

Latham, James

From: Turner, Andrew
Sent: 03 May 2016 16:34
To: Neighbourhood Planning Team
Subject: RE: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan consultation

Re: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan

Dear Neighbourhood Planning Team,

My understanding is that the plan does not *'allocate any further sites for development at this stage of the Plan period'* and that the development sites mentioned in section 1.6; *Current Planning Positon* are applications which have been or are currently going through the normal planning process. As such I would advise:

- Given that no other specific sites have been identified in the plan I am unable to provide comment with regard to potential contamination.

- **3.6 NEW USES FOR REDUNDANT RURAL BUILDINGS:**

Some farm buildings may be used for the storage of potentially contaminative substances (oils, herbicides, pesticides) or for the maintenance and repair of vehicles and machinery. As such it is possible that unforeseen contamination may be present on the site. Consideration should be given to the possibility of encountering contamination on the site as a result of its former uses and specialist advice be sought should any be encountered during the development.

General comments:

Developments such as hospitals, homes and schools may be considered 'sensitive' and as such consideration should be given to risk from contamination notwithstanding any comments. Please note that the above does not constitute a detailed investigation or desk study to consider risk from contamination. Should any information about the former uses of the proposed development areas be available I would recommend they be submitted for consideration as they may change the comments provided.

It should be recognised that contamination is a material planning consideration and is referred to within the NPPF. I would recommend applicants and those involved in the parish plan refer to the pertinent parts of the NPPF and be familiar with the requirements and meanings given when considering risk from contamination during development.

Finally it is also worth bearing in mind that the NPPF makes clear that the developer and/or landowner is responsible for securing safe development where a site is affected by contamination.

These comments are provided on the basis that any other developments would be subject to application through the normal planning process.

Kind regards

Andrew

Andrew Turner
Technical Officer (Air, Land and Water Protection),
Environmental Health & Trading Standards,
Economy, Communities and Corporate Directorate



The Coal
Authority



200 Lichfield Lane
Berry Hill
Mansfield
Nottinghamshire
NG18 4RG

Tel: 01623 637 119 (Planning Enquiries)

Email: planningconsultation@coal.gov.uk

Web: www.gov.uk/coalauthority

For the Attention of: Mr J Latham
Herefordshire Council

[By Email: neighbourhoodplanning@herefordshire.gov.uk]

21 April 2016

Dear Mr J Latham

(2) Bartestree with Lugwardine Neighbourhood Development Plan

Thank you for consulting The Coal Authority on the above.

Having reviewed your document, I confirm that we have no specific comments to make on it.

Should you have any future enquiries please contact a member of Planning and Local Authority Liaison at The Coal Authority using the contact details above.

Yours sincerely

Rachael A. Bust *B.Sc.(Hons), MA, M.Sc., LL.M., AMIEnvSci., MInstLM, MRTPI*
Chief Planner / Principal Manager
Planning and Local Authority Liaison

Latham, James

From: Forward Plans <Forward.Plans@dwrcymru.com>
Sent: 03 May 2016 15:12
To: Neighbourhood Planning Team
Subject: RE: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan consultation
Attachments: DCWW consultation response - Bartestree with Lugwardine Consultation Response.pdf

Dear Sir/Madam,

Thank you for allowing Welsh Water the opportunity to respond to the Regulation 16 consultation.

I can confirm that we have no further comment to add over and above our Regulation 14 consultation response in January 2016.

Please find attached a copy of our Regulation 14 consultation for your information. Please let me know if you have any queries or require further information.

Regards,



Ryan Norman

Forward Plans Officer | Developer Services | Dŵr Cymru Welsh Water

Linea | Cardiff | CF3 0LT | T: 0800 917 2652 | Ext: 40719 | www.dwrcymru.com

Have you seen Developer Services new web pages at www.dwrcymru.com? Here you will find information about the services we have available and all of our application forms and guidance notes. You can complete forms on-line and also make payments. If you have a quotation you can pay for this on-line or alternatively by telephoning 0800 917 2652 using a credit/debit card. If you want information on [What's new in Developer Services?](#) please click on this link.

If we've gone the extra mile to provide you with excellent service, let us know. You can nominate an individual or team for a Diolch award through our [website](#)

From: Neighbourhood Planning Team [<mailto:neighbourhoodplanning@herefordshire.gov.uk>]
Sent: 22 March 2016 10:53
Subject: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan consultation

***** External Mail *****

Dear Consultee,

Bartestree with Lugwardine Parish Council have submitted their Regulation 16 Neighbourhood Development Plan (NDP) to Herefordshire Council for consultation.

The plan can be viewed at the following link: <https://www.herefordshire.gov.uk/planning-and-building-control/neighbourhood-planning/neighbourhood-areas-and-plans/bartestree-with-lugwardine-group>

Once adopted, this NDP will become a Statutory Development Plan Document the same as the Core Strategy.

The consultation runs from 22 March 2016 to 3 May 2016.

If you wish to make any comments on this Plan, please do so by e-mailing: neighbourhoodplanning@herefordshire.gov.uk, or sending representations to the address below.



Developer Services
PO Box 3146
Cardiff
CF30 0EH

Tel: +44 (0)800 917 2652
Fax: +44 (0)2920 740472
E.mail: developer.services@dwrcymru.com

Gwasanaethau Datblygu
Blwch Post 3146
Caerdydd
CF30 0EH

Ffôn: +44 (0)800 917 2652
Ffacs: +44 (0)2920 740472
E.bost: developer.services@dwrcymru.com

Mrs Eve Wilson,
1 Rhubina Cottage,
Lower Wilcroft,
Bartestree,
Hereford,
HR1 4BE

Enquiries: Rhys Evans / Ryan Norman
0800 917 2652

18th January 2016

Dear Sir / Madam,

RE: PUBLIC CONSULTATION ON BARTESTREE WITH LUGWARDINE GROUP DRAFT NEIGHBOURHOOD DEVELOPMENT PLAN

I refer to your email dated the 23th November 2015 regarding the above consultation. Dŵr Cymru Welsh Water (DCWW) appreciates the opportunity to respond and we offer the following representation:

Given that the Bartestree with Lugwardine Draft Neighbourhood Development Plan has been prepared in accordance with the Adopted Herefordshire Local Plan Core Strategy, DCWW are supportive of the aims, objectives and policies set out.

As the Neighbourhood Plan does not allocate any new housing sites, and as we have already provided representations to Herefordshire Council for those sites that have obtained planning permission or are pending, we have no further comments to make.

We hope that the above information will assist you as you continue to progress the Neighbourhood Plan. In the meantime, should you require any further information please do not hesitate to contact us at Forward.Plans@dwrcymru.com or via telephone on 0800 917 2652.

Yours sincerely,

Rhys Evans
Lead Forward Plans Officer
Developer Services



Welsh Water is owned by Glas Cymru – a 'not-for-profit' company.
Mae Dŵr Cymru yn eiddo i Glas Cymru – cwmni 'nid-er-elw'.

We welcome correspondence in
Welsh and English

Dŵr Cymru Cyf, a limited company registered in
Wales no. 2366777. Registered office: Pentwyn Road,
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Rydym yn croesawu gohebiaeth yn y
Gymraeg neu yn Saesneg

Dŵr Cymru Cyf, cwmni cyfyngedig wedi'i gofrestru yng
Nghymru rhif 2366777. Swyddfa gofrestredig: Heol
Pentwyn
Nelson, Treharris, Morgannwg Ganol CF46 6LY.

Latham, James

From: Irwin, Graeme <graeme.irwin@environment-agency.gov.uk>
Sent: 03 May 2016 11:18
To: Neighbourhood Planning Team
Subject: RE: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan consultation
Attachments: january 2016_bartestree lugwardine response.pdf

Hi James.

I would have no further comments to provide on this consultation. I have attached a copy of my Reg 14 response for information.

Regards.

Graeme Irwin

Senior Planning Officer - Sustainable Places

Shropshire, Herefordshire, Worcestershire and Gloucestershire
Environment Agency
Direct Dial: 02030 251624
Direct email: graeme.irwin@environment-agency.gov.uk

IMPORTANT: Updated Flood Risk Climate Change allowances for Planning Matters are at... www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances



The climate is changing. Are you?

A support service led by the Environment Agency
www.gov.uk/government/policies/adapting-to-climate-change

From: Neighbourhood Planning Team [mailto:neighbourhoodplanning@herefordshire.gov.uk]
Sent: 22 March 2016 10:53
Subject: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan consultation

Dear Consultee,

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The plan can be viewed at the following link: <https://www.herefordshire.gov.uk/planning-and-building-control/neighbourhood-planning/neighbourhood-areas-and-plans/bartestree-with-lugwardine-group>

Once adopted, this NDP will become a Statutory Development Plan Document the same as the Core Strategy.

The consultation runs from 22 March 2016 to 3 May 2016.

If you wish to make any comments on this Plan, please do so by e-mailing: neighbourhoodplanning@herefordshire.gov.uk, or sending representations to the address below.

Herefordshire Council
Neighbourhood Planning
PO Box 230
Blueschool House
Blueschool Street
Hereford
Herefordshire
HR1 2ZB

Our ref: SV/2010/103979/AP-
38/IS1-L01
Your ref:
Date: 18 January 2016

F.A.O: Mr. J Latham

Dear Sir

BARTESTREE AND LUGWARDINE DRAFT NEIGHBOURHOOD PLAN

I refer to your email of the 23 November 2015 in relation to the above Neighbourhood Plan (NP) consultation. We have reviewed the submitted document and would offer the following comments at this time.

As part of the recently adopted Herefordshire Council Core Strategy updates were made to both the Strategic Flood Risk Assessment (SFRA) and Water Cycle Strategy (WCS). This evidence base ensured that the proposed development in Hereford City, and other strategic sites (Market Towns), was viable and achievable. The updated evidence base did not extend to Rural Parishes at the NP level so it is important that these subsequent plans offer robust confirmation that development is not impacted by flooding and that there is sufficient waste water infrastructure in place to accommodate growth for the duration of the plan period.

The submitted document confirms that no additional sites are currently considered suitable for allocation within the Plan, although reference is made to sites with planning permission and previously supported for development. All sites referenced in the plan (Map B) are located within Flood Zone 1, the low risk Zone. Notwithstanding the above it is important that any forthcoming windfall/infill development sites are located on land at the lowest risk of flooding and will accord with Herefordshire Councils Core Strategy (Policy SD3 – Sustainable Water Management and water Resources).

On the basis of the above we would offer no further bespoke comments at this time. You are advised to utilise the attached Environment Agency guidance and pro-forma which should assist you moving forward with your Plan.

Environment Agency
Hafren House, Welshpool Road, Shelton, Shropshire, Shrewsbury, SY3 8BB.
Customer services line: 03708 506 506
www.gov.uk/environment-agency

Cont/d..

I trust the above is of assistance at this time. Please can you also copy in any future correspondence to my team email address at SHWGPlanning@environment-agency.gov.uk

Yours faithfully

Mr. Graeme Irwin

Senior Planning Advisor

Direct dial: 02030 251624

Direct e-mail: graeme.irwin@environment-agency.gov.uk

End

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**Bartestree with Lugwardine
Neighbourhood Development Plan
Submission Version**



May 2016

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Appendix 3	SoS appeal decision - Land south of Hare Street Road, Buntingford
Appendix 4	Site Location Plan
Appendix 5	Bartestree with Lugwardine Group Parish Council Statement
Appendix 6	Signed Statement of Common Ground

1 EXECUTIVE SUMMARY

1.1 Context

- 1.1.1 These representations provide Gladman Developments Ltd's (Gladman) response to the current consultation held by Herefordshire Council (HC) on the submission version of the Bartestree with Lugwardine Neighbourhood Plan (BLNP) under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012.
- 1.1.2 Through these representations, Gladman seek to clarify the neighbourhood plan requirements contained in national planning policy, guidance and the strategic policies for the wider area. This submission provides an analysis of the neighbourhood plan as currently proposed, highlighting areas in which we feel that the document lacks clarity and lacks justification for the policies that the Plan seeks to adopt.
- 1.1.3 This response follows Gladman's previous representations made in response to the pre-submission version of the BNLNP under Regulation 14 of the Neighbourhood Planning (General) Regulations 2012. Gladman note that the consultation statement supporting the submission version of the plan does not acknowledge those representations and it appears that the representations were either lost or ignored, which amounted to a serious breach of the requirement for statutory consultation in advance of submission. Outstanding objections to the plan therefore remain and have not been resolved.
- 1.1.4 In its current form, Gladman are of the opinion that the neighbourhood plan is fundamentally flawed and inconsistent with the requirements of national planning policy and guidance. It is therefore not appropriate to progress the Plan to examination until these matters are addressed.
- 1.1.5 The Parish Council are aware of Gladman's land interests in Bartestree at land off Longworth Lane. Gladman are actively working to promote the site for residential development and have submitted an outline application to HC for residential development up to 100 dwellings (including a minimum 35% affordable housing), with associated open space, landscaping and a community orchard. This response provides a site submission for the site to be included within the neighbourhood plan.
- 1.1.6 If the Plan is not withdrawn, Gladman expressly request that the Examiner hold a hearing session(s) of the examination of the neighbourhood plan. Due to the unresolved objections relating to the contents of the neighbourhood plan it is considered that a hearing should be held pursuant to paragraph 9(2) of Schedule 4B of the Town and Country Planning Act 1990 to ensure adequate examination and permit Gladman and other individuals a fair chance to put their case.

2 LEGAL REQUIREMENTS, NATIONAL POLICY & JUDGMENTS

2.1 Legal Requirements

2.1.1 Before a neighbourhood plan can proceed to referendum it must be tested against the basic conditions set out in paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended). The basic conditions that the BLNP must meet are as follows:

- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order.
- d) The making of the order contributes to the achievement of sustainable development.
- e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
- f) The making of the order does not breach, and is otherwise compatible with, EU obligations.

2.2 National Planning Policy Framework

2.2.1 The National Planning Policy Framework (the Framework) sets out the Government's planning policies for England and how these are expected to be applied. In doing so it sets out the requirements for the preparation of neighbourhood plans to be in conformity with the strategic priorities for the wider area set out in DPD policies and the role which they play in delivering sustainable development to meet identified development needs.

2.2.2 At the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread through both plan-making and decision-taking. For plan-making this means that plan makers should positively seek opportunities to meet the development needs of their area and Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change. This requirement is also applicable to neighbourhood plans.

2.2.3 The application of the presumption in favour of sustainable development will have implications for how communities engage with neighbourhood planning. Paragraph 16 of the Framework makes clear that Qualifying Bodies preparing neighbourhood plans should develop plans that support strategic development needs set out in Local Plans, including policies for housing development and plan positively to support local development.

2.2.4 Paragraph 17 further makes clear that neighbourhood plans should set out a clear and positive vision for the future of the area and policies contained in those plans and should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. Neighbourhood Plans should seek to proactively drive and support sustainable economic development to deliver the homes, jobs and thriving local places that the country needs, whilst responding positively to the wider opportunities for growth.

- 2.2.5 Paragraph 49 of the Framework is clear that *'relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites'*. This applies not only to statutory Development Plan documents but is also applicable to both emerging and 'made' neighbourhood plans. This has also been confirmed in the High Court (see section 2.4).
- 2.2.6 Paragraph 184 of the Framework states that neighbourhood plans must be in general conformity with the strategic policies of the Local Plan (basic condition (e)) and should seek to positively support them. Crucially paragraph 184 concludes that neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies.

2.3 Planning Practice Guidance

- 2.3.1 It is clear from the above that neighbourhood plans should be prepared in conformity with the strategic requirements for the wider area as confirmed in an adopted Development Plan.
- 2.3.2 On 11th February 2016, the Secretary of State published a series of updates to the Planning Practice Guidance (PPG) for neighbourhood plans. The following paragraphs are of particular importance and are relevant to this submission.
- 2.3.3 Paragraph 040 of the PPG¹ states that *'Neighbourhood Plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.'*
- 2.3.4 Further guidance is also provided by paragraph 082 of the PPG² on how planning applications should be determined where there is an emerging neighbourhood plan but the local planning authority are unable to demonstrate a five year supply. This states that:

'Where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, decision makers may still give weight to relevant policies in the emerging neighbourhood plan, even though these policies should not be considered up-to-date.'

Paragraph 216 of the National Planning Policy Framework sets out the weight that may be given to relevant policies in emerging plans in decision taking.

Further assistance to decision makers in these circumstances can be found in guidance on the relationship between a neighbourhood plan and a local plan.

Documentation produced in support of or in response to emerging neighbourhood plans, such as basic conditions statements, consultation statements, representations made during the pre-examination

¹ PPG Paragraph 040, Reference ID 41-040-20160211

² PPG Paragraph 082, Reference ID: 41-082-20160211

publicity period and independent examiners' reports, may also be of assistance to decision makers in their deliberations."

Planning Practice Guidance also addresses the question of prematurity in relation to neighbourhood plans.

2.3.5 Therefore robust evidence such as basic condition statements, consultation statements and representations made during the pre-examination publicity period may be of assistance to decision makers in their deliberations. Gladman previously responded to the consultation on the pre-submission version, the consultation statement supporting the plan fails to acknowledge these representations and it now appears that this was not taken into account.

2.3.6 The PPG sets out at paragraph 048³ what bodies should be involved in the preparation a draft neighbourhood plan and states that:

'A qualifying body must consult any of the consultation bodies whose interest it considers may be affected by the draft neighbourhood plan or Order proposal. The consultation bodies are set out in Schedule 1 to the Neighbourhood Planning (General) Regulations 2012 (as amended). Other public bodies, landowners and the development industry should be involved in preparing a draft neighbourhood plan or Order. By doing this qualifying bodies will be better placed to produce plans that provide for sustainable development which benefits the local community whilst avoiding placing unrealistic pressures on the cost and deliverability of that development.'

2.3.7 The above statement demonstrates the importance of including both landowners and members of the development industry in the preparation and drafting of a neighbourhood plan. Prior to the Regulation 16 consultation Gladman have not been invited directly to take part in the preparation of the neighbourhood plan. Despite the Parish Council's assertion that Gladman have not responded to the Regulation 14 consultation through their Statement for the upcoming Planning Inquiry, Gladman, on the contrary, have actively sought to engage in the plan preparation process as demonstrated by Appendix 1 (Representations to Regulation 14) and Appendix 2 (Cover email for the representations to Regulation 14 consultation).

2.3.8 Paragraph 007⁴ of the PPG advises on what weight can be attached to an emerging neighbourhood plan when determining planning applications and states that:

*Planning applications are decided in accordance with the development plan, unless material considerations indicate otherwise. An emerging neighbourhood plan may be a material consideration. Paragraph 216 of the National Planning Policy Framework sets out the weight that may be given to relevant policies in emerging plans in decision taking. Factors to consider include the stage of preparation of the plan and the extent to which there are **unresolved objections** to relevant policies. Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan*

³ Reference ID: 41-048-20140306

⁴ Reference ID: 41-007-20140306

*comes into force, decision makers should respect evidence of local support prior to the referendum when seeking to apply weight to an emerging neighbourhood plan. The consultation statement submitted with the draft neighbourhood plan should reveal **the quality and effectiveness of the consultation that has informed the plan proposals**. And all representations on the proposals should have been submitted to the local planning authority by the close of the local planning authority's publicity period. It is for the decision maker in each case to determine what is a material consideration and what weight to give to it.*

- 2.3.9 HC is unable to demonstrate a 5 year housing land supply, and as such any relevant policies to the supply of housing in the BLNP together with the housing policies contained in the adopted Core Strategy are out of date. The PPG advises that weight may still be attached to relevant policies for the supply of housing in the emerging neighbourhood plan, but this is strictly subject to the provisions of §216 of the Framework. As detailed throughout this response there remain unresolved objections that have not been addressed by the qualifying body. Owing to the state of preparation and existing unresolved objections, it is considered that extremely limited weight can be given to the neighbourhood plan. The recent SoS decision issued on 3rd March 2016 at land south of Hare Street Road, Buntingford (Appeal Reference: APP/J1915/A/14/2220854 & APP/J1915/A/14/2220859) (Appendix 3) states that:

The Buntingford Neighbourhood Plan (NP) is at an early stage, being yet to be submitted to East Hertfordshire District Council for publicity and independent review by an Examiner. The appeal site abuts but is outside the settlement boundary in the emerging NP and is not allocated for development. The appeal proposal therefore conflicts with the emerging NP. However, the Guidance advises that refusal of planning permission on grounds of prematurity will seldom be justified in the case of an NP before the end of the local planning authority publicity period. As the NP is still at an early stage in preparation, is subject to unresolved objections to relevant policies and may be found at examination to require modification, and because of the matter of housing land supply considered below, the Secretary of State gives little weight to the emerging NP'.

