As such, it is appropriate that these sites be included in the settlement boundary, as is the case with all other residential garden land in this part of the village. This land does not have an agricultural status (as it has been in use continuously as garden for a period in excess of 10 years) and has no functional or physical link to the countryside.

The Settlement Boundary Review paper sets out a review of the Michelmersh boundary (pp 134-137) but makes no reference at all to the submissions we made at Regulation 18(Stage 1) regarding the inclusion of this site in the settlement boundary. we therefore provide again the previous submissions made, along with the photographic evidence below.







Conclusions

In summary, our submissions are that:

- 1) The housing requirement (and specifically the rural housing requirement) needs to be increased, to ensure the plan period looks forward 15 years from adoption. Furthermore, it is questionable whether the proposed rural housing supply is 'deliverable' (within the NPPF definition). The plan



should make enhanced provision for small scale development in the rural areas, within existing settlements.

- 2) The methodology for deciding on the settlement hierarchy is wrong in principle and has been inconsistently applied.
- 3) It is wrong in principle to abolish the settlement boundary for the 9 Tier 4 settlements.
- 4) The combined villages of Michelmersh and Timsbury have sufficient facilities and are sufficiently close to the major centre of Romsey for them to be treated in principle as suitable places for further development, provided that such development takes place within the appropriate envelope of the existing settlement. They should be included in a higher tier of the Settlement Hierarchy (Tier 3), where windfall development is allowed.
- 5) There is a plot of garden land in the center of Michelmersh (owned by our clients) which is eminently suitable for development as it lies within the true envelope of the settlement. A Call for Site Submission form accompanies these representations. This site was the subject of representations at Regulation 18 (Stage 1) stage (attached), setting out why it should be included in the boundary but no reference has been made to these in the Council's Settlement Boundary review. The exclusion of this land from the current settlement boundary is a historical anomaly based on a configuration of the land which ceased to exist 36 years ago. It is functionally linked to the settlement, not the countryside; it is a residential garden and so its character is more closely linked to the settlement than to the countryside. Applying the Council's methodology, it should be included in the settlement boundary. Sites such as this, located in the centre of a rural village, provide opportunities for small scale growth and development which allow the settlement to grow and thrive in an appropriate manner.

BELL CORNWELL LLP



Associate