- 2.3.10 In summary, the PPG identifies a number of component parts of the evidence base that are required to support an emerging neighbourhood plan, such as:

- The latest and up-to-date evidence on housing need;
- Evidence supporting a Local Plan;
- Representations submitted in response to the preparation of the neighbourhood plan;
- Indicative delivery timetables;
- The allocation of reserve sites

- 2.3.11 At no point does the BLNP consider the need to allocate additional housing land or reserve sites to meet identified housing needs. The Council's Strategic Housing Land Availability Assessment (SHLAA) Rural Report, November 2015 found no suitable sites in Bartestree/Lugwardine and therefore the Neighbourhood Plan needs to identify additional suitable sites. The Parish Council will need to carry out its own 'call for sites' or allocate Gladman's site at Longworth which is considered

available, suitable and achievable. In this regard, it should also be noted that the Council's 2009 SHLAA considered land off Longworth Lane and identified that the constraint to development is that the site forms part of Hagley Court historic park and garden. There were no other technical objections identified restricting the site from coming forward for housing development.

2.3.12 To ensure consistency with the requirements of the Framework it is considered that the plan is inconsistent with the provisions required by Schedule 4b of the Town and Country Planning Act. The neighbourhood plan should be withdrawn subject to a further round of consultation following the necessary amendments to the plan that are required before it is submitted to HC for examination. The Plan will need to ensure that it provides appropriate mechanisms to address situations of under supply or it may be superseded by the provisions of s38(5) of the Planning and Compulsory Purchase Act 2004, which states:

“If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published (as the case may be).”

2.4 High Court Judgments

Woodcock Judgment

2.4.1 The Woodcock High Court judgment⁵ demonstrates the implications for progressing a neighbourhood plan where there is no local plan in place or a five year housing land supply. In summary, this High Court judgment demonstrates the following key points:

- That §14 and §49 of the Framework in regard to five year housing land supply and the weight to be given to extant housing land supply policies applies equally to both emerging and 'made' neighbourhood plans as other development plan documents otherwise adopted and/or emerging by the local planning authority.
- There is nothing in policy or statute that elevates neighbourhood planning to a level above the wider development plan that enables special consideration.
- Neighbourhood plans must respect national policy and the core planning principles outlined within the Framework.
- Prematurity must be assessed against the whole of the requirements of the PPG. In neighbourhood planning, there is no requirement for planning bodies to produce an objective assessment of housing needs, as there is no requirement to consider the effectiveness or justification of a plan.

⁵ Woodcock Holdings Ltd vs the SoSCLG and Mid-Sussex District Council [2015]

Crownhall Judgment

- 2.4.2 On 21st January 2016, Holgate J handed down a judgment⁶ and summarises the respective legislation at §12-28 and the relevant principles for the progression of neighbourhood plans at §29.
- 2.4.3 The Crownhall judgment was not subject to a further appeal to the Court of Appeal and therefore represents the most recent judgment of the High Court on neighbourhood planning. However, this judgment does not mark the endpoint of national policy development in this area, nor is it a definitive constraint on the exercise undertaken by a Neighbourhood Plan Examiner.
- 2.4.4 On 11th February 2016, the Secretary of State published a number of updates to the PPG as highlighted in section 2.3 of these representations. In particular, the changes to the PPG stress the importance of consideration of the need for reserve sites for housing, and indicative delivery timetables to ensure that emerging evidence of housing needs is addressed to help minimise any potential conflicts that can arise and are not overridden by a new Local Plan. In these circumstances, we refer to the Herefordshire Site Allocations DPD.
- 2.4.5 The PPG was drafted following the judgment in Crownhall and therefore remains a material consideration for the purposes of basic condition 8(2)(a) and for assessment against basic conditions 8(2)(d) and (e).

DLA Delivery Judgment

- 2.4.6 Foskett J handed down judgment⁷ and dismissed the challenge in August 2015.
- 2.4.7 However, Lord Justice Lindblom has since granted DLA Delivery permission to the Court of Appeal on all grounds, including that a neighbourhood plan should not determine the level and allocations in an area before an up-to-date Framework compliant local plan has been adopted.
- 2.4.8 Despite having a post-Framework Core Strategy, the Council is required to deliver a minimum housing target and is currently unable to demonstrate a robust 5 year housing land supply.

2.5 Significantly boosting the supply of housing and the presumption in favour of sustainable development

- 2.5.1 The BLNP should be aspirational and growth orientated in line with the key objectives of national planning policy, especially the requirement under §47 of the Framework which seeks to significantly boost the supply of housing.
- 2.5.2 The recent Secretary of State appeal decision in Ringmer, East Sussex⁸ for a residential development of up to 110 dwellings has been granted planning permission on a site which is allocated within a

⁶ R(Crownhall Estates Limited) v Chichester District Council [2016] EWHC 73 (Admin)

⁷ R(DLA Delivery) v Lewes DC [2015] EWHC 2311 (Admin)

⁸ Land to the North of Bishops Lane, Ringmer (Appeal Reference: APP/P1425/W/14/3001077) – 5th January 2016.

draft neighbourhood plan but which would result in a development of a greater scale than that envisaged by the draft neighbourhood plan.

2.5.3 In this case, the Secretary of State identifies that although the proposed development would conflict with the emerging neighbourhood plan in terms of the quantity of housing proposed on the site, it would not represent a substantial uplift over the minimum proposed in the neighbourhood plan. The Secretary of State also agreed with the Inspector that there is no evidence that the delivery of the site would give rise to any substantive harm or that the proposed development is so substantial that to grant planning permission would prejudice the neighbourhood plan-making process by determining decisions about the scale, location and phasing of new residential development.

2.5.4 The recent decision of the Secretary of State for a residential development of 18 dwellings in St Just in Roseland, Truro⁹ shares the Inspector's view that policies relating to the supply of housing contained within the Roseland Neighbourhood Development Plan (RNDP) provide little certainty that the relevant housing policies contained within the RNDP would deliver sufficient housing to meet the needs of the area over the period of the plan. Having applied paragraph 49 of the Framework the Secretary of State attributes little weight to the relevant housing policies of the RNDP as the Local Planning Authority are unable to demonstrate a deliverable five year housing land supply.

2.5.5 The Inspector's decision states that:

"Housing supply policies in Neighbourhood Plans are not exempted from the effect of paragraph 49 and the presumption in favour of paragraph 14 of the Framework. ... The RNDP does not seek to quantify the housing needs of the area or allocate specific sites to meet that need. Consequently, the policies of the plan are not formulated on the basis of understanding the OAN for the housing market area or the specific housing needs of the Roseland, in numerical terms. In the absence of an understanding of the needs of the area, it is not possible to demonstrate a five-year supply of housing sites. ... Relevant policies for the supply of housing within the RNDP cannot be considered up-to-date."

2.5.6 The Woodcock High Court judgment demonstrates the implications of progressing a Neighbourhood Plan where there is no Local Plan in place, nor a 5 year housing land supply. This judgment is further supported by the recent PPG updates which confirms that Paragraph 49 applies to policies in the statutory development plan documents which have been adopted or approved in relation to local planning authority area. It also applies to policies in 'made' neighbourhood plans.

2.5.7 Given the above and the fact that the Council are unable to demonstrate a 5 year housing land supply then those housing policies contained within the BLNP will, together with the housing policies contained in the Development Plan, be found out of date before the plan is even adopted.

⁹ St Just in Roseland, Truro (Appeal Reference: APP/D0840/W/15/3003036) – 3rd February 2016

- 2.5.8 In line with paragraph 49 of the Framework, the relevant policies for the supply of housing should not be considered up-to-date and the presumption in favour of sustainable development as per paragraph 14 of the Framework will be engaged.

3 DEVELOPMENT PLAN

3.1 Herefordshire Local Plan Core Strategy

3.1.1 The relevant Development Plan for Herefordshire is the Herefordshire Local Plan Core Strategy adopted on 29th September 2015. This Plan provides the overarching strategic priorities for the County covering the period 2011 to 2031. The Council adopted the Core Strategy on 16th October 2015.

3.1.2 Gladman reiterate the comments made in response to the pre-submission version of the BLNP. Policies relevant to the neighbourhood plan include the following:

3.1.3 Policy SS2- Delivering New Homes establishes that the Council will identify a supply of deliverable and developable land and to secure the delivery of a minimum 16,500 new homes in Herefordshire to 2031 to meet identified market and affordable housing need. This policy sets out that the broad distribution of new dwellings in the County, including a minimum of 5,300 dwellings in the rural settlements, which includes Bartestree, is required.

3.1.4 The use of minimum housing targets have previously been considered in Examiner’s Reports for “made” Neighbourhood Plans. An Examiner’s Report for the Slaugham Neighbourhood Plan¹⁰ in Mid Sussex stated that *“given that the strategic objective of the plan refers to “at least 130”, I assume it to be a minimum. If it were to be a maximum this would not allow for the flexibility the Framework seeks in responding to changing conditions.”* Bartestree with Lugwardine NP should therefore take a similar approach and set out clearly that 152 dwellings is a minimum housing target for the parish of Bartestree and Lugwardine.

3.1.1 Policy SS3 – Ensuring sufficient Housing Land Delivery sets out the stepped minimum housing targets over the plan period. The stepped target is for 600 dpa for the first five years of the plan (2011-2016), 850 dpa for years 6-10 (2016-2021), 900 dpa for years 11-15 (2021-2026) and 950 dpa for years 16-20 (2026-2031).

3.1.2 Policy SS3 sets out the mechanisms that the Council will adopt where monitoring demonstrates that the number of new dwelling completions is below the cumulative target figure over a 12 month period (1 April to 31 March). The mechanisms identified in the policy include:

- A partial review of the Local Plan – Core Strategy; or
- The preparation of new Development Plan Documents; or
- The preparation of an interim position statement and utilising evidence from the Strategic Housing Land Availability Assessment to identify additional housing land.

¹⁰ http://www.midsussex.gov.uk/media/SlaughamParishNeighbourhoodPlan_Examiners_Report_Final.pdf

- 3.1.1 Policy RA1 – Rural Housing Distribution states that in Herefordshire’s rural areas a minimum of 5,300 new dwellings will be provided between 2011 and 2031 to contribute to the county’s housing needs and that the development of rural housing will contribute towards the wider regeneration of the rural economy.
- 3.1.2 New dwellings will be broadly distributed across the county’s rural areas on the basis of seven Housing Markets Areas (HMA). Bartestree is located in the Hereford HMA, which includes an indicative housing target of 1870 dwellings for the period 2011 – 2031. This equates to 18% of housing growth for Policy RA1, the highest percentage out of the seven HMAs.
- 3.1.3 This policy requires residential development to be located within or adjacent to the main built up area of the settlement and recognises that housing affordability is a significant issue in rural Herefordshire.
- 3.1.4 Policy RA2 – Housing in settlements outside Hereford and the market towns seeks to maintain and strengthen locally sustainable communities across the rural parts of Herefordshire. Sustainable housing growth will be supported in or adjacent to those settlements identified by the Council including Bartestree. This will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the communities concerned.
- 3.1.5 This policy provides criteria for where housing proposals will be permitted with regard to design and layout reflecting the size, role and function of each settlement, best and full use of suitable brownfield sites where possible, sustainable schemes making a positive contribution to the surrounding environment and its landscape setting and that the housing mix reflects local demand.
- 3.1.6 It is considered that the Neighbourhood Plan as proposed is inflexible and has been based upon a restrictive approach to growth in the neighbourhood area. This is contrary to the whole ethos of the National Planning Policy Framework (NPPF/the Framework) and the presumption in favour of sustainable development.
- 3.1.7 Both the Framework, paragraph 16 and 184 and the PPG, Neighbourhood Planning 070, require that the Neighbourhood Plan must be in conformity with the strategic policies in the development plan for the local authority area. Gladman maintain that the correct construction of those paragraphs within the Framework and PPG is that those local plan policies referred to therein must be extant and up-to-date, following successful examination of an NPPF-era Local Plan. The policies set out within the NP do not conform to what has been provided in the adopted Herefordshire Local Plan Core Strategy (LPCS). In particular, the NP seeks to impose a constraint on housing development in the village; contrary to the minimum requirement set out in the Local Plan Core Strategy. The Bartestree with Lugwardine Neighbourhood Plan should therefore be found inconsistent with basic condition (e).

4 BARTESTREE WITH LUGWARDINE NEIGHBOURHOOD PLAN

4.1 Context

4.1.1 These representations are made in response to the current consultation on the submission version of the BLNP, under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012. This chapter of the submission highlights the key points that Gladman would like to raise with regard to the content of the Plan as currently proposed.

4.1.2 Gladman question the way in which the plan has progressed following the pre-submission consultation which ended on 18th January 2016. The BLNP remains the subject of significant unresolved objections from the Regulation 14 consultation stage that were submitted by Gladman. Importantly, whilst issues were raised to the content of the pre-submission version of the plan, these have not been acknowledged by the Parish Council. This is confirmed in both the Consultation Statement and the Parish Council's Proof of Evidence to the upcoming public inquiry. As such, significant outstanding objections to the neighbourhood plan remain. Accordingly, it is not appropriate to progress the neighbourhood plan to examination until the neighbourhood plan is withdrawn and these issues are addressed.

4.2 The suitability of Bartestree with Lugwardine Neighbourhood Plan area to support growth

4.2.1 Bartestree is a long established village located in Herefordshire. As set out in the recently adopted Local Plan Core Strategy, Bartestree is expected to deliver new housing in conjunction with the adjacent settlement of Lugwardine over the plan period to contribute to the authority's housing needs.

4.2.2 The Bartestree with Lugwardine Neighbourhood Area includes a range of services, shops and community facilities capable of supporting additional residential growth. These include Lugwardine Primary Academy, Bartestree Stores (food & convenience store), Bartestree village hall and playing fields, St Mary's Secondary School, St Peter Lugwardine Church, Crown and Anchor Bar and Restaurant, The Gateway Centre Children's Nursery, The Hair Salon and St Michael's Hospice.

4.2.3 The villages of Bartestree and Lugwardine are sustainably located with Bartestree located approximately 2.5km east of Hereford. The closest bus stop to the site is located approximately 255m from the centre of the site and the journey time to Hereford for this service is approximately 15 minutes and approximately 25 minutes to Ledbury. The proximity of the settlement to Hereford therefore provides convenient and appropriate access to a wide range of shops, services, community facilities and employment opportunities that the city has to offer.

4.2.4 In light of the above, it is considered that Bartestree provides a sustainable location capable of accommodating future housing growth to meet identified housing needs.

4.3 Local Housing Requirement

- 4.3.1 In addition to the comments raised in section 2.3, new housing is often required to ensure that existing population levels are maintained. To illustrate this point, taking account of the demographics of the Bartestree and Lugwardine neighbourhood area between the last two Census periods reveals a decreasing household size.
- 4.3.2 In 2001 Census, the total population of Bartestree and Lugwardine was approximately 1,921 and the total number of dwellings was 725, this equates to an average household size of 2.64. As of the 2011 Census, the population of the neighbourhood area has increased to 2,051 residents across 832 households, resulting in a decline in the average household size to 2.45.
- 4.3.3 Put another way, in order to maintain the existing population levels and services available to residents within the neighbourhood area, whilst allowing for a decline in household sizes, will therefore require an increase to the total housing numbers for the area. Whilst this is an illustrative measure this has been based on statistics contained in both Census data and the evidence supporting the neighbourhood plan.

4.4 Consultation

- 4.4.1 The principles of fair consultation proceedings have been set out for many years and recently confirmed by the Supreme Court in *R(Moseley) v LB Haringey* [2014] UKSC 56. In this instance, the Supreme Court endorses the Sedley principles which state that in order for a consultation to be fair, a public body must ensure:
1. That the consultation must be at a time when proposals are still at a formative stage;
 2. That the proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response;
 3. That adequate time is given for consideration and response; and
 4. That the product of consultation is conscientiously taken into account when finalising the decision.
- 4.4.2 The fourth Sedley requirement is pertinent to this current consultation as the supporting consultation statement does not make any reference to Gladman's submission. At present, it is unclear whether Gladman's response to the Regulation 14 consultation was lost or has been deliberately ignored. In any event these representations have not been taken into account. This was a fundamental breach of the fourth Sedley requirement set above (as followed in *R(Silus Investments SA) v LB Hounslow* [2015] EWHC 358 (Admin), [57]) and a breach of the PPG requirements under 41-047, 41-048 and 41-080 which collectively make clear that all representations must be taken into account.
- 4.4.3 In light of the unexplained nature of this breach, we seek a full explanation from the Parish Council within 7 days of how this error occurred, and reserve our position accordingly.

4.5 Vision and Core Objectives

Vision

- 4.5.1 Gladman do not consider the Plan's vision to be an appropriate basis for meeting housing needs over the plan period. Instead, the BLNP's vision seeks to maintain the status quo to the benefit of existing residents without due regard to the housing needs of future generations. From the outset the neighbourhood plan states *'In 2031 the group parish of Bartestree with Lugwardine will continue to be a pleasant place to live and look quite similar to the way that it does today.'*
- 4.5.2 The vision identifies that housing development will be provided through a mix of housing development that has not been borne from effective plan led allocations but via existing committed sites at appeal. Whilst the vision correctly identifies the housing target for the neighbourhood area as a minimum, the policies and objectives of the plan will act to prevent further residential growth contrary to the requirements of both local and national planning policy.
- 4.5.3 The vision further states that *'settlement boundaries have been re-drawn to control residential development outside the core of each settlement, to preserve the historic separation of the settlements, green spaces and landscape views and the semi-rural nature of the village.'* It is acknowledged that the vision correctly identifies that at the heart of national policy is a presumption in favour of sustainable development. Although the plan should refer to the three dimensions of sustainable development, the Framework makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development, a neighbourhood plan basic conditions. Therefore, policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Core Objectives

- 4.5.4 In principle Gladman support objectives 1 and 3 of the Plan which seek to *'promote sustainable development and accommodate at least 152 new properties'* and *'provide housing which meets the needs of the diverse and growing community'*. However, we would question how objective 1 will be properly interpreted and what is meant by *'appropriate to the character of the village and its countryside setting.'*
- 4.5.5 Notwithstanding the comments made in support of the Plan's objectives the policies proposed throughout the Plan seek to constrain the ability of future sustainable growth to be delivered. We therefore question how the Council will *'maintain and develop existing local leisure facilities and amenities in tandem with any new housing development'*. Objective 10 is also significantly flawed and sets out to *'maintain the character and surroundings of all heritage assets and preserve historic parklands.'* This is not consistent with the Framework and is therefore inconsistent with basic conditions (a) and (d).

4.6 Bartestree with Lugwardine Plan Policies

4.6.1 This section of the representations is structured around the neighbourhood plan's policies as currently proposed and will demonstrate how the BLNP does not conform to the provisions set out by national planning policy, practice guidance and the neighbourhood plan basic conditions.

4.6.2 It is inappropriate to progress the plan to examination until the unresolved objections to the plan have been fully addressed.

Policy BL1: Housing Design Criteria

4.6.3 This policy states that good design and the maximum possible reduction in carbon footprint will be sought by the criteria attached to this policy.

4.6.4 Whilst we support the principle of reducing the carbon footprint of the neighbourhood area, it is not the place of the BLNP to seek energy efficient standards. Instead, the BLNP should refer to those standards included in Policy SD1 of the adopted Core Strategy.

4.6.5 With regards to criteria III it is not clear what is meant by '*making generous and proportionate provision for open green spaces*' or how a decision maker is expected to apply this policy consistently. The Plan should instead refer to the current and the most up-to-date open space standards utilised by Herefordshire Council.

4.6.6 Criteria VIII states that development should assist '*offsite measures such as supporting infrastructure to promote sustainable travel and enabling a sustainable drainage system to serve a wider range of properties.*' This element of the policy is inconsistent with the requirements established by S204 of the Framework. Development proposals are only required to mitigate the adverse impact of development, they are not required to contribute to desirable infrastructure.

Policy BL4: Settlement Boundaries

4.6.7 The above policy seeks to implement a settlement boundary and states that '*the settlement boundaries are retained and extended to include sites where planning permission has been granted for housing development*'.

4.6.8 Gladman object to the inclusion of a settlement boundary which will act to contain the physical growth of the settlement with no regard to the housing needs of the wider area. This approach does not accord with the ethos of the Framework and the presumption in favour of sustainable development nor is it consistent with the Government's national growth imperative which seeks to significantly boost the supply of housing.

4.6.9 Gladman reiterate the comments made to the pre-submission version of the plan and submit that Policy BL4 should be deleted as it is inconsistent with basic conditions (a), (d) and (e) and replaced with the following wording:

'When considering development proposals, the Parish Council should take a positive approach to new development that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Development adjacent to the existing settlement should be permitted provided that the adverse impacts do not significantly and demonstrably outweigh the benefits of development.'

Policy BL5: Housing in the Countryside

- 4.6.10 Outside the settlement boundary development will be limited to replacement dwellings, householder extensions and exception sites to meet local housing needs.
- 4.6.11 This policy is not in accordance with the policies contained in the adopted Core Strategy. At the time of writing, the Council accept that it is unable to demonstrate a 5 year housing land supply, accordingly this policy is out of date now and will remain so upon the making of the neighbourhood plan.
- 4.6.12 It should also be noted Policy BL12: Supporting Local Business allows the development of local businesses for small scale business use including tourism facilities within the parish, even if it is located outside of the settlement boundary. As long as development is sustainable it is immaterial whether a proposed development is for housing or economic development. Accordingly, sustainable development such as land at Longworth Lane should not be prevented from coming forward simply because it is located outside the settlement boundary.

Policy BL7: Rural Exception Sites

- 4.6.13 This policy states that if required, rural exception sites for dwellings must be developed in accordance with the Herefordshire Local Plan Core Strategy.
- 4.6.14 The supporting text to this policy states that there is no immediate foreseeable need for such sites to be delivered despite the fact that the Plan does not allocate land to meet all of its minimum housing target. Accordingly, this limits the ability of the criteria established in BL5 from coming forward. More importantly the neighbourhood plan is not seeking to identify the full housing target for the village which is inconsistent with the adopted Core Strategy. It cannot be certain that the areas within the settlement boundary are able to accommodate any infill development or whether this will come forward.
- 4.6.15 The Neighbourhood Plan is therefore inconsistent with national policy as the Neighbourhood Plan is seeking to promote less development than identified in the adopted Core Strategy. The Council's evidence base and 2015 SHLAA also confirms that there are no other suitable sites available in Bartestree/Lugwardine. The SHLAA only considered one site in Bartestree/Lugwardine, which was considered available but not suitable or achievable for development in the current plan period. Gladman therefore consider that the Parish Council should allocate land off Longworth Lane as this site is available, suitable and achievable.

Policy BL8: Conserving Historic Character

4.6.16 This policy states:

‘There is a conservation area in Lugwardine, within which new development will only be permitted in exceptional circumstances. All heritage assets and the conservation area will be protected in line with national policy and inappropriate development, which could have a detrimental effect upon them, will not be permitted.

All areas of registered and unregistered historic parkland, woodland and Habitats of Principal Importance will be protected from inappropriate development.’

4.6.17 This approach is highly restrictive and inconsistent with the provisions of national planning policy principally those set out in §133-134. Policies dealing with heritage must be drafted having regard to these provisions, and the provisions set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Gladman consider that this policy is inconsistent with national policy and statute.

4.6.18 As recently considered in the High Court¹¹, this judgment deals with the interaction between §14 and §134 of the Framework, this matter equally applies to plan making namely that the presumption in §14 is not dis-applied if it is first found that the public benefits of development outweigh the less than substantial harm to a designated heritage asset. Paragraph 14 of the Framework applies equally to both plan making and decision taking.

4.6.19 This policy fails to identify what it considers to be ‘inappropriate development’, Gladman therefore reiterate that a decision taker will be unable to apply this policy effectively, consistently and with ease. This serves a general and broad approach to the protection of heritage assets not in accordance with the provisions of national planning policy. According, Policy BL8 is inconsistent with basic conditions (a), (d) and (e) and should be deleted from the neighbourhood plan.

Policy BL10: Affordable Housing

4.6.20 In principle, Gladman support the provisions of Policy BL10 which seeks to ensure the delivery of identified affordable housing needs. However, in its current form this policy is inconsistent with the requirements of the Framework.

4.6.21 This policy states *‘All developments on larger sites of over 10 dwellings will ensure that a minimum of 35% of properties are made available to meet local housing needs to rent, for shared ownership and discounted sales (our emphasis)’.*

4.6.22 The adopted Local Plan Core Strategy makes provision for a target of 35% it does not seek to deliver a ‘minimum’ 35% affordable housing requirement. Furthermore, this policy would require development of all identified forms of affordable housing to be delivered with no regard to the viability pressures that this would place on committed or future development proposals. It is

¹¹ Forest of Dean District Council v Secretary of State for Communities & Local Government & Anor [2016] EWHC 421 (admin)

assumed that the discounted homes mentioned in this policy refers to the government's new starter homes incentive. However, development proposals will have already been subject to s106 conditions and this policy should not seek to implement additional requirements on affordable housing provision. In addition, requiring the delivery of all forms of affordable housing would likely render a development proposal unviable and is therefore not in accordance with the requirements of §173 of the Framework.

- 4.6.23 Gladman recommend that this policy be deleted as it is inconsistent with basic conditions (a), (d) and (e).

Policy BL12: Supporting Local Businesses

- 4.6.24 As already discussed in §5.6.12, this policy allows for business use development to be located outside the settlement boundary. We would again question the justification for this policy given that it allows for development outside of an arbitrary boundary that restricts housing development to within this policy designation. This does not promote the flexibility and adaptability endorsed throughout the Framework and does not provide sufficient justification to why business led development is appropriate outside the settlement boundary nor does it provide a clear indication of what forms of business development are appropriate.

Policy BL13: Transport and Highways

- 4.6.25 This policy states that '*proposals for development will need to show...the site is linked to the village by an existing footway/cycleway or through the creation of a new footway/cycleway that provides safe passage to the range of village facilities including bus stops; and also include a possible foot/cycle bridge across the River Lugg near to the A438...Mitigation for the impact of any development on the highway network and sustainable travel will be delivered at the developer's expense through a combination of section 278 and section 106/CIL.*'
- 4.6.26 Gladman further submit that the circumstances in which developer contributions can be sought in accordance with the CIL regulations must be considered in respect of this proposed policy. Developer contributions should only be required where they are necessary to address the unacceptable planning impacts of a development and so directly related to the impacts of a development proposal that it should not be permitted without them. Contributions must be based on up-to-date, robust evidence of needs and cannot be used to make up the funding gap for desirable infrastructure, or to support the provision of unrelated items. It does not appear that the Parish Council has undertaken any up-to-date viability assessment of the Plan's cumulative obligations. Gladman therefore question the justification for the foot/cycle bridge and how this will be delivered viably. The Plan should therefore not set onerous policy obligations that could place an undue burden on the ability of developers to deliver sustainable development.

4.7 General Comments

4.7.1 In relation to section 5 ‘Risk Assessment’, Gladman take the opportunity to highlight that in many circumstances the neighbourhood plan provides policies that will be difficult for a decision maker to correctly interpret.

Monitoring and Review

4.7.2 The BLNP proposes a review cycle, if required, in line with any Local Plan review. Gladman take this opportunity to highlight the fact that there is no legislative provision in place that allows for a neighbourhood plan to be reviewed, as with a Local Plan. A neighbourhood plan can only have its policies altered through wholesale replacement and will attract all the same evidence gathering, pre-submission consultation, submission, post-submission consultation, examination and referendum requirements.

4.7.3 If the BLNP is to be reviewed in the future it would need to undertake all of the relevant regulatory requirements as highlighted above. This will likely be both a labour intensive and costly exercise. The neighbourhood plan therefore needs to plan for sufficient flexibility so that it is able to react to changes in the neighbourhood plan area that may be required through any Local Plan review or in any event where there is an undersupply of market and affordable housing (as presently applies).

4.7.4 Notwithstanding the comments made above, the intention to undertake a review of the Plan is not confirmed in any policy, and as such, the neighbourhood plan provides no certainty that the intention to review the Plan will actually occur. Gladman recommend that reference to the neighbourhood plan review should therefore be deleted.

4.8 Appropriateness of Progressing the Bartestree with Lugwardine Neighbourhood Plan

Acknowledgment of Out of Date policies

4.8.1 Attention is drawn to the Parish Council’s Statement to the upcoming public inquiry. Both Statements include concessions acknowledging the relevant supply of housing. A copy of Wendy Soilleux Statement of behalf of the Parish Council can be found in Appendix 5.

4.8.2 In paragraph 37 of Ms Soilleux statement, it states that:

‘For the avoidance of doubt, we consider that our Plan policies BL3, BL4, BL5, BL7 and BL8 are relevant to the supply of housing. The plan does, however, make the provision for the indicative minimum housing growth of 18% or 152 dwellings over the plan period to 2031. I will now review the specific policies of the emerging NDP that are relevant to the appeal proposals and demonstrate how they conflict with the NDP; which after all encapsulates the locals’ views on the development of their parish. For the avoidance of doubt I consider that BL2 Extensions to properties and BL11, Working from Home, are not relevant to the appeal and are not discussed further.’

4.8.3 As evidenced above the Plan Makers maintain that they are promoting a settlement boundary. As agreed in the Statement of Common Ground prepared jointly by Gladman and Herefordshire Council (Appendix 6), the Council is only able to identify a housing land supply of 3.63 years. As such the relevant policies for the supply of housing are out of date, which must on a faithful interpretation of §14 and §49 of the Framework at the very least should reduce the weight accorded to them as considered in the recent judgment in *Richborough Estates v Cheshire East BC* [2016] EWCA Civ 168 which states at §47:

‘One may, of course, infer from paragraph 49 of the NPPF that in the Government’s view the weight to be given to out-of-date policies for the supply of housing will normally be less than the weight due to policies that provide fully for the requisite supply.’

4.8.4 The Parish Council acknowledge that they are seeking the adoption of policies that are presently and will almost certainly remain at the point of the examination, any referendum and any subsequent ‘making’ of the neighbourhood plan to be out of date pursuant to §49 of the Framework.

4.8.5 In these circumstances, there is a marked contradiction with §16, §17(3), §47, §49 and §184, all of which describe the fundamental importance of neighbourhood plans being guided by and not seeking to constrain the delivery of objectively assessed housing needs.

PPG Test: Quality of Evidence Base

4.8.6 As identified throughout these representations, the quality of the evidence base supporting the neighbourhood plan is flawed by way of how the plan has progressed thus far. The supporting Consultation Statement does not include reference to the response submitted by Gladman and therefore outstanding objections to the plan remain, which have not been taken into account, let alone resolved. It does not ‘reveal the quality and effectiveness of the consultation that has informed the plan proposals’¹² or ‘representations made during the pre-examination publicity period.’¹³.

Other considerations: Leominster Neighbourhood Plan

4.8.7 The Council is aware of its decision not to progress the Leominster Neighbourhood Plan to Examination following concerns regarding the contents of the neighbourhood plan and its ability to meet the basic conditions.

4.8.8 The Officer’s Report states that:

‘6 external and 5 Herefordshire Council internal consultation were received during the consultation period.’

¹² PPG Paragraph 007 Reference ID: 41-007-20140306

¹³ PPG Paragraph: 082 Reference ID: 41-082-20160211

There are a number of concerns expressed by both internal and external consultees regarding Leominster Neighbourhood Plans policy compliance with both the National Planning Policy Framework and the adopted Herefordshire Core Strategy.

All neighbourhood development plans are required to meet the ‘basic conditions’ at examination which includes ‘contributing to sustainable development, be in general conformity with the strategic policies of the development plan and have regard to national policy. At this stage it is concerned that the submission version on the Leominster Neighbourhood Plan would not meet these basic conditions. This is disappointing as a number of these issues and concerns have been raised within the plan writers’ draft plan consultations previously.

- 4.8.9 The Council’s decision to not progress the Leominster Neighbourhood Plan is pertinent to this consultation. As Gladman have demonstrated, we had previously sought to engage with the Parish Council yet these concerns have not been addressed nor have they been properly considered by the Parish Council. These concerns are still outstanding and need to be addressed through the withdrawal of the neighbourhood plan and consideration of the issues and effective consultation.

5 STRATEGIC ENVIRONMENTAL ASSESSMENT

5.1 Overview

- 5.1.1 The preparation of neighbourhood plans falls under the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) that require a Strategic Environmental Assessment (SEA) to be undertaken where a Plan's proposals would be likely to have a significant environmental effect. The requirement for a SEA is not disputed by the Parish Council and one has been included within the submission version of the Plan.
- 5.1.2 The SEA is a systematic process that should be undertaken at each stage of a Plan's preparation, assessing the effects of a neighbourhood plan's proposals to assess whether they would be likely to have significant environmental effects when judged against all reasonable alternatives.
- 5.1.3 The SEA should be able to clearly justify its policy choices and it should be clear from the results of the assessment why some policy options have been progressed, and others have been rejected. This must be undertaken through a comparative and equal assessment of each reasonable alternative, in the same level of detail for both chosen and rejected alternatives. The Parish Council's decision making and scoring should be robust, justified and transparent. It is with this in mind that Gladman have serious concerns regarding whether the plan is based on an adequate and lawful assessment of reasonable alternatives. The SEA is difficult to follow in order to understand the rationale between what is supposed to be an iterative process to support the preparation of the neighbourhood plan.
- 5.1.4 Given the phrasing of objective 3 of the BLNP which seeks to *'provide housing which meets the needs of the diverse and growing community'* and the advanced status of Gladman's application at land at Longworth Lane, the site should be included as a realistic option/alternative for growth within the SEA. This casts serious doubt on the comprehensive nature of the work that has been undertaken.
- 5.1.5 Furthermore, the previous representations submitted to the plan (which have not been taken into account), raised significant concerns regarding the adequacy of the SEA in respect of policy options that have been considered. This is considered pertinent given the recent decision by Aylesbury Vale District Council to no longer contest a legal challenge by Lightwood Strategic in respect of the housing policies contained in the Haddenham Neighbourhood Plan. Part of the challenge made by Lightwood Strategic that led to the Council's decision to withdraw from the legal challenge was as a result of the *'serious errors'* made to the scoring system used to allocate land for development. Gladman consider that the scoring assessment contained in the BLNP's SEA fails to meet EU obligations and therefore inconsistent with basic condition (f).
- 5.1.6 Whilst a number of options were considered, a number of these are essentially the same i.e. Option 3: allocate a settlement boundary for Bartestree, Option 4: allocate settlement boundary for Lugwardine. Option 4: Manage future housing using a settlement boundary, Option 7: Allocate sites and identify a settlement boundary etc.

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- 5.1.7 Gladman also wish to address the approach applied to Option 18: Homes built on greenfield sites. This option scores negatively against all SEA objectives without any explanation. The SEA fails adequately to assess the positive effects of development on green field such as improvements to quality of surroundings and the positive effects on population and human health through the provision of identified market and affordable housing or improvements to local infrastructure i.e. public open space provision. The overall commentary to option 18 states that this policy would conflict with national and local policy. This is incorrect as the Framework does not distinguish a difference between the sustainability of a site on greenfield land as opposed to land that has been previously developed.
- 5.1.8 It is further noted that the majority of housing identified by the neighbourhood plan are located on greenfield sites, all of which were found to be sustainable by Planning Inspectors. Therefore, it cannot be considered that development on greenfield sites results in negative scoring to the environment as often these sites can mitigate the adverse impacts of development and provide significant improvements that will be to the benefit of local residents.
- 5.1.9 Similarly, option 26: allocation of employment use on greenfield land scored negatively for the same reasons identified above and against all baseline objectives. Gladman question how this has informed the preparation of the neighbourhood plan given that Policy BL12 allows for business use development to be located outside the settlement boundary and does not preclude the possibility of development on a greenfield site.
- 5.1.10 In light of the above Gladman consider that the assessment fails to provide an adequate and lawful SEA report in accordance with the SEA regulations and the plan is therefore contrary to basic condition (f).

6 SITE SUBMISSION

6.1 Land off Longworth Lane, Bartestree

- 6.1.1 The Parish Council are aware that Gladman have land interests at land off Longworth Lane, Bartestree. Gladman consider the site to be suitable, available and deliverable. The site is capable of accommodating up to 100 dwellings (including 35% affordable housing), with associated open space, landscaping and a community orchard. Appendix 4 provides a site location plan.
- 6.1.2 The application was submitted in December 2014 and refused by Herefordshire Council in March 2015. An appeal against the refusal of the first application was submitted in May 2015 with the planning inquiry for this application starting on 10th May 2016.
- 6.1.3 Gladman have developed extensive evidence to show that the site is suitably located with good access to existing facilities and services. The proposal will provide new homes which will help sustain the vitality and vitality of local services and facilities for future years. Gladman believe the site can bring real benefits to the community.
- 6.1.4 The site is situated within a demonstrably suitable and appropriate location to host new housing development. The proposals will make a significant contribution towards meeting the social elements of sustainability through: providing homes to meet the objectively assessed housing needs of Herefordshire and making a valuable contribution towards five year housing land supply. Further the proposals will provide for the full amount of affordable housing in circumstances where there is a shortage in the County, this should be regarded as a significant material benefit. The development proposals will assist in helping to maintain and enhance the vitality of Bartestree.
- 6.1.5 In addition to the delivery of housing the proposals will also deliver a number of economic benefits which include New Homes Bonus, jobs in construction, a further indirect jobs in associated industries and improvement in local spend.
- 6.1.6 There are also a number of environmental benefits associated with the development proposals which include the provision of green infrastructure, public open space and a community orchard.

7 CONCLUSIONS

7.1 Assessment against the basic conditions

7.1.1 Gladman recognise the role of neighbourhood plans as a tool for local people to shape the development of their local community. However, it is clear from national guidance that the BLNP must be consistent with national planning policy and the housing needs for the wider local authority area.

7.1.2 In order for the plan to proceed and meet all of the neighbourhood plan basic conditions set out in schedule 4B, the Parish Council must ensure that the Plan's policies allow for sufficient flexibility to react to changes in the market i.e. where there is an undersupply of housing. At present, the Council accept that it is not able to demonstrate a 5 year housing land supply, accordingly if the plan is progressed then the relevant policies for the supply of housing will be out of date upon the making of the neighbourhood plan.

7.1.3 It is not considered appropriate for the neighbourhood plan to progress to examination in its current form. These issues could have been addressed through the acknowledgement and consideration of Gladman's representations submitted to the Regulation 14 consultation. It is therefore recommended that the Plan be withdrawn and the necessary plan preparation measures taken into account to address the outstanding issues that remain, and that a lawful Regulation 14 consultation be re-commenced at that stage. Notwithstanding this, should the Plan proceed to Independent Examination then it is considered that a hearing will be required to address these issues in a public format.

7.1.4 Gladman object to the BLNP in its current form, which is distinctly anti-growth and attempts to resist any further growth through a number of policies which seek to constrain the ability of new sustainable development opportunities from coming forward outside of those sites that have been identified. The BLNP is considered to be inconsistent with the following basic conditions:

(a) Having regard to national policies and advice contained in guidance issued by the Secretary of State

- The BLNP is not supported by credible and robust evidence as advised by the Framework and the PPG. The consultation statement submitted with the draft neighbourhood plan does not reveal the quality and effectiveness of the consultation.
- The Environmental Report has not been prepared in accordance with legal and national policy requirements.
- The strategy as proposed by the Plan's vision, objectives and a number of policies, including their supporting text, seek to constrain the delivery of sustainable development. This is in direct conflict with national planning policy and guidance.
- The policies contained in the plan do not provide a practical framework for a decision maker to apply policies consistently and with ease.

(d) The making of the order contributes to the achievement of sustainable development

- The BLNP seeks to constrain the ability of any significant sustainable growth opportunities with no regard to the housing needs for the wider area.

(e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area (or any part of that area)

- The neighbourhood plan does not include the flexibility contained in the strategic policies for the wider area. The Core Strategy seeks to maintain and strengthen locally sustainable communities across Herefordshire, this includes Bartestree. This policy makes clear that the housing target for the district is a minimum growth target, whereas here, the neighbourhood plan seeks to implement a settlement boundary to preclude the delivery of future sustainable growth from being delivered when there is currently a significant housing shortfall.

(f) The making of the order does not breach, and is otherwise compatible with EU obligations

- The Environmental Report fails to meet the requirements of the Environmental Assessment of Plans and Programmes 2004. Given the advanced stage of Gladman's application at land at Longworth Lane, this should have been considered as a reasonable alternative. The Environmental Report in addition fails to provide adequate scoring on the positive aspects of greenfield development.

Appendix 1 – Gladman Regulation 14 consultation representations

Gladman Developments Ltd

**Representations on
Bartestree with Lugwardine
Draft Neighbourhood Plan - 2011 – 2031
[Regulation 14]**



January 2016

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APPENDICES

Appendix 1 Site Location Plan

1 EXECUTIVE SUMMARY

1.1 Context

1.1.1 These representations are made in response to the current consultation on the draft version of the Bartestree with Lugwardine Neighbourhood Plan, under regulation 14 of the Neighbourhood Planning (General) Regulations 2012. Gladman Developments (Gladman) have land interests in Bartestree at land off Longworth Lane and are actively working to promote the site for residential development.

1.2 National Planning Policy

1.2.1 Before a Neighbourhood Plan can proceed to referendum it must be tested through Independent Examination against the statutory Basic Conditions, which are set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended by section 38a of the Planning and Compulsory Purchase Act 2004).

1.2.2 Before the Bartestree with Lugwardine Neighbourhood Plan can progress to referendum, the Examiner must conclude that:

(a) **Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan.**

(d) **The making of the Neighbourhood Plan contributes to the achievement of sustainable development.**

(e) **The making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).**

(f) **The making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations, and**

1.2.3 Having reviewed the Bartestree with Lugwardine Neighbourhood Plan, it is clear that there have been major flaws throughout the plan preparation (contrary to basic conditions 8(2)(a), (d), and (e)), and that there are many components, both policies and the supporting text, that are contrary to the basic conditions (especially basic conditions 8(2)(a), (d), (e)). The plan documentation reveals many gaps in the kind of robust evidence that the PPG expects and which is necessary for a Neighbourhood Plan that intends to endure for up to 2031.

1.3 Herefordshire Local Plan Core Strategy 2011 - 2031

1.3.1 The Inspector's Final Report on the Examination of the Herefordshire Local Plan Core Strategy covering the period 2011 to 2031 is dated 29th September 2015. The Council subsequently adopted the Core Strategy on 16th October 2015.

1.3.2 Policy SS2 – Delivering New Homes establishes that the Council will identify a supply of deliverable and developable land to secure delivery of a minimum of 16,500 new homes in Herefordshire

between 2011 and 2031 to meet market and affordable housing need. This policy sets out that the broad distribution of the new dwellings in the County, including a minimum of 5,300 dwellings in the rural settlements, which includes Bartestree.

- 1.3.3 Policy SS3 – Ensuring sufficient Housing Land Delivery sets out the stepped minimum housing targets over the plan period. The stepped target is for 600 dpa for the first five years of the plan (2011-2016), 850 dpa for years 6-10 (2016-2021), 900 dpa for years 11-15 (2021-2026) and 950 dpa for years 16-20 (2026-2031).
- 1.3.4 Policy SS3 sets out the mechanisms that the Council will adopt where monitoring demonstrates that the number of new dwelling completions is below the cumulative target figure over a 12 month period (1 April to 31 March). The mechanisms identified in the policy include:
- A partial review of the Local Plan – Core Strategy: or
 - The preparation of new Development Plan Documents; or
 - The preparation of an interim position statement and utilising evidence from the Strategic Housing Land Availability Assessment to identify additional housing land.
- 1.3.5 Policy RA1 – Rural Housing Distribution states that in Herefordshire’s rural areas a minimum of 5,300 new dwellings will be provided between 2011 and 2031 to contribute to the county’s housing needs and that the development of rural housing will contribute towards the wider regeneration of the rural economy.
- 1.3.6 New dwellings will be broadly distributed across the county’s rural areas on the basis of seven Housing Markets Areas (HMA). Bartestree is located in the Hereford HMA, which includes an indicative housing target of 1870 dwellings for the period 2011 – 2031. This equates to 18% of housing growth for Policy RA1, the highest percentage out of the seven HMAs.
- 1.3.7 This policy requires residential development to be located within or adjacent to the main built up area of the settlement and recognises that housing affordability is a significant issue in rural Herefordshire.
- 1.3.8 Policy RA2 – Housing in settlements outside Hereford and the market towns seeks to maintain and strengthen locally sustainable communities across the rural parts of Herefordshire. Sustainable housing growth will be supported in or adjacent to those settlements identified by the Council including Barterstree. This will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the communities concerned.
- 1.3.9 This policy provides a criteria for where housing proposals will be permitted with regard to design and layout reflecting the size, role and function of each settlement, best and full use of suitable brownfield sites where possible, sustainable schemes making a positive contribution to the surrounding environment and its landscape setting and that the housing mix reflects local demand.

- 1.3.10 It is considered that the Neighbourhood Plan as proposed is inflexible and has been based upon a restrictive approach to growth in the neighbourhood area. This is contrary to the whole ethos of the National Planning Policy Framework (NPPF/the Framework) and the presumption in favour of sustainable development.
- 1.3.11 Both the Framework, paragraph 16 and 184 and the PPG, Neighbourhood Planning 070, require that the Neighbourhood Plan must be in conformity with the strategic policies in the development plan for the local authority area. Gladman maintain that the correct construction of those paragraphs within the Framework and PPG is that those local plan policies referred to therein must be extant and up-to-date, following successful examination of an NPPF-era Local Plan. The policies set out within the NP do not conform to what has been provided in the adopted Herefordshire Local Plan Core Strategy (LPCS). In particular, the NP seeks to impose a constraint on housing development in the village; contrary to the minimum requirement set out in the LPCS. The Bartestree with Lugwardine Neighbourhood Plan will therefore fail to meet basic condition (e).

1.4 Conclusions

- 1.4.1 The Bartestree with Lugwardine Neighbourhood Plan seeks to resist all future development outside of those sites proposed for allocation and is contrary to Central Governments' national policy imperative to 'significantly boost the supply of housing.' Gladman contend that as a result, the Bartestree Neighbourhood Plan proposes an approach which does not comply with either the Framework or PPG. It cannot be appropriate to 'make' the plan without having regard to national planning policy and guidance, furthermore it will not contribute to sustainable development and will not be in conformity with strategic policies in the development plan.
- 1.4.2 The Bartestree with Lugwardine Neighbourhood Plan is not sufficiently growth orientated nor is it able to respond rapidly to changes in the marketplace. Gladman reiterate that the proposals through the Bartestree with Lugwardine Neighbourhood Plan effectively act to restrict all growth by defining a tightly drawn settlement boundary. Gladman contend that an approach such as the one presented directly contradicts the whole ethos of the Framework. For these reasons the Bartestree Neighbourhood Plan gives rise to legal flaws and is liable to be subject to judicial review proceedings as it **contrary to basic conditions (a), (d), and (e).**

2 INTRODUCTION

2.1 Context

2.1.1 These representations are made in response to the current consultation on the draft version of the Bartestree with Lugwardine Neighbourhood Plan, under regulation 14 of the Neighbourhood Planning (General) Regulations 2012. Gladman Developments (Gladman) have land interests in Bartestree at land off Longworth Lane and are actively working to promote the site for residential development.

2.2 Summary of the Bartestree with Lugwardine Neighbourhood Plan

2.2.1 The draft Neighbourhood Plan covers the plan period 2011 – 2031 and sets out a vision for Bartestree with Lugwardine. The Plan sets out that Herefordshire seeks a growth target uplift of 18% in housing numbers in the Hereford Rural Area with much of the development in the 23 main villages including Bartestree with Lugwardine. It is expected that new development is to be focused within or adjacent to existing settlements.

2.2.2 Policy BL4 Settlement Boundaries states to allow for required development and controlled growth, the Settlement Boundaries are retained and extended to include sites where planning permission has been granted for housing development, sites that have been developed in the past and other undeveloped sites where small scale development could take place in the future.

2.2.3 Map B shows that the proposed settlement boundary does not include land off Longworth Lane and the site is highlighted as red and identified as not supported and planning appeal pending. The draft settlement boundary is therefore adjacent to this site. The NP states that development outside the settlement boundaries has been restricted, which is contrary to the requirement of the Framework for Neighbourhood Plans to be positively prepared.

2.2.4 Policy BL5 Housing in the Countryside states that development in areas of the parish outside the re-adopted Bartestree and Lugwardine Settlement Boundaries will be limited to the following:-

- i. replacement of existing dwellings;
- ii. extensions of existing dwellings;
- iii. exception sites to meet local housing needs.

2.3 Structure of Representations

2.3.1 This representation is structured as follows:

- National Policy
- Assessment against the National Planning Policy Framework
- Assessment against Planning Practice Guidance
 - Neighbourhood Planning

- Strategic environmental assessment and sustainability appraisal
- Housing and economic land availability assessment
- Site submission – land off Longworth Lane, Bartestree
- Conclusions

2.4 Neighbourhood Plan Preparation

2.4.1 Gladman would like to remain involved throughout the preparation of the Bartestree and Lugwardine Neighbourhood Plan and therefore request to be added to the consultation database. Gladman would also like to offer their assistance in addressing the gaps in the technical evidence base and invite the Parish Council to get in touch regarding this.

2.4.2 Gladman wish to take part in the hearing session(s) of the examination of the Neighbourhood Plan. To be clear, in a plan of this scale and complexity, we consider that a hearing is essential (paragraph 9 of Schedule 4B TCPA).

3 NATIONAL POLICY

3.1 National Planning Policy Framework, Planning Practice Guidance & the Basic Conditions

3.1.1 The National Planning Policy Framework (NPPF/the Framework) sets out the Government’s planning policies for England and how these are expected to be applied in respect of plan-making and decision-taking: NPPF paragraphs 1, 6 and 13. In doing so it sets out the requirements for the preparation of neighbourhood plans and the role they must play in meeting the development needs of the local area. The requirements set out in the Framework have now been supplemented by the Neighbourhood Plan section of Planning Practice Guidance (PPG)¹ and allied sections on Housing Land Availability Assessment² and Strategic Environmental Assessment³. The provisions of the Framework and the PPG are mandatory material considerations for the purposes of basic condition 8(2)(a).

3.1.2 Before a Neighbourhood Plan can proceed to referendum it must be tested against a set of Neighbourhood Plan Basic Conditions, set out in paragraph 8 (2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended). This is also underpinned in PPG at paragraph 065 of the Neighbourhood Planning Chapter, the basic conditions are as follows:

(a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order.

(d) The making of the order contributes to the achievement of sustainable development.

(e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).

(f) The making of the order does not breach, and is otherwise compatible with, EU obligations, and

3.1.3 It is clear from the Framework and PPG that Neighbourhood Plans must conform with national policies (basic condition (a): “appropriateness”) and up-to-date strategic policy requirements (basic condition (e)) set out in an adopted Local Plans. Neighbourhood Plans must take a positive approach to facilitate new development, these should not be used as a constraint to restrict growth going forward in the plans strategy. In relation to this Gladman refer to the requirements set out in paragraphs 16 and 184 of the Framework.

¹ <http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

² <http://planningguidance.planningportal.gov.uk/blog/guidance/housing-and-economic-land-availability-assessment/>

³ <http://planningguidance.planningportal.gov.uk/blog/guidance/strategic-environmental-assessment-and-sustainability-appraisal/>

- 3.1.4 **Gladman consider that the Bartestree with Lugwardine Neighbourhood Plan in its current form fails to comply with various key paragraphs of the Framework and PPG as well as failing to meet basic conditions (a), (d), and (e)** which will be addressed throughout this representation. If the Parish Council fails to heed this advice and attempts to progress to examination, the Bartestree with Lugwardine Neighbourhood Plan should be found to have failed the basic conditions and the Plan cannot proceed to referendum. It is Gladman’s view that the Bartestree with Lugwardine Neighbourhood Plan is fundamentally flawed and requires substantial amendment and redrafting or removal of the policies before progressing any further.

4 ASSESSMENT AGAINST THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

4.1 Introduction

4.1.1 This section of the representation is structured around key paragraphs from the Framework and highlights how Bartestree with Lugwardine Neighbourhood Plan, as proposed, does not conform with the Framework and consequently that it would not be appropriate to make the plan having regard to the Framework. Please note that our emphasis has been added to these quotes.

4.2 Key sections of the Framework

4.3 Paragraph 14

4.3.1 “At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

- Local planning authorities should positively seek opportunities to meet the development needs of their area;
- Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - Specific policies in this Framework indicate development should be restricted...”

Response:

4.3.2 The draft plan is inconsistent with paragraph 14 of the framework, and is therefore in conflict with Basic Conditions (a), (d) and (e). The residential settlement boundary (Policy BL4) provides no flexibility to provide for situations of undersupply of market housing in the district (resulting from the likely non-delivery of the district’s large strategic sites). Gladman consider this approach is fundamentally contrary to the presumption in favour of sustainable development as outlined in paragraph 14 of the Framework and embodied in the Herefordshire Local Plan.

4.3.3 Gladman submit that Policy BL4 be deleted as it is inconsistent with basic conditions (a), (d) and (e) and replaced with the following wording:

‘When considering development proposals, the Parish Council should take a positive approach to new development that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Development adjacent to the existing settlement should be permitted provided that the adverse impacts do not significantly and demonstrably outweigh the benefits of development.'

4.3.4 The recent judgment of the High Court in *Woodcock v Secretary of State for Communities and Local Government*⁴ demonstrates the implications of progressing a Neighbourhood Plan where there is no Local Plan in Place or a 5 year housing land supply. In summary, this judgment demonstrates the following key points:

- Paragraphs §14 and §49 of the Framework in regard to five year land supply and the weight to be given to extant housing land supply policies apply equally to both emerging and “made” Neighbourhood Plan policies as to policies in other development plan documents otherwise adopted and/or emerging by the local planning authority.
- There is nothing in policy or statute that elevates Neighbourhood Planning to a level above the wider development plan that enables this special consideration.
- Neighbourhood Plans must respect national policy and the core planning principles outlined within the Framework.
- Prematurity must be assessed against the whole of the requirements of PPG. In Neighbourhood Planning there is no requirement for planning bodies to produce an Objective Assessment of Housing Needs, as there is no requirement to consider the effectiveness or justification of a plan.

4.3.5 A recently recovered SoS appeal decision at Thorpe Road, Earls Barton⁵ also highlights the importance of the Woodcock judgment. The appeal decision states that *“there is not a 5 year supply of deliverable housing sites, the relevant polices for the supply of housing in the emerging EBNP [Earls Barton Neighbourhood Plan], including the proposed village development boundary, should not be considered up to date.”* This decision, which allowed the delivery of 39 dwellings, was published one day prior to the Neighbourhood Plan Referendum – an advanced stage of Neighbourhood Plan preparation. Gladman consider that Herefordshire Council is unable to demonstrate a five year housing land supply, the NP will therefore need to allow for a significant degree of flexibility and adaptability in order to respond rapidly to changes in the market otherwise the plan will be found out of date before it is even adopted.

4.4 Paragraph 16

4.4.1 “The application of the presumption will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should:

⁴ *Woodcock Holdings Ltd vs the Secretary of State for Communities and Local Government and Mid-Sussex District Council* [2015] EWHC 1173 (Admin)

⁵ Appeal Reference: APP/H2835/A/14/2221102

- Develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;
- Plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan; and
- Identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.”

Response:

4.4.2 The housing requirement in the Herefordshire Local Plan is for a minimum of 16,500 new homes from 2011 and 2031 and the NP should therefore be planned positively and should be prepared in order to achieve the Council’s minimum housing requirement. The NP as proposed is inflexible and has been based upon a restrictive approach to growth. This is contrary to the whole ethos of the Framework and the presumption in favour of sustainable development. Due to the restrictive approach in the NP, should the local authority be found unable to demonstrate a five year supply those policies relating to housing within the neighbourhood plan will be found out of date as there is little flexibility in the plan to accommodate Herefordshire’s under supply. Therefore, the NP cannot be seen to be positively prepared to support local development and assist the Council in delivering its full objectively assessed housing needs.

4.4.3 Both the Framework, paragraph 16 and 184 and the PPG ID 41-070, require that the NP must be in conformity with the strategic policies in the Development Plan for the local authority area. Gladman maintain that the correct construction of those paragraphs within the Framework and PPG is that those local plan policies referred to therein must be extant and up-to-date, following successful examination of an NPPF-era local plan.

4.5 Paragraph 17

4.5.1 “Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should:

- Be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up to date and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;...
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area and respond positively to wider opportunities for growth...”

4.5.2 Response:

4.5.3 Gladman consider that the NP fails to set out a positive vision for the future of the area, and instead seeks to constrain development and attempts to maintain the status quo to the benefit of existing residents without regard for the next generation requiring homes. The restrictive nature of policies in the neighbourhood plan provide no flexibility to provide for situations of undersupply of market housing in the district (resulting from the likely non-delivery of the district’s large strategic sites). This approach is contrary to meeting the Council’s housing need to the Herefordshire Local Plan.

4.5.4 The NP does not proactively drive sustainable economic development and does not respond positively to opportunities for growth. Gladman submit that without allocating a sufficient level of land for residential development the NP will act to have a negative effect on the viability and vitality of the local area and may result in a decline in essential facilities within the Parish. Gladman recommend that when sustainable opportunities for growth present themselves (such as Gladman’s site land off Longworth Lane) the Parish Council should give its full regard to the sustainability credentials associated with development in this location and consider it as a potential housing allocation within the NP.

4.6 Paragraph 47

4.6.1 “To boost significantly the supply of housing, local planning authorities should:

- Use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;
- Identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;
- Identify a supply of specific developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15;...”

Response:

4.6.2 The vision of the NP should be aspirational and growth oriented in line with the key objectives of national policy, especially the requirement under paragraph 47 of the Framework which seeks to significantly boost the supply of housing. Where, as here, a plan is constructed solely around policies which seek to constrain the total supply of housing within the neighbourhood plan area outside those sites which have been proposed for allocation. Paragraphs 14, 16, 47, 49 and 184 are principal policy considerations for the purpose of the assessment of basic condition 8(2)(a).

- 4.6.3 Herefordshire Council produced a Five Year Housing Land Supply Statement in March 2015 pursuant to the Inspector's request for further clarification on housing matters at the February 2015 Examination Hearings. The March 2015 Statement covers the five year period from 1st April 2014 to 31st March 2019. Against both the stepped and annualised targets, the Council have a significant undersupply of housing since the start of the Core Strategy plan period (2011). As a result, the Council sets out in paragraph 3.41 of the Herefordshire LPCS that for the purposes of calculating the five-year housing land supply, a 20% buffer is appropriate, as per paragraph 47 of the Framework.
- 4.6.4 Gladman consider that Herefordshire Council is unable to demonstrate a five year housing land supply and that the Council's claimed supply is not robust and is considerably over stated and is significantly lower than five years. Nevertheless, the housing requirements in this authority are set as minimum requirements and harm does not arise if the five year requirement or indeed the Plan requirement over the longer term is breached.
- 4.6.5 In accordance with paragraph 49 of the Framework, relevant policies concerning the supply of housing cannot be considered up-to-date as the Council is unable to demonstrate a five year housing land supply and the presumption in favour of sustainable development set out in paragraph 14 of the Framework is engaged.

4.7 Paragraph 49

- 4.7.1 "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites."

Response:

- 4.7.2 The NP fails to conform to the 'presumption in favour of sustainable development' owing to the restrictive approach to housing development within the plan, particularly the negative view of future development within the plan period. Housing applications should be considered in the context of the presumption in favour of sustainable development. In the event that the Council is unable to demonstrate a five year housing land supply then those policies relating to housing contained within the NP, will, alongside the adopted Herefordshire LPCS, be considered out of date.
- 4.7.3 The Council is currently unable to demonstrate a five year housing land supply in accordance with Paragraph 49 of the Framework. Gladman consider that Herefordshire Council is unable to demonstrate a five year housing land supply and that the Council's claimed supply is not robust and is considerably over stated and is significantly lower than five years. The relevant policies for the supply of housing are not up-to-date.
- 4.7.4 The Woodcock judgment has made it clear that paragraph 49 of the Framework in regard to five year housing land supply and the weight to be given to extant housing land supply policies applies equally to both emerging and "made" Neighbourhood Plans as other Development Plan

Documents otherwise adopted and/or emerging by the Local Planning Authority. It is clear that there is nothing in policy or statute that elevates Neighbourhood Planning to a level above the wider Development Plan that enables special protection.

- 4.7.5 As the Council are unable to demonstrate a five year housing land supply, policies relating to the supply of housing cannot be considered up to date and in its current form, the NP fails to meet the basic conditions 8(2) (a).

4.8 Paragraph 157

- 4.8.1 “Crucially, Local Plans should:

- Plan positively for the development and infrastructure required in the area to meet the objectives, principles and policies of this Framework;...
- Allocate sites to promote development and flexible use of land, bringing forward new land where necessary, and provide detail on form, scale, access and quantum of development where appropriate;...”

Response:

- 4.8.2 The NP fails to ‘plan positively’ for future development by not enabling Bartestree with Lugwardine to allow the sustainable growth opportunities required by Herefordshire Council to meet its housing needs. The plan seeks to adopt an inflexible approach to future sustainable growth and fails to bring forward sufficient land to meet the District’s full housing needs. Whilst the Plan allocates land for future housing the restrictive nature of Policy BL4 Settlement Boundaries do not allow for the flexible use of land. The plan therefore adopts an inflexible approach to its allocations and delivery of housing and infrastructure, failing to bring forward sufficient new land to meet housing needs.

4.9 Paragraph 158

- 4.9.1 “Each local planning authority should ensure that the local plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated and that they take full account of relevant market and economic signals.”

Response:

- 4.9.2 The NP fails to have a clear understanding of the housing needs of the area given that Herefordshire Council recently adopted a figure of a minimum of 16,500 new homes in Herefordshire between 2011 and 2031, a higher level of growth than that previously considered. The NP will therefore need to allow for the flexible use of land if it is to respond positively to future development proposals.
- 4.9.3 Policy RA1 – Rural Housing Distribution of the Herefordshire Local Plan states that in Herefordshire’s rural areas a minimum of 5,300 new dwellings will be provided between 2011 and 2031 to

contribute to the county's housing needs and that the development of rural housing will contribute towards the wider regeneration of the rural economy.

4.9.4 New dwellings will be broadly distributed across the county's rural areas on the basis of seven Housing Markets Areas (HMA). Bartestree is located in the Hereford HMA, which includes an indicative housing target of 1870 dwellings for the period 2011 – 2031. This equates to 18% of housing growth for Policy RA1, the highest percentage out of the seven HMAs.

4.9.5 The NP fails to take account of the relevant evidence about the economic, social and environmental characteristics and prospects for the area. If the Council's SUEs fail to deliver at the anticipated rate, Bartestree with Lugwardine will have to play its part in delivering sustainable development to help address any shortfall to ensure housing is delivered across the rural areas to meet the identified housing needs.

4.10 Paragraph 159

4.10.1 "Local planning authorities should have a clear understanding of housing needs in their area. They should:

- Prepare a Strategic Housing Market Assessment to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries...
- Prepare a Strategic Housing Land Availability Assessment to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period."

Response:

4.10.2 Herefordshire LPCS sets out the minimum housing requirement for Herefordshire is 16,500 homes. Policy SS3 of Herefordshire LPCS sets out the stepped minimum housing targets over the plan period. The stepped target is for 600 dpa for the first five years of the plan (2011-2016), 850 dpa for years 6-10 (2016-2021), 900 dpa for years 11-15 (2021-2026) and 950 dpa for years 16-20 (2026-2031).

4.10.3 It is evident that the Council has persistently under performed every year since the base date of the Plan (2011) against the lowest stepped requirement of 600 dwellings per annum. That is even before accumulated shortfall is added to the five year requirement and a 20% buffer has been applied.

4.10.4 The mechanisms identified in Policy S3 of the LPCS to address a deficient housing land supply position will not happen immediately. In contrast, the site at Longworth Lane, Bartestree could assist in addressing the housing land supply position in the short term and would assist in significantly boosting the supply of housing in Herefordshire in accordance with the provisions of the Framework.

- 4.10.5 The NP fails to have a clear understanding of the housing needs of the area with a restrictive settlement boundary as set out in Policy BL4. The NP is inconsistent with requirements of paragraph 159 of the Framework and further consideration should be given with regards to the sustainability credentials associated with the land off Longworth Lane site, currently under determination from the Council.

4.11 Paragraph 184

- 4.11.1 “Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.”

Response:

- 4.11.2 The housing requirement in the Herefordshire Local Plan is for a minimum of 16,500 new homes in the County and a minimum of 5,300 dwellings in the rural areas between 2011 and 2031. The NP should therefore be planned positively and housing policies should be prepared in conformity with the Council’s minimum housing requirement and strategic policies of the Local Plan.
- 4.11.3 The use of minimum housing targets have previously been considered in Examiner’s Reports for “made” Neighbourhood Plans. An Examiner’s Report for the Slaugham Neighbourhood Plan⁶ in Mid Sussex stated that *“given that the strategic objective of the plan refers to “at least 130”, I assume it to be a minimum. If it were to be a maximum this would not allow for the flexibility the Framework seeks in responding to changing conditions.”* Bartestree with Lugwardine NP should therefore take a similar approach and set out clearly that 152 dwellings is a minimum housing target for the parish of Bartestree and Lugwardine.
- 4.11.4 The NP as proposed is inflexible and has been based upon a restrictive approach to growth with a tightly drawn settlement boundary. Gladman consider that the Council is unable to demonstrate a five year housing land supply and the NP at present does not allow for a significant degree of flexibility and adaptability in order to respond to housing land supply shortfall.
- 4.11.5 As a sustainable village with various facilities and services in the Hereford HMA, Barterstree is capable of delivering a higher proportion of development than other settlements in the rural areas. Through limiting development by allocating only one site without planning permission, the NP restricts Bartestree’s ability to deliver future sustainable growth and is not in conformity with the

⁶ http://www.midsussex.gov.uk/media/SlaughamParishNeighbourhoodPlan_Examiners_Report_Final.pdf

Local Plan and subsequently contrary to paragraph 184 of the Framework. The NP therefore contravenes basic conditions (a), (d) and (e).

5 ASSESSMENT AGAINST PLANNING PRACTICE GUIDANCE

5.1 Introduction

5.1.1 This section of this submission is structured around the requirements set out in various sections of the Planning Practice Guidance (PPG) and highlights how the Bartestree with Lugwardine Neighbourhood Plan has not met these requirements or the Basic Conditions. Please note that our emphasis has been added to these PPG references.

5.2 Neighbourhood Planning

5.3 Paragraph: 004 Reference ID 41-004-20140306

5.3.1 “A Neighbourhood Plan should support the strategic development needs set out in the Local Plan and plan positively to support local development as outlined in paragraph 16 of the National Planning Policy Framework...”

Response:

5.3.2 Gladman do not consider the vision or policies as currently drafted will achieve a positive planning framework as required by paragraph 004 of the PPG. On the contrary, they are designed with a negative vision to impose a constraint without ascertaining need and not able to support the minimum requirements set out in the Herefordshire LPCS.

5.4 Paragraph: 005 Reference ID 41-005-20140306

5.4.1 “Must a community ensure that its neighbourhood plan is deliverable? If the policies and proposals are to be implemented as the community intended a neighbourhood plan needs to be deliverable. The National Planning Policy Framework requires that the sites and scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.”

Response:

5.4.2 The proposed settlement boundary will effectively constrain the ability for future sustainable growth opportunities being delivered to meet the district’s full housing needs. The Plan as submitted will fail to deliver sustainable development. Failure to have regard to the full housing needs of the area will have an impact especially with regards to the need to secure affordable housing, which is clearly a highly important issue in planning policy terms for the assessment of appropriateness under 8(2)(a).

5.5 Paragraph: 040 Reference ID 41-040-20140306

5.5.1 “What evidence is needed to support a neighbourhood plan or order?”

While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in the Order.

A local planning authority should share relevant evidence, including that gathered to support its own plan-making, with a qualifying body...”

Response:

- 5.5.2 The NP does not provide a robust and credible evidence base on which to plan for the development needs of the settlement. The tight drawing of the settlement boundary cannot be completed until the housing needs of Bartestree are established through robust evidence. There is no site assessment process or policy based approach underlying the neighbourhood plan, which is a fundamental flaw of the Plan and contrary to paragraph 040 of the PPG.

5.6 Paragraph: 041 Reference ID 41-041-20140306

- 5.6.1 “How should policies in a neighbourhood plan be drafted?
A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

Response:

- 5.6.2 Gladman submit that several policies contained within the plan do not provide sufficient clarity in order to allow a decision maker to apply policies consistently and with ease. The Neighbourhood Plan is therefore contrary to paragraph 041 of the PPG.

5.7 Paragraph: 042 Reference ID 41-042-20140306

- 5.7.1 “Can a neighbourhood plan allocate sites for development?
A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria.”

Response:

- 5.7.2 The site allocations within the Neighbourhood Plan are a mixture planning permissions already granted and one application for planning permission, which is currently pending. The Neighbourhood Plan states that the estimated minimum number of dwellings that the Parish is required to provide in the period 2011 – 2031 is 18% of the current number of dwellings, which equates to a figure of 152 new dwellings within the Plan period and that the Plan will allow for infilling within new settlement boundaries to allow for limited and controlled expansion.

- 5.7.3 The Herefordshire LPCS housing target of 5,300 dwellings across the rural settlements was considered by the Local Plan Inspector as a minimum. Neighbourhood Plans have an important responsibility to identify whether any additional housing needs exist above that identified in the Local Plan; however it is the case that the NP evidence base is severely lacking as it does not seek to investigate those additional housing needs.

5.8 Paragraph: 044 Reference ID 41-044-20140306

- 5.8.1 “Can a neighbourhood plan allocate additional or alternative sites to those in a Local Plan?
A neighbourhood plan can allocate additional sites to those in a Local Plan where this is supported by evidence to demonstrate need above that identified in the Local Plan.

A neighbourhood plan can propose allocating alternative sites to those in a Local Plan, but a qualifying body should discuss with the local planning authority why it considers the Local Plan allocations no longer appropriate.

The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in the Local Plan, plan positively to support local development and should not promote less development than set out in the Local Plan or undermine its strategic policies (see paragraph 16 and paragraph 184 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the Local Plan.

Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38 5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.”

Response:

- 5.8.2 A NP can allocate additional sites to those in a Local Plan where this is supported by evidence to demonstrate need above that identified in the Local Plan. The housing target across the rural settlements is a minimum and it is evident that some settlements in the rural areas are not going to be able to deliver the housing growth required to meet the Council’s housing requirement and additional sites in sustainable villages such as Bartestree will have to come forward in order to meet the objectively assessed need for Herefordshire.

5.9 Paragraph: 069 Reference ID 41-069-20140306

- 5.9.1 “What does having regard to national policy mean?
A neighbourhood plan or Order must not constrain the delivery of important national policy objectives. The National Planning Policy Framework is the main document setting out the Government’s planning policies for England and how these are expected to be applied.”

Response:

5.9.2 The settlement boundary has been proposed primarily as a means to restrict development. This approach is not consistent with the Framework and it will have the unintended consequence of restricting the achievement of national policy objectives, contrary to Paragraph 69 of PPG. These include objectives relating to boosting significantly the supply of housing and supporting economic growth. Consequently the NP would fail when tested against Basic Conditions (a) and (d).

5.10 Paragraph: 070 Reference ID 41-070-20140306

5.10.1 “Which national policies are relevant to a neighbourhood plan or Order?”

Paragraph 16 of the National Planning Policy Framework is clear that those producing neighbourhood plans or Orders should support the strategic development needs set out in Local Plans, including policies for housing and economic development. Qualifying bodies should plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. More specifically paragraph 184 of the National Planning Policy Framework states that neighbourhood plans and Orders should not promote less development than set out in the Local Plan or undermine its strategic policies.

The content of a draft neighbourhood plan or Order will dictate which additional national policy is or is not a relevant consideration to take into account. The basic condition allows qualifying bodies, the independent examiner and local planning authority to reach a view in those cases where different parts of national policy need to be balanced.

A qualifying body is advised to set out in its basic conditions statement how they have had regard to national policy and considered whether a particular policy is or is not relevant. A qualifying body is encouraged to set out the particular national policies that it has considered, and how the policies in a draft neighbourhood plan or the development proposals in an Order take account of national policy and advice.”

Response:

5.10.2 Policy BL4 imposes a settlement boundary that prevents all growth outside allocations which are insufficient to meet the Council’s adopted housing requirement. Gladman consider that Policy BL4 actively seeks to constrain housing and is contrary to the express terms of the Framework. The Framework lists a number of Core Planning Principles, one of which states *“Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth”*. This policy does not allow this to happen.

5.11 Paragraph: 074 Reference ID 41-074-20140306

5.11.1 “What is meant by ‘general conformity’?”

When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority should consider the following:

- Whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with
- The degree, if any, of conflict between the draft neighbourhood plan policy development proposal and the strategic policy
- Whether the draft neighbourhood plan policy or development proposal provides and additional level of detail and/or distinct local approach to that set out in the strategic policy without undermining that policy
- The rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”

Response:

- 5.11.2 The housing requirement set out in the Herefordshire LPCS was considered by the Local Plan Inspector as a minimum target, and that this should not constrain development which can be considered as sustainable. In this instance, the cap on development imposed on the village does not reflect the ethos of a ‘minimum’ requirement versed throughout the LPCS, nor is it supported by a robust evidence base. Policy BL4 seeks to constrain further housing development outside the defined settlement boundary, with no method for weighing the adverse impacts of the development proposals against the benefits of the scheme. Gladman submit that Policy BL4 and Map B of the NP would fail Basic Conditions (a), (d) and (e), as the restraint on housing is not supported by the strategic policies of the Herefordshire LPCS which refer to a ‘minimum’ requirement.

5.12 Strategic environmental assessment and sustainability appraisal

5.13 Paragraph: 026 Reference ID 11-026-20140306

5.13.1 “Does a neighbourhood plan require a sustainability appraisal?”

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal as set out in section 19 of the Planning and Compulsory Purchase Act 2004. However a qualifying body must demonstrate how its plan or order will contribute to achieving sustainable development. A sustainability appraisal may be a useful approach for doing this and the guidance on sustainability appraisal of Local Plans should be referred to.”

Response:

- 5.13.2 Gladman note that the Parish Council has undertaken a Strategic Environmental Assessment (SEA). However, the assessment undertaken fails to demonstrate how the plan will contribute towards achieving sustainable development and is therefore contrary to paragraph 026 of the PPG.

5.14 Paragraph: 030 Reference ID 11-030-20150209

5.14.1 “What level of detail is required in a strategic environmental assessment?”

The strategic environmental assessment should only focus on what is needed to assess the likely significant effects of the neighbourhood plan proposal. It should focus on the environmental impacts which are likely to be significant. It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the neighbourhood plan.”

Response:

5.14.2 The SEA fails to appropriately consider the environmental impact of each of the neighbourhood plan proposals. The SEA is far too simplistic and appears to be more a tick box exercise rather than an informative part of plan preparation based. The NP is based on a plan which does not allocate an appropriate amount of land for development and cannot be seen to support the strategic priorities of Herefordshire. Gladman contend that until the SEA assesses all likely environmental impacts it cannot be considered in accordance with basic condition (f).

5.14.3 The Environmental Report states that the NP sets out a vision and includes ten objectives to achieve this aspiration for Bartestree with Lugwardine in 2031 to promote sustainable development and accommodate at least 152 new properties in a manner that is appropriate to the character of the village and its countryside setting. This approach is not set out in the Neighbourhood Plan and instead a tightly drawn settlement boundary is proposed, restricting development outside this area.

5.14.4 When considering development proposals, the Parish Council should take a positive approach to new development that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Development adjacent to the existing settlement should be permitted provided that the adverse impacts do not significantly and demonstrably outweigh the benefits of development.

5.14.5 In the NDP options and alternative, the SEA only considers negative impacts on homes built on greenfield sites. The SEA states that this option to build on greenfield land would conflict with national and local policy and to build on a greenfield is likely to have a detrimental impact on the environment. The Framework makes clear that development which is sustainable should go ahead without delay, in accordance with paragraph 14 of the Framework. It does not seek to preclude the delivery of sustainable greenfield sites.

5.14.6 Gladman consider that this approach in the SEA is flawed and is contrary to provisions of the Framework to boost significantly the supply of housing.

5.15 Housing and economic land availability assessment

5.16 Paragraph: 040 Reference ID 3-040-20140306

5.16.1 “How does the five-year housing supply relate to neighbourhood planning?”

Local planning authorities need to be able to demonstrate a five-year supply of deliverable sites in order to comply with national policies. The National Planning Policy Framework asks local planning authorities to use their evidence base to ensure that their Local Plan meets the objectively assessed needs for market and affordable housing, identifies key sites that are critical to the delivery of the housing strategy and identifies and updates annually a supply of specific deliverable sites sufficient to provide a five- year supply.

Neighbourhood plans set out policies that relate to the development and use of land and can be used to allocate sites for development but the plans must be in general conformity with the strategic policies of the Local Plan. Where a neighbourhood plan comes forward before is in place, the local planning authority should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress and to share evidence to prepare their plan. Neighbourhood Plans should deliver against the objectively assessed evidence of needs.

Response:

- 5.16.2 The level of growth identified by the Neighbourhood Plan has not been arrived at on account of need, and is a driven approach on preferred sites identified. The total level of housing growth may not be provided at the most suitable or sustainable locations, or correspond with local housing need. The NP actively seeks to avoid development as is evident through its use of restrictive policies. It will be necessary for the Parish Council allocate more deliverable, greenfield sites which will help meet local housing need in the short term and help remedy the Council’s reliance on large SUE’s to ensure a deliverable five year housing land supply position, ensuring a flexible, responsive and continuously rolling five year land supply.

6 SITE SUBMISSION

6.1 Land off Longworth Lane, Bartestree

- 6.1.1 The Parish Council are aware that Gladman have land interests at land off Longworth Lane, Bartestree. Gladman consider the site to be suitable, available and deliverable. The site is capable of accommodating up to 100 dwellings (including a minimum 35% affordable housing), with associated open space, landscaping and a community orchard. Appendix 1 provides a site location plan.
- 6.1.2 The first application was submitted in December 2014 and refused by Herefordshire Council in March 2015. An appeal against the refusal of the first application was submitted in May 2015 with the planning inquiry in May 2016. A second application for up to 95 dwellings was also submitted in January 2016 and is currently pending determination.
- 6.1.3 Gladman have developed extensive evidence to show that the site is suitably located with good access to existing facilities and services. The site is located to the south of the A438 and to the west of Longworth Lane. The north western boundary is defined by an established hedgerow, which is to the rear of the properties on the A438. The proposal will provide new homes which will help sustain the vitality and vitality of local services and facilities for future years. Gladman believe the site can bring real benefits to the community.
- 6.1.4 The site is situated within a demonstrably suitable and appropriate location to host new housing development. The proposals will make a significant contribution towards meeting the social elements of sustainability through: providing homes to meet the objectively assessed housing needs of Herefordshire and making a valuable contribution towards five year housing land supply. Further the application proposals will provide for the full amount of affordable housing in circumstances where there is a shortage in the County, this should be regarded as a significant material benefit. The development proposals will assist in helping to maintain and enhance the vitality of Bartestree.
- 6.1.5 In addition to the delivery of housing the proposals will also deliver a number of economic benefits which include New Homes Bonus, jobs in construction, a further indirect jobs in associated industries and improvement in local spend.
- 6.1.6 There are also a number of environmental benefits associated with the development proposals which include the provision of green infrastructure, public open space and a community orchard.
- 6.1.7 Therefore Gladman strongly object to the draft policy BL4 Settlement Boundaries and Map B in the Neighbourhood Plan, which if applied would actively resist development in this location unnecessarily. This site is currently identified as not supported and planning appeal pending, however Gladman consider that this is a sustainable site that should be allocated as part of the NP.

7 CONCLUSIONS

7.1 Assessment against the Basic Conditions

7.1.1 Gladman object to the Bartestree with Lugwardine Neighbourhood Plan in its current form, which is distinctly anti-growth attempts to resist future growth through a number of policies which seek to constrain the ability of new sustainable development proposals coming forward.

7.1.2 The NP contains a series of fundamental flaws not only in terms of its conflict with or lack of conformity with local and national policy, but lacks clear, robust and up-to-date evidence to support its policies.

7.1.3 The Bartestree with Lugwardine Neighbourhood Plan contains a number of matters which contravene the following basic conditions:

(a) Having regard to national policies and advice contained in guidance issued by the Secretary of State,

- Gladman contend that the strategy as proposed by the Neighbourhood Plan’s vision, objectives and a number of policies, including their supporting text, seek to constrain the delivery of sustainable housing development. This is in direct conflict with the National Planning Policy Framework.
- The Neighbourhood Plan fails to have any regard to the advice and guidance contained in PPG; Neighbourhood Plans, Strategic Environmental Assessment and Housing Land Availability.

(d) The making of the order contributes to the achievement of sustainable development

- Policies within the Neighbourhood Plan actively seek to constrain the ability for development to come forward and are used as a mechanism to prevent future sustainable development.
- The Plan provides no flexibility or contingency. Therefore the Neighbourhood Plan will fail to maintain the village’s vitality and will not provide housing of a scale to meet localised or district wide needs. This will lead to a decline in key facilities and essential services and will have a direct impact on the demographic profile of Bartestree and Lugwardine.

(e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area (or any part of that area)

- The policies set out within the NP do not conform to what has been provided in the adopted Plan for Herefordshire Council. In particular, the NP does not reflect the minimum requirement set out in the Herefordshire LPCS.
- The Neighbourhood Plan lacks a credible evidence base in order to inform a policy response.

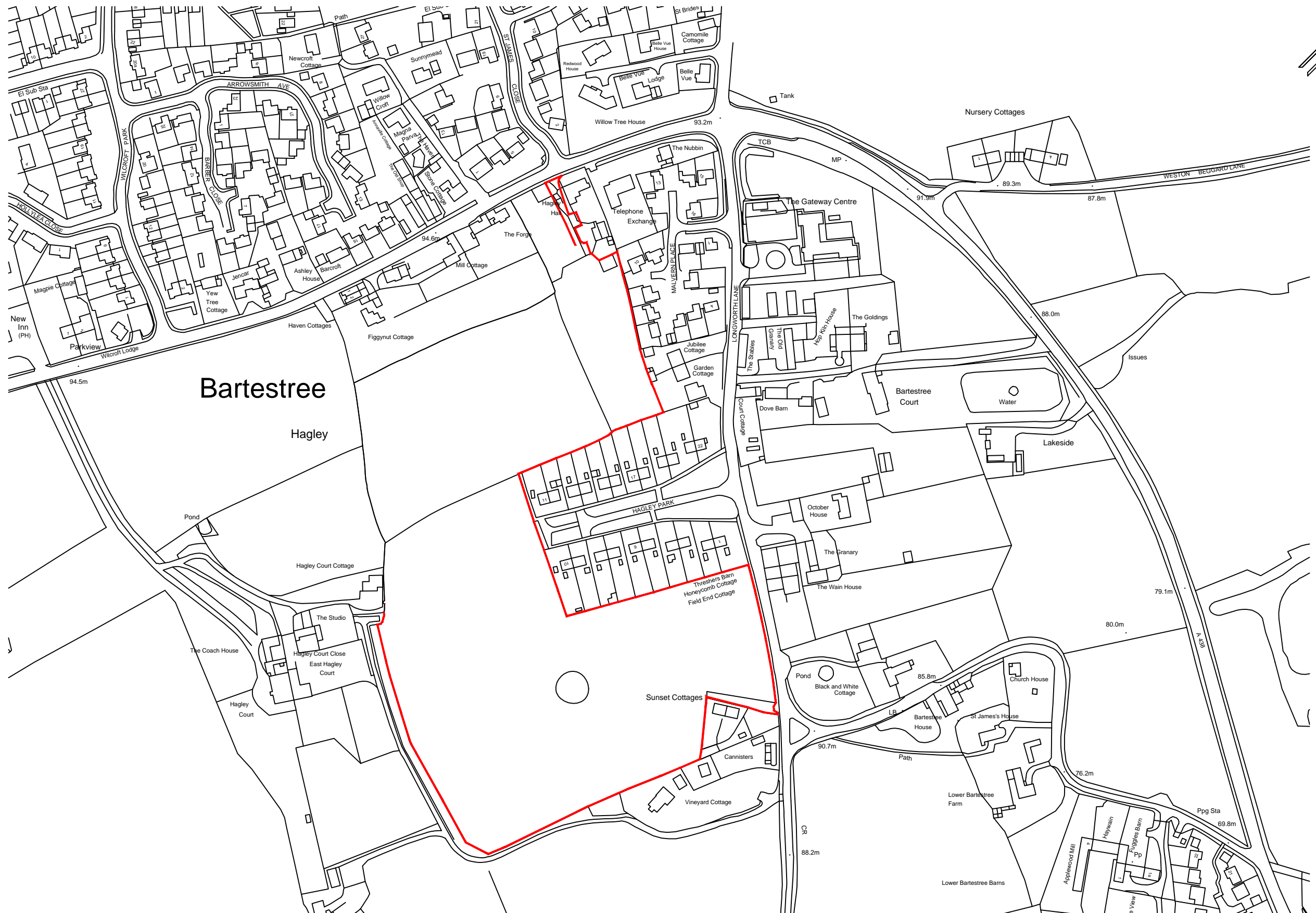
7.1.4 Gladman would like to remain involved throughout the preparation of the Bartestree with Lugwardine Neighbourhood Plan and therefore request to be added to the consultation database. Gladman wish to take part in the hearing session(s) of the examination of the Neighbourhood Plan.

- 7.1.5 Please notify us immediately of any steps taken towards a new Plan version and a further Regulation 14 consultation.

Appendix 1: Land off Longworth Lane, Bartestree – Site Location Plan



January 2016



D	02-12-14	MkH	Red Line Amended
C	25-11-14	SB	Red Line Amended/Blue Line shown
B	20-11-14	MkH	Red Line Amended
A	27-02-14	MkH	Red Line Amended to Title

Rev	Date	By	Revision notes
Status			

Application

Project	Longworth Lane Bartestree
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Title	Red Line
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Drawn by	PG	Issue date	08/01/14
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Scale(s)	1:2500 @ A3
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Drawing No	2014-006-001 rev D
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Appendix 2 - Cover email for Gladman's Regulation 14 consultation representations

Peter Hilldrup

From: Peter Hilldrup
Sent: 18 January 2016 14:03
To: 'evewilsonmediator@tiscali.co.uk'
Cc: John Fleming
Subject: Bartestree with Lugwardine Neighbourhood Development Plan
Attachments: 16-01-18 Bartestree with Lugwardine Neighbourhood Plan.pdf



Dear Ms Wilson,

Please find attached the representations from Gladman Developments for the Bartestree with Lugwardine Neighbourhood Development Plan, which is currently out to Regulation 14 consultation.

If you require any further information, please do not hesitate to contact me.

Kind regards,

Peter

[Peter Hilldrup](#) Senior Planner | p.hilldrup@gladman.co.uk | DDI: 01260 288 815

[Gladman Developments](#) | Gladman House | Alexandria Way | Congleton | Cheshire | CW12 1LB

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www.gladman.co.uk/land

Appendix 3 - SoS appeal decision - Land south of Hare Street Road, Buntingford



Department for
Communities and
Local Government

Mr Peter Brady
The Planning Law Practice
Wood End
20 Oaklands Park
BISHOPS STORTFORD
Herts
CM23 2BY

Our Refs: APP/J1915/A/14/2220854 &
APP/J1915/A/14/2220859

3 March 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY WHEATLEY HOMES LTD: AREA 2 and 3, LAND SOUTH OF HARE
STREET ROAD, BUNTINGFORD SG9 9JQ
APPLICATION REFS: 3/14/0528/OP & 3/14/0531/OP**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Braithwaite BSc(Arch) BArch(Hons) MRTPI, who held an inquiry on 6-8 January 2015 into your client's appeals against the failure of East Hertfordshire District Council ('the Council') to give notice of its decision within the appropriate period for approximately 100 houses at Area 2 in accordance with application reference 3/14/0528/OP, and approximately 80 houses at Area 3 in accordance with application reference 3/14/0531/OP, both applications dated 21 March 2014.
2. On 27 March 2015 the appeals were recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeals raise important or novel issues of development control, and/or legal difficulties.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that both appeals be allowed. For the reasons given below, the Secretary of State agrees with the Inspector's analysis and conclusions, and agrees with his recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. The Secretary of State notes an application for costs was made by the appellant against the Council. That application is the subject of a separate decision.

Julian Pitt, Decision Officer
Planning Casework
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel 0303 444 1630
pcc@communities.gsi.gov.uk

5. After receiving the Inspector's report, the Secretary of State received an email from the Council dated 15 September, attached to which was a consultant report entitled *Buntingford Transport Modelling Assessment* dated August 2015. The report was in two parts, a *Base Model Report* and a *Future Scenarios Model Report*. The email noted that the report has been discussed at the appeal Inquiry and had now been endorsed by the Council. On 25 September 2015 the Secretary of State received an email from Councillor Jones of East Hertfordshire District Council to which were attached the same report and also an email from Thames Water to the Council dated 15 July about development and infrastructure issues in Buntingford. The Secretary of State has given careful consideration to all these representations, but as they do not raise new issues that would affect his decision he has not considered it necessary to circulate them to the appellant for comment. Copies of the correspondence may be obtained on written request from the address at the bottom of the first page of this letter.

Policy considerations

6. In deciding these appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan consists of the saved policies of the East Hertfordshire Local Plan 2007. The Secretary of State considers that the most relevant policies for this case are those set out at IR10, namely: LP Policy GBC2 (on the Rural Area beyond the Green Belt, RAGB), LP Policy GBC3 (which specifies that within the RAGB permission will not be granted for new buildings other than in specified purposes, none of which specified purposes apply in the case of these appeals)) and LP Policy IMP1 which requires developers to make provision for affordable housing, infrastructure and other purposes by entering into planning obligations or accepting planning conditions. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework), the associated planning practice guidance (the Guidance) and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.
7. The Secretary of State notes that the Council is currently preparing a new District Local Plan covering the period to 2031. A draft has been published and subject to consultation, but has not been submitted for independent examination. As the proposals are still in preparation, are subject to unresolved objections to relevant policies and may, at examination, be found to require modification in order to be consistent with the Framework, the Secretary of State agrees with the Inspector that very limited weight can be accorded to the emerging Plan (IR88).
8. The Buntingford Neighbourhood Plan (NP) is at an early stage, being yet to be submitted to East Hertfordshire District Council for publicity and independent review by an Examiner. The appeal site abuts but is outside the settlement boundary in the emerging NP and is not allocated for development. The appeal proposal therefore conflicts with the emerging NP. However, the Guidance advises that refusal of planning permission on grounds of prematurity will seldom be justified in the case of an NP before the end of the local planning authority publicity period. As the NP is still at an early stage in preparation, is subject to unresolved objections to relevant policies and may be found at examination to require modification, and because of the matter of housing land supply considered below, the Secretary of State gives little weight to the emerging NP.

Main considerations

Housing land supply

9. Paragraph 47 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites to provide five years of housing against their housing requirements. The Appellant's uncontested assessment of current housing supply is, at the very best, 3.3 years. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Secretary of State agrees with the Inspector that LP policies GBC2 and GBC3 are relevant policies for the supply of housing and should be treated as out of date in this respect, though not in other regards (see below), given the Council's accepted position regarding the housing land supply position (IR89).
10. Aside from housing land supply, the Secretary of State agrees with the Inspector the main issue is whether the site is a sustainable location for housing, with particular regard to matters under the headings below (IR68).

The visual amenity and character of the area

11. Having regard to the reference to the appeal decision on Area 1 at IR88, the Secretary of State considers that although policies GBC2 and GBC3 are out of date in terms of identifying settlement boundaries and housing supply, they are up to date and deserve significant weight in terms of their protection of the countryside from unnecessary development, particularly as they are consistent with the principle at paragraph 17 of the Framework that planning should recognise the intrinsic character and beauty of the countryside. However, the Secretary of State agrees with the Inspector's analysis at IR69-73 and conclusion at IR73 that the proposed developments, both individually and cumulatively, would have a less than significant adverse effect on the character or visual amenity of the area. Consequently he places little weight on this harm, though he agrees with the Inspector that both developments would nevertheless be contrary to saved LP Policy GBC3 (IR73).

Local infrastructure

12. For the reasons at IR74-75 the Secretary of State agrees with the Inspector that the proposed developments would not place an unacceptable burden upon local infrastructure (IR75) and would accord with saved LP Policy IMP1 (IR75).

Best and most versatile agricultural land

13. The Secretary of State has taken account of the fact that the proposed developments would result in the loss of about 14 hectares of the best and most versatile agricultural land (IR76). He places moderate weight on this loss.

Local employment opportunities and public transport links

14. The Secretary of State agrees with the Inspector's assessment at IR77-79 and conclusion at IR80. He agrees that Buntingford has poor public transport links to the other towns in the District and elsewhere, and currently has insufficient employment opportunities for the intended increase in the population of the town. But land exists for the creation of employment opportunities and the appellant's financial contributions would enhance the marketing of this land and enhance sustainable transport

opportunities for both existing and intended residents. In this regard both developments would accord with saved LP policy IMP1. However, the field where the Areas 2 and 3 are located is a less sustainable location for housing in comparison to sites in, or on the edge of, large towns in the District that have a railway station and better public transport (IR80). Taking account of the transport provisions in the Unilateral Undertakings, the Secretary of State places moderate weight against the proposal on account of Buntingford's relatively poor public transport links and the likelihood that a high percentage of journeys by new residents would be made by car including trips to access train services (IR83-84).

Traffic

15. The Secretary of State notes the Council's changed position at the start of the Inquiry regarding its earlier concerns about impact on the transport network (IR3) and that the traffic modelling report that has been drawn to the Secretary of State's attention (paragraph 5 above) is referred to in the unilateral undertakings for both appeal areas (email from the Council to the Secretary of State dated 15 September).
16. The Secretary of State agrees with the Inspector's conclusion that there is no evidence to indicate that the developments would result in unacceptable congestion anywhere on the local road network, or compromise highway safety or cause any unacceptable noise or disturbance due to the increased traffic (IR86).

Whether the proposals would be sustainable development

17. The Secretary of State agrees with the Inspector's assessment at IR81-85. Despite the loss of Grade 2 agricultural land and the likelihood that intended residents would predominantly use their private motor cars for journeys to work and shopping purposes, the balance falls on the developments satisfying the environmental role of sustainable development in view of the improvements to the biodiversity of the area (IR82 and condition 15 in regard to both appeals) and the less than significant adverse effect on the character and visual amenity of the area. The developments fully satisfy the economic and social roles of sustainable development and the Secretary of State agrees that the proposals may therefore be regarded to be, overall, sustainable developments in sustainable locations for housing (IR84-85).

Conditions

18. The Secretary of State has considered the Inspector's assessment at IR64-65 and recommended Schedules of conditions at page 23-25 of his report. The Secretary of State is satisfied that the proposed conditions for both appeals are reasonable and necessary and would meet the tests of paragraph 206 of the Framework.

Unilateral Undertakings

19. The Secretary of State agrees with the Inspector's assessment at IR66 of the Unilateral Undertakings submitted for each of the appeal schemes. He agrees that the Undertakings are all necessary to make the development acceptable in planning terms, are directly related to the development, are fairly and reasonably related in scale and kind to the development, and are in place to mitigate the effects of the development. He therefore agrees with the Inspector that both Undertakings would be CIL compliant and considers that they fully accord with the tests in paragraph 204 of the Framework.

Overall planning balance and conclusion

20. The Secretary of State has had regard to s 38 (6) of the Planning and Compulsory Purchase Act 2004. The Secretary of State agrees with the Inspector's conclusions and planning balance at IR87-92. The proposals do not accord with the development plan taken as a whole, in particular owing to the clear conflict with LP Policy GBC3. The Secretary of State has therefore gone on to consider whether there are any material considerations which might nevertheless justify allowing the appeals.
21. The uncontested current housing supply is at best 3.3 years. In applying Paragraph 49 of the Framework the Secretary of State considers that, as the Council cannot demonstrate a five year supply of deliverable housing sites, LP Policies GBC2 and GBC3 are out of date in so far as they relate to the supply of housing. He has therefore gone on to consider Paragraph 14 of the Framework. This states that there is a presumption in favour of sustainable development and that, for decision taking, this means, where relevant policies in the development plan are out-of-date, granting planning permission for development unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
22. Weighing against the appeal proposal are the less than significant adverse effect on the character or visual amenity of the area, on which the Secretary of State places little weight, and Buntingford's relatively poor public transport links and the likelihood that a high percentage of journeys by new residents would be made by car including trips to access train services, on which he places moderate weight. The Secretary of State also places moderate weight on the loss of 14 hectares of the best and most versatile agricultural land.
23. Weighing in favour, the main benefit of the developments is the provision of market housing units and 40% affordable housing units in a District where there is a significant under supply of housing. The Secretary of State considers that this provision of housing weighs heavily in favour of the appeal. Additionally, he places moderate weight on the improvements to the biodiversity of the site.
24. Overall, the Secretary of State agrees with the Inspector that the appeal proposals would be sustainable developments and, having weighed the adverse effects of the developments against the benefits, the Secretary of State considers that the benefits of both developments clearly outweigh the adverse effects, so justifying determination of the appeals other than in accordance with the development plan.

Formal Decision

25. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation and hereby allows your client's appeals and grants outline planning permission for:
 - approximately 100 houses at Area 2 in accordance with application reference 3/14/0528/OP, subject to the conditions in Annex A; and
 - approximately 80 houses at Area 3 in accordance with application reference 3/14/0531/OP, subject to the conditions in Annex B.

Right to challenge the decision

26. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
27. A copy of this letter has been sent to East Hertfordshire District Council. Notification has been sent to all other parties who asked to be informed of the appeal decisions.

Yours faithfully

Julian Pitt

Julian Pitt

Authorised by Secretary of State to sign in that behalf

Annex A

Conditions applicable to grant of outline planning permission for application No. 3/14/0528/op (Area 2)

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 16700/1019A, 16700/1021 rev B, 16700/1022B, JBA 14/07-SK03 rev A, JBA 14/07-SK04 rev A, JBA 14/07-03 rev A, C-207128/SK24 rev P6, C-207128/SK28 rev P2.
2. Details of the appearance, landscaping, layout, and scale of the development (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins, and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.
4. The development hereby permitted shall begin no later than one year from the date of approval of the last of the reserved matters to be approved.
5. The landscaping scheme referred to in condition 2 shall include replacement, reinforcement and where appropriate the extension of screen planting on the eastern boundary of the land, together with proposals for the future management and maintenance of this area whilst the development hereby permitted remains.
6. No development or groundworks shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved programme, and this condition shall only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.
7. No development shall take place until a detailed surface water drainage scheme has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on the submitted Flood Risk Assessment C-207128D dated 14 March 2014 and shall include a restriction in run-off and surface water storage as outlined in the FRA, and pollution prevention measures. The approved scheme shall be implemented in phases, prior to the first occupation of each phase of the development.
8. No development shall take place until a scheme to deal with any contamination of land and/or groundwater has been submitted to and approved in writing by the Local Planning Authority and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement in writing:
 - i. A site investigation, based on the details contained in the Submitted Geoenvironmental Desk Study Report (J14066 dated March 2014), shall be carried out to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;
 - ii. An options appraisal and remediation strategy, giving full details of the remediation measures required and how they are to be undertaken, based on the results of the site investigation and detailed risk assessment referred to in i) above;

- iii. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in ii) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
9. The development hereby permitted shall not be brought into use until a verification report, demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation, has been submitted to and approved in writing by the Local Planning Authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plans shall be implemented as approved.
10. No dwelling shall be occupied until the access, junction and parking arrangements serving that dwelling have been completed in accordance with the approved in principle plan, drawing number C-207128/SK28 rev P2, to the standards outlined in Roads in Hertfordshire and constructed to the Highway Authority's specification. This will include widening of the proposed access road to enable two HGVs to pass one another with 0.5m tolerance, and a preferred road radius of 40m.
11. No development shall take place, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
 - i. the programme and phasing of works on site;
 - ii. the parking of vehicles of site operatives and visitors;
 - iii. loading and unloading of plant and materials;
 - iv. storage of plant and materials used in constructing the development;
 - v. the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
 - vi. wheel washing facilities;
 - vii. measures to control the emission of dust and dirt during construction;
 - viii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix. construction vehicle routing and access;
 - x. the protection of pedestrians using the public footpath that crosses the site.
12. No development shall take place until additional scale layout plans showing the arrangements to be implemented at the intersection of the site entrance with public footpath 21, along with details of temporary fencing/signing to protect the alignment of the footpath, have been submitted to and approved in writing by the Local Planning Authority in accordance with Hertfordshire County Council's Rights of Way Good Practice Guide.
13. A Green Travel Plan, with the object of reducing travel to and from the development by private car, shall be submitted to and approved in writing by the Local Planning

Authority prior to first occupation of any dwelling and the proposed measures shall be implemented to an agreed timetable.

14. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage in accordance with BS5837: 2012 'Trees in relation to Design, Demolition and Construction', for the duration of the works on site. In the event that trees or hedging become damaged or otherwise defective during the construction period or within five years following practical completion of the approved development, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as shall be agreed with the Local Planning Authority.
15. The recommendations to mitigate and enhance the biodiversity of the site highlighted in Section 7 of the Ecological Appraisal and Protected Species report dated March 2014 shall be implemented as approved.
16. The dwellings hereby permitted shall be designed so that their ridge heights do not exceed 117.5 m AOD across the site.

Annex B

Conditions applicable to grant of outline planning permission for application No. 3/14/0531/OP (Area 3)

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 16700/1021B, 16700/1023B, JBA 14/07-SK03 rev A, JBA 14/07-04 rev A, JBA 14/07-SK05 rev A, C-207128/SK25 rev P5, C-207128/SK29 rev P2.
2. Details of the appearance, landscaping, layout, and scale of the development (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins, and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.
4. The development hereby permitted shall begin no later than one year from the date of approval of the last of the reserved matters to be approved.
5. The landscaping scheme referred to in condition 2 shall include replacement, reinforcement and where appropriate the extension of screen planting on the eastern boundary of the land, together with proposals for the future management and maintenance of this area whilst the development hereby permitted remains.
6. No development or groundworks shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved programme, and this condition shall only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.
7. No development shall take place until a detailed surface water drainage scheme has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on the submitted Flood Risk Assessment C-207128D dated 14 March 2014 and shall include a restriction in run-off and surface water storage as outlined in the FRA, and pollution prevention measures. The approved scheme shall be implemented in phases, prior to the first occupation of each phase of the development.
8. No development shall take place until a scheme to deal with any contamination of land and/or groundwater has been submitted to and approved in writing by the Local Planning Authority and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement in writing:
 - i. A site investigation, based on the details contained in the Submitted Geoenvironmental Desk Study Report (J14067 dated March 2014), shall be carried out to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;
 - ii. An options appraisal and remediation strategy, giving full details of the remediation measures required and how they are to be undertaken, based on the results of the site investigation and detailed risk assessment referred to in i) above;
 - iii. A verification plan providing details of the data that will be collected in order to

demonstrate that the works set out in the remediation strategy in ii) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

9. The development hereby permitted shall not be brought into use until a verification report, demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation, has been submitted to and approved in writing by the Local Planning Authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plans shall be implemented as approved.
10. No dwelling shall be occupied until the access, junction and parking arrangements serving that dwelling have been completed in accordance with the approved in principle plan, drawing number C-207128/SK25 rev P5, to the standards outlined in Roads in Hertfordshire and constructed to the Highway Authority's specification. This will include widening of the proposed access road to enable two HGVs to pass one another with 0.5m tolerance, and a preferred road radius of 40m.
11. No development shall take place, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
 - i. the programme and phasing of works on site;
 - ii. the parking of vehicles of site operatives and visitors;
 - iii. loading and unloading of plant and materials;
 - iv. storage of plant and materials used in constructing the development;
 - v. the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
 - vi. wheel washing facilities;
 - vii. measures to control the emission of dust and dirt during construction;
 - viii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix. construction vehicle routing and access;
 - x. the protection of pedestrians using the public footpath that crosses the site.
12. No development shall take place until additional scale layout plans showing the arrangements to be implemented at the intersection of the site entrance with public footpath 15, along with details of temporary fencing/signing to protect the alignment of the footpath, have been submitted to and approved in writing by the Local Planning Authority in accordance with Hertfordshire County Council's Rights of Way Good Practice Guide.
13. A Green Travel Plan, with the object of reducing travel to and from the development by private car, shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of any dwelling and the proposed measures shall be implemented to an agreed timetable.

14. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage in accordance with BS5837: 2012 'Trees in relation to Design, Demolition and Construction', for the duration of the works on site. In the event that trees or hedging become damaged or otherwise defective during the construction period or within five years following practical completion of the approved development, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as shall be agreed with the Local Planning Authority.
15. The recommendations to mitigate and enhance the biodiversity of the site highlighted in Section 7 of the Ecological Appraisal and Protected Species report dated March 2014 shall be implemented as approved.
16. The dwellings hereby permitted shall be designed so that their ridge heights do not exceed 117.5 m AOD across the site.

Report to the Secretary of State for Communities and Local Government

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 26 August 2015

TOWN AND COUNTRY PLANNING ACT 1990

EAST HERTFORDSHIRE DISTRICT COUNCIL

APPEALS

by

WHEATLEY HOMES LIMITED

Inquiry held on 6-8 January 2015

Areas 2 and 3, Land south of Hare Street Road, Buntingford SG9 9JQ

File Refs: APP/J1915/A/14/2220854 and APP/J1915/A/14/2220859

File Ref: APP/J1915/A/14/2220854

Area 2, Land south of Hare Street Road, Buntingford SG9 9JQ

- The application was recovered for decision by the Secretary of State by a direction, made under section 79 of the Town and Country Planning Act 1990, on 27 March 2015.
- The application is made by Wheatley Homes Limited to East Hertfordshire District Council.
- The application Ref 3/14/0528/OP is dated 21 March 2014.
- The development proposed is construction of approximately 100 houses.
- The reason given for making the direction was that the appeal involves a proposal which raises important or novel issues of development control and/or legal difficulties.

Summary of Recommendation: The appeal be allowed.

File Ref: APP/J1915/A/14/2220859

Area 3, Land south of Hare Street Road, Buntingford SG9 9JQ

- The application was recovered for decision by the Secretary of State by a direction, made under section 79 of the Town and Country Planning Act 1990, on 27 March 2015.
- The application is made by Wheatley Homes Limited to East Hertfordshire District Council.
- The application Ref 3/14/0531/OP is dated 21 March 2014.
- The development proposed is construction of approximately 80 houses.
- The reason given for making the direction was that the appeal involves a proposal which raises important or novel issues of development control and/or legal difficulties.

Summary of Recommendation: The appeal be allowed.

Procedural Matters

1. At the Inquiry an application for costs was made by Wheatley Homes Limited against East Hertfordshire District Council. This application is the subject of a separate Report.
2. The Rule 6(6) party at the Inquiry comprised Buntingford Town Council, Buntingford Civic Society, Buntingford Action for Responsible Development, and Buntingford Chamber of Commerce. For the purposes of this report the Rule 6(6) party will be referred to as the Buntingford Alliance (BA).
3. At the opening of the Inquiry the Council indicated that they would not be presenting any evidence. They would have been represented by a Planning Consultant, Mr J Watson. In a letter (ID16) to Mr Steptoe, the Council's Head of Planning and Building Control, Mr Watson concedes that, having been presented with evidence that alleviated concerns regarding impact on the transport network, "...their combined weight would not significantly and demonstrably outweigh the benefits of the development proposals, as required by paragraph 14 of the NPPF".
4. The Appellant and BA had been informed that the Council would not be presenting evidence immediately before the Inquiry opened. BA's advocate, Mr Jameson, had been intending to rely on the Council's advocate to cross-examine the Appellant's witnesses. Furthermore, he was appearing on behalf of BA on a pro bono basis and was therefore only able to attend the Inquiry to make opening and closing statements and to present the evidence of BA's sole witness.
5. The aforementioned unusual circumstances of the Inquiry resulted in there being no cross-examination of the Appellant's four witnesses. In the interests of fairness it was agreed that the Appellant's advocate, Mr Shadaverian, would not cross-examine the evidence given by BA's witness.

6. The Inquiry was held to consider two appeals for the development of two adjoining areas of land. The two areas, Areas 2 and 3, are parts of a large field on the east side of Buntingford. The third part of the field, Area 1, was a subject of a Planning Inquiry held in December 2013. The appeal was successful and a reserved matters application, subsequent to the grant of outline permission, has been granted for the 'erection of 105 dwellings, roads, sewers, garages, landscaping and ancillary works', though construction works have not yet commenced.

7. Both applications that are the subjects of this report were submitted in outline form with all matters except for access reserved for future consideration. This report will consider the appeals on the same basis.

8. After the close of the Inquiry, in exercise of his powers under Section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990 (the Act), the Secretary of State directed, by letters dated 27 March 2015, that the two appeals were to be determined by himself rather than by the Inspector.

The Site and Surroundings

9. The combined appeal site is about 14 hectares and rises generally from west to east. Area 2, about 8.36 hectares, has a north boundary to Area 1, a west boundary to residential development on Layston Meadow and Plashes Drive, a south boundary to a narrow lane, Owles Lane, and an east boundary to a field. Area 3, about 5.72 hectares, has a west boundary to Area 1 and to allotment gardens, a north boundary to Hare Street Road, a south boundary to Area 2, and an east boundary to the same field as Area 2. Within the combined site, along its east boundary, is an established tree belt. To the east of the site is a plateau of open farmed countryside.

Planning Policy

10. The Development Plan includes saved policies of the East Herts Local Plan Second Review 2007 (LP). The LP identifies the field to be outside the development limits of Buntingford and therefore in a 'Rural Area beyond the Green Belt' (RAGB), which is established by saved LP policy GBC2. Saved LP policy GBC3 states that within the RAGB permission will not be granted for the construction of new buildings other than for specified purposes. The proposed housing developments are not for any of the specified purposes. Saved LP policy IMP1 requires developers to make appropriate provision for affordable housing, open space and recreational facilities, education facilities, health care facilities, sustainable transport modes, highway improvements, nature conservation and landscape improvements, sustainable construction issues and other infrastructure improvements by entering into planning obligations or by accepting planning conditions on permissions granted.

The Proposals

11. The development proposed for Area 2 is for about 100 houses and for Area 3 is for about 80 houses. In both cases the development would comprise a mix of dwellings and 40% of the houses would be affordable housing. Vehicular access into Area 2 would be through Area 1, whilst vehicular access into Area 3 would be directly off Hare Street Road. The two developments could be developed independently and the outcome of the two appeals could be different. This will be considered in the overall planning balance.

The Case for Wheatley Homes Ltd

The material points of the case made by Wheatley Homes Ltd are:

Housing and Employment Factors

12. The appeals follow closely in the wake of a successful appeal heard in December 2013 in relation to adjoining land. There are some interesting and important parallels to be drawn between that appeal and these appeals to the extent that material circumstances have not changed substantially. In essence, the similarities lie in the important policy and factual parameters that remain substantially the same, if not more compelling in their significance. These relate substantially to the housing supply position in the District and the considerations that govern the decision-making parameters in these appeals in relation to the three dimensions of sustainability, and the substantial weight to be given to the fact that the appeal proposals will provide market and affordable housing. Nothing has improved in relation to the supply of housing.

13. The chronic shortfall in supply has not improved over the past year and, although more permissions have been granted in Buntingford and elsewhere, they make little difference to the housing supply situation. There is now, however, a positive commitment to provide two hectares of employment land on the Sainsbury's site and three additional hectares at Buntingford Business Park (this being a material change in circumstances since the last appeal). The previous Inspector categorised the Sainsbury site as being allocated for housing – he therefore warned the Council to think carefully before losing the employment site. It is clear that the 2014 Employment Land study undertaken on its behalf is optimistic about the long term capacity of Buntingford to significantly increase local employment provision to meet the prospective increase in population that would be brought about by residential commitments and other proposals in the pipeline given the fact that the resident working population will inevitably contain a commuting element.

14. This is information which we know was not before the previous Inquiry. There was no evidence at the time of this potentiality as, indeed, the Inspector identified at ID48 where he stated that "I accept that if all the current applications and appeals were determined favourably then there would be over 800 dwellings committed. I agree that such a level of housing growth without an accompanying growth in employment could only lead to significant out commuting and given the current state of public transport in Buntingford, this would not be an environmentally sustainable outcome". The 800 figure did not, of course, include these proposals. However, what is essential to understand about the Inspector's analysis is that it was based upon prospective developments in the absence of further employment provision. The population projection increase for the purposes of the Study relates to all of these plus a further 271 dwellings at Baldock Road which was at the time of the previous inquiry a pre-existing commitment under construction and therefore should be taken to represent part of the baseline for the Inspector's assessment in this regard. Thus, if we are to take the Inspector's reasoning as an appropriate starting point in the analysis of out commuting as a sustainability issue, the total he assumed for his assessment would now increase to a maximum of only 947 dwellings, but in a very different jobs growth context.

15. The prospective job creation identified in the Study - 1100 to 1300 jobs - would, in the words of the Study (ES paragraph 20), "...go a long way to creating local employment opportunities for the expected increase in the working population

of up to 1625 people and replacement of jobs when the Sainsbury's depot closed. It would contribute to moderating the very substantial net out-commuting from the town...and contribute to the retention of a full range of services in the town centre". It is important to note that the 1625 dwellings figure is the worst case (scenario G) which also includes the working population attributable to 400 dwellings east of the A10 Bypass which is apparently now the subject of an application. Nevertheless, it has to be ignored for the purposes of these appeals. Scenario C which includes the appeal schemes totals a 1236 increase in the employed population which sits well within the upper and lower range of prospective employment growth identified. There is no evidence before the inquiry to countermand this proposition, based as it is on the Council's commissioned assessment.

16. Of course the Study deals with capacity. It cannot predict the actual number of jobs that will be created overall. Moreover, the planning system can serve only to create the opportunity for growth; it cannot command it. What is important for the purposes of these appeals and the decision to be made is that the opportunities are in balance with prospective need generated by a growing population. That is all the decision maker can ensure and can be expected to ensure in the absence of any evidence that the employment strategy is unachievable or unrealistic. There is no such evidence before this Inquiry.

Housing Supply

17. The current housing supply is, at the very best, 3.3 years, possibly less (this will depend upon the outcome of the Plan process and whether there is any adjustment to the current objectively assessed need of 750 dwellings per annum required for other factors). For the purposes of this appeal it is reasonable to take this figure as the Objectively Assessed Need (OAN) for the District as it still demonstrates that the housing supply situation remains "dire". We have asked the Council whether the figure of 750 includes the pre 2011 shortfall, but have had no response. If the pre 2011 shortfall is included, the 3.3 years reduces further.

18. 3.3 years is the appropriate 5 year figure at the moment (but could be worse). It is based on a 20% buffer and the application of the Sedgfield approach. The Council do not provide evidence to the contrary and, indeed, their own consultants express concern about the applicability of the Liverpool approach in current circumstances. A Liverpool approach would fly in the face of the Government's exhortation significantly to boost the supply of housing and to do so as quickly as possible. There can be no excuse, in the absence of compelling capacity or environmental constraints, to defer delivery.

19. The failure to deliver is chronic. There has been undersupply in each of the past 3 years by reference to the current OAN. There has been under-delivery throughout the previous decade by reference to relevant EEP and SP targets. In only three years in the past decade, 2000-2011, did supply exceed the housing requirement. This is by any standard woeful and fully justifies a 20% buffer. It should also be remembered that the buffer is not intended as some kind of punishment. It has to be applied to ensure that the historic undersupply situation is appropriately addressed by proactive decision-making.

The effect of the lack of a five year supply

20. There are two points to stress. Firstly, because the undersupply is very significant, the weight to be afforded to the fact that these proposals will provide

valuable market and affordable housing remains especially high. Secondly, and given the effect of paragraph 14 of the NPPF (and it is common ground, at least between the Local Planning Authority and the Appellants), this invokes the requirements of paragraph 49 requiring policies for the supply of housing to be regarded as out of date, and paragraph 14 that requires an appropriate harm/benefit analysis of the proposals. In short, it requires an overall balancing exercise to be undertaken with considerable weight to be given to the fact that the proposals would provide both market and affordable housing. A proper planning appraisal must include such an analysis if it is to be credible.

21. In relation to affordable housing, considerations should not be limited to local affordable needs only. That would countermand the fact that the dire need for affordable housing is a national phenomenon, and the objection to the supply of further affordable housing in Buntingford in excess of locally assessed need (as appears to be implied in the Council's withdrawn evidence), is both discriminatory and irrational. The Government's proper invective substantially to increase the supply of housing of all types is based on an incontrovertible national need and the idea that the provision of further housing in Buntingford in a sustainable location should be available only to those who can afford market prices is preposterous given this need, and the objective to create diverse and inclusive communities. Moreover, it will increase the future permanent stock of affordable housing to those within the indigenous population who will need and benefit from it in the future, as well as the employment opportunities that will become available.

22. It is also important to take into account the fact that the Council itself recognizes the role which Buntingford has to play in meeting the housing needs of the District, not merely its indigenous needs. As a minimum it was identified in the Issues and Options draft Local Plan for 500 houses with a possible maximum of 2000 houses. It is identified in the current draft for at least 493 dwellings which does not include the Taylor Wimpey scheme or Area 1. Clearly the possible additional development it contemplates on the Pigeon (180) and Sainsbury's (300) sites marks Buntingford out as a settlement that will have to play its part in this regard and its sustainability merits should not be the subject of arbitrary ceilings.

The Council's withdrawn case

23. The procedural background of these appeals demonstrates two things. Firstly, a willingness by the Appellants to work positively with the Council to achieve a sensible outcome and a desire at officer level to do the same given the prevailing policy context, housing supply position and responses from statutory consultees. Secondly, these efforts have been in the face of an entrenched and, we would assert, unreasonable opposition at Member level.

24. The Council's pre-Inquiry Statement represented the true scope of the Council's case for the purposes of this Inquiry before it was withdrawn. The Council's stance was that, whilst the proposals represent inappropriate development in the countryside contrary to policy GBC3, this policy contravention must be qualified by the fact that there is an acknowledged shortfall in housing supply. It would be unreasonable to base an objection on this policy alone, given the fact that further housing in the District will predominantly have to be green field development to which this policy will ostensibly apply in any event. Moreover, in the absence of a Local Plan that provides for an OAN, such a policy could only apply to unnecessary development. The housing provided by these proposals is necessary given current conditions. Instead, the Council puts its case on the basis of lack of sustainability.

25. The first sustainability objection is that relating to lack of employment opportunities locally. Given the matters outlined above, this objection has no substance. Nonetheless, and when looked at carefully, the Council's pre-Inquiry Statement discloses a somewhat ambivalent approach to this objection because, rather than asserting that there will be a mismatch (which given the conclusions of the Employment Study the Council cannot now assert) it instead orbits the Sainsbury's depot site employment requirement: "...the Council's case is based on the need to ensure that this provision is brought forward and delivered. It is deemed inappropriate for the burden of delivery...to be wholly assigned to the developer of that site". The District Council recognises the employment provision is being brought forward. 'Burden' is an irrelevant issue - employment would be for the benefit of Buntingford and also the rest of the District. The Council has of its own volition vacillated over the future of this employment site, even to the extent in very recent times of suggesting that it would be relinquished for employment purposes entirely, only belatedly now to require the retention of 2 hectares for this purpose following the employment study. This employment purpose is to serve the needs of the town generally (not merely the population generated by that development) which recognizes its planning status as an employment site. This provision is a matter upon which the Appellant can justly and appropriately rely as a material consideration in favour of the appeal proposals, not a factor against them

26. The second sustainability objection relates to lack of education facilities (a new 2FE primary school). It flies in the face of the Education Authority's consultation response to the applications. Indeed, it is hard to see how such a facility will be provided without developer contributions. Moreover there is absolutely no evidence to show that the Education Authority will not deliver as and when necessary. The Position Statement (20th August 2014) does not provide the justification for the Council's position. In particular, its strategy is not to urge an embargo on further housing in Buntingford, but to monitor forecast demand for reception places that may arise and to identify contingency options for the Town's first schools given the identified capacity issues. There is an existing 1.5FE expansion potential within the town and the objective above and beyond the Education Authority's commitment to contingency planning as a means of overcoming immediate needs, is to seek to provide a 2FE reserve site to serve the needs of the community in the longer term. The Education Authority, by indisputable implication, and given its clear response to consultation in respect of the applications, is not requiring the provision of the further 2FE school in advance of further housing development, or to put it another way, is not requiring an embargo on housing development in advance of its provision.

27. The final objection relates to highway capacity. This is wholly unfounded and inappropriately based on high level forecasting and capacity analysis that provides no justification for the Council's position. Moreover, the LHA raise no objections on capacity grounds and there is no evidence in terms of highway safety or capacity advanced by the Council that could conceivably substantiate an objection that the residual impacts of these appeals would, if allowed, be unduly problematic, let alone severe. No request for further modelling was made at any stage of the applications or the resubmitted applications in order to overcome any of the perceived concerns.

28. When properly examined the high level report and the JMP Review provide no evidence to support the previous Watson/EHDC view that "the appeal proposals represent a significant risk to achieving sustainable development until assessment and necessary mitigation measures are identified" or his view that "the addition of just 500 dwellings in Buntingford would cause the B1038 (Baldock Road) to become

significantly congested and could lead to increased congestion throughout the towns road network". In fact, in relation to the 500 dwelling scenario the Non Technical Report concluded that "development of 500 dwellings shows an increase to moderate congestion on this link".

29. It should be noted that the Council has behaved entirely inconsistently in relation to these proposals and those advanced by Fairview in relation to the Sainsbury's site. The additional contributions from the Fairview proposals for the school search, highway modelling and associated matters and the commitment to funding additional highway works were regarded by the EHDC Members as entirely sufficient to overcome their sustainability concerns.

30. Moreover, at no time has the Council suggested that the shortfall in supply will be made up or assisted by the prospective development of sites not within their proposed strategic allocations, let alone sites that might be said to be better located; or that such sites will be found in more sustainable settlements. There is no evidence before this inquiry that there are more sustainable options for making up the shortfall. We know, moreover, that Buntingford has been identified as an appropriate settlement (amongst those available) to assist in the strategic provision of housing. Whether the numbers currently proposed for Buntingford will find expression in a submission draft plan cannot be anticipated at this stage. The plan process is at too early a stage to make any assumptions in this regard, particularly given the dire state of the housing supply position.

Landscape and Visual Impact

31. The only professional evidence before the inquiry in relation to Landscape and Visual Impact is that adduced by the Appellant through Ms Bodiam. Her approach has been entirely objective in terms of the assessment approach adopted and her carefully reasoned assessment conclusions in relation to landscape and visual impact should be accepted.

32. Key factors not in dispute (and have never been disputed by the Council in relation to the amended proposals):

a. The topography of the appeal sites render them more closely allied to the settlement than the surrounding countryside. Moreover, the existing tree belt performs a visual and landscape function in limiting its influence in the wider landscape. It also limits the visual envelope of the appeal sites. Its effectiveness as a containment feature will continue to enhance as it matures. It will become very substantial over the next 10 years.

b. The eastern edge of the settlement is defined by the Taylor Wimpey scheme north of Hare Street Road, which in terms of topography is in line with the easternmost boundary of Area 3.

c. The Landscape Character Assessment identifies the appeal sites as falling within the Wyddial Plateau, but it should be emphasized that it is common for character areas to include adjoining areas of land. In the case of the study it recognizes that "...in terms of topography there is a more marked break of slope to the west and south where the plateau meets with the high rib valley". The valley contains both the settlement and the appeal sites. The proposed developments do not sit on the plateau as a matter of fact and will not be perceived from the plateau in the medium to longer term.

d. The amendments to the scheme ensure that a substantial gap remains between the tree belt and the proposed development (ensuring that the eastern most boundary sits at a lower contour) and the development does not take up the whole of the land within the tree belt, should this be of concern. On this point, it should be noted that Mr Middleton did not express any view about likely impact of further development, only its possible impact that should act as some kind of precedent.

e. In terms of landscape impact and the protection afforded by policy GBC3, the assessment clearly indicates that the harm is minimal and that the appeal sites have ample capacity to accommodate the change. Moreover, there will be little influence on surrounding areas and the developed sites will be seen as part of the natural growth of the town, given the close relationship of the sites to the centre of the settlement. Like Area 1, the loss of these sites to development would be less harmful than would be the case at many other edge of settlement green field sites.

f. In terms of visual impact the longer impact on receptors is similarly restricted to those within the site and the immediately adjoining area at Owles Lane. Ms Bodiam has dealt with this succinctly in answer to questions and it is indisputable that the significance of the effect of the development from this receptor will diminish substantially over the next 10 years or so and that, even in the short term, the impact is hallmarked only by glimpses of roof tops that will be seen in the context of the town itself and Fairview (Sainsbury's).

The Planning Balance

33. The question then arises whether, when taking into account all material considerations, the balance of the evidence indicates that the proposed development is sustainable and should therefore attract the presumption in favour of allowing one or both appeals.

34. Covering all three dimensions is the fact that these proposals will deliver much needed market housing and affordable housing. This is the weightiest factor in the overall balance. Indeed it must, in accordance with the NPPF, carry significant weight. The appeal sites are available, are developable and the Appellant has clearly demonstrated its commitment to bring development about in a responsible and timely fashion, true to its design philosophy.

35. **Economic Sustainability:** The provision of new homes will result in the creation of construction jobs and economic activity associated with the developments. The new population will contribute substantially to the local economy, it will contribute to the local workforce and potential for job creation and enhanced labour supply to fulfil and assist in the generation of local employment and employment opportunities that will come about by the new employment strategy. There are no minuses.

36. **Social Sustainability:** The proposals will introduce a younger population, integrating new families into an aging population, including families of a range of means, enhancing social interaction and the social dimension of the town through a well-integrated development. There will be substantial contributions to education provision at every level (approx £1m from the 2 sites). This will benefit the existing population as well. The transportation enhancements also have a social role (e.g. local bus improvements). There will be the opportunity to use the extensive open space by the community as a whole with the retention and provision of new footpath routes. There are no minuses.

37. Environmental Sustainability: These are centrally located developments. Residents will not be dependent on the car to access local services/facilities as all are within reasonable walking distances. There will be well-designed and landscaped proposals with extensive open space, useable by new and existing residents, including the LEAP. The dwellings will be energy efficient homes (15% to Lifetime Standards). There will be increased wildlife habitat within the development and improvements to the tree belt. These are substantial benefits reflecting the fact that the proposed developments are very well located to the existing centre.

38. There are inevitably some environmental dis-benefits. In the sense that the development of open countryside is such a disbenefit, it cannot carry significant weight because the undersupply can only be remedied by the substantial release of green field sites wherever they might be. There is inevitably some landscape and visual harm, but the evidence does not demonstrate that these impacts are unacceptable. There is also the loss of some Grade 2 agricultural land.

39. As with all rural settlements it is inevitable that there will be a higher proportion of residents using the private motorcar to access some services which may not be available in the town. The additional population that will be generated raises the possibility of extra services being provided. Moreover, it may be that until employment and housing provision are in appropriate balance that there might be further out commuting, but this cannot, given the evidence, be said to be a longer term or permanent feature of further residential development within Buntingford. The employment strategy addresses this.

40. However they are looked at, it cannot reasonably be said that these negative factors demonstrably and significantly outweigh the clearly established benefits of the scheme overall.

Conclusion

41. The proposals are sustainable development, planning permission should be granted for both proposals, and the appeals should be allowed.

The Case for the Buntingford Alliance

The material points of the case made by the Buntingford Alliance (BA) are:

42. These appeals, if successful, would be a good example of the application of the rule of unintended consequences. It is only just over a year since we were defending an appeal by Wheatley Homes for the development of Area 1. The unintended consequence is that where there is not an up to date Local Plan and there is not a five year supply of housing land based on 'full objectively assessed needs' then the local community is forced into the expense of fighting appeals to resist development which they believe to be unsustainable, and unintended by the NPPF in any event.

The National Planning Policy Framework (NPPF)

43. The consequence of paragraphs 47 and 49 of the NPPF, where Councils cannot demonstrate a five year supply of housing land based on full objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework, then their policies for the supply of housing should not be considered up to date. In this situation paragraph 14 of the NPPF applies. The paradox is that paragraph 14 starts by indicating that 'at the heart of the NPPF is a presumption in favour of sustainable development'.

44. It might be assumed that the presumption in favour of development in the absence of a five year housing land supply is only a presumption in favour of sustainable development. But that is not how it currently works. These proposals clearly do not accord with the Development Plan as the Inspector found at the last Inquiry. However, with paragraph 14 in place and in the rush to boost significantly the supply of housing, the development industry has been able to secure planning permissions in locations where the plan led system would never have proposed that development should take place, and in unsustainable locations.

The consequences for Buntingford

45. The result of this application of the NPPF is that Buntingford has become a magnet for developers. Buntingford will be surrounded by substantial blocks of new residential development, many of which have been granted permission, in what is essentially a large village or small town devoid of adequate infrastructure and employment to make it a sustainable location for that development.

46. This is happening because the sustainable towns for development in East Hertfordshire are located within the Green Belt which surrounds them to prevent urban sprawl and encroachment into the countryside. Bishops Stortford, Hertford, Ware, and Sawbridgeworth are the main towns in the District. They are the towns that provide the necessary infrastructure to accommodate growth. They are the towns where the vast majority of development in the emerging Local Plan will be allocated. However, in the absence of an up to date Local Plan and upon an application of the NPPF, Green Belt sites, even though adjoining the main urban areas of the District, still present a tough target for developers.

47. Exclusively of East Hertfordshire's towns, and whilst by some considerable distance the smallest, Buntingford is not located in the Green Belt. It therefore presents a softer target for developers notwithstanding the fact that the policy applicable in the LP for the RAGB is substantially the same as Green Belt Policies. The fact is that they are not Green Belt, they are a softer target, and the result, the unintended consequence of the application of the NPPF, is that development does not take place in and around the urban areas currently located within the Green Belt; it takes place in and around the infinitely less sustainable settlement of Buntingford.

48. The paradox is that whilst the NPPF ostensibly seeks to promote sustainable development, it actually secures non-sustainable development in preference to sustainable development.

Changes since the last Inquiry

- The draft East Herts District Plan has been published with sites to be allocated in Buntingford (not including the Appeal sites) and revised settlement limits defined.
- A substantial amount of further land has been approved for release for housing most notably 2600 dwellings in Bishops Stortford in areas which have been reserved sites for housing development in the LP for many years.
- The previous Inspector's threshold of more than 800 dwellings without an accompanying increase in employment has been breached. There have been over 1000 new dwellings built or approved in Buntingford since the 2011 Census. This, in the previous Inspector's own words is 'not an environmentally sustainable outcome'.

- The former Sainsbury's site has been approved for 316 dwellings with only 2 hectares reserved for employment despite the previous Inspector's comment that the former Sainsbury's site 'is possibly the best opportunity in Buntingford to promote significant employment growth and improve the sustainability of the town. The loss of this opportunity requires careful consideration before this site is released for residential development...'. That opportunity has been lost with the resolution to grant permission for 316 dwellings.

49. The housing/employment balance has thus worsened. Additionally the Pigeon land has also been released for 180 houses and 60 residential care units since the previous Inquiry despite the Inspector's comment that employment in the town 'is not sufficient to sustain the local working population'. As a result, although a large proportion of persons of working age that reside within Buntingford work within the town and its immediate environment, a majority do not. Most of these travel between 10 and 20 miles, probably to the surrounding towns.

50. The Inspector also said 'the town does not possess a railway station and...bus services are infrequent and circuitous. Consequently, unless new employment can be attracted to the town, a significant amount of new residential development is unlikely to be environmentally sustainable, its occupants having to seek work elsewhere and most likely be induced to travel there by private car. This again weighs against the appeal proposals and other residential development proposals at Buntingford, which...are not environmentally sustainable'. The reality is that further large releases of land for residential development such as proposed in these appeals are going to exacerbate out commuting in an unsustainable manner.

51. As well as unsustainable commuting to work patterns the previous Inspector found that "Most residents are likely to travel by car to larger supermarkets and for comparison shopping. In such circumstances it would not be easy to tempt residents of the new development away from this mode of travel by the initiatives that could result from the Travel Plans...the likelihood is that most families would travel by car to supermarkets within the...larger towns for major convenience shopping as well as...for comparison shopping for some considerable time to come. This is not a sustainable outcome and weighs against any future development at Buntingford".

52. BA's case is therefore that Buntingford is an essentially unsustainable location for further housing development, which is being brought forward on an ad hoc basis and without securing the necessary social and transport infrastructure improvements and employment opportunities which could only be secured through a plan led system, if indeed Buntingford were to be proposed for further substantial growth, which appears unlikely from the contents of the emerging District Plan.

Landscape impact

53. The previous Inspector indicated that 'If the whole of the land to the west of the tree belt and to the east of the Site were to be developed, then the resulting built environment could have a presence in the wider landscape of the Wyddial Plateau. However such a proposal or the one considered by the Local Planning Inspector in 2005, is not before me'. As a result of these appeals it is now before this Inquiry.

54. As a result of comments by East Herts Landscape Officer the illustrative layout has pulled back development from the tree belt but, of course, it must be remembered that this is an outline application with all matters other than access reserved. Even if the layout as revised were ultimately approved our case is that

there is an unacceptable landscape impact taking the development of Buntingford further out from its valley bottom setting and up onto the Wyddial Plateau where it will be viewed not only from public vantage points including public rights of way to the east of Buntingford, but also across the town from the countryside to the west from where most of the town is currently mainly hidden.

Loss of Agricultural land

55. Areas 2 and 3 are Grade 2 agricultural land and in Hertfordshire Grade 2 land is not just the best and most versatile land which should be protected from development but is the best in the County, which has no Grade 1 land. It is an important non-renewable resource and is subject to the NPPF advice that 'Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, Local Planning Authorities should seek to use areas of poorer quality land in preference to that of higher quality'.

Sustainability

56. We are now already well above the previous Inspector's 800 threshold. We do not have substantial additional employment provision, indeed we have a substantial reduction in employment land provision compared with the position in front of the previous Inspector. The key employment site was Sainsbury's – some 11 hectares. Some 9 hectares of that has been lost to housing, and even with the proposed Local Plan allocations there is a substantial reduction in available employment land; 5 hectares of business park and 2 hectares reserved at Sainsbury's.

57. There is a whole world of difference between allocation and 'take up'. Buntingford is not the sort of area that will readily attract additional employers to relocate to. There are far more factors at play in relocation, or location decisions, than simply the size of the available pool of labour. We suggest that Buntingford is a marginal location for employment provision because of the inherent unsustainability of the town. Substantial out commuting already takes place, and it will therefore inevitably only worsen with these 'housing only' proposals.

58. Public transport starts from an extremely low base. There is no railway station and no range of bus services that would provide anything meaningful for journeys to work or for other reasons. If anything, the current low base is under threat and potentially in decline. At best, we may get a temporary subsidised service which is under used and will disappear when the subsidy expires. That is the reality because of the unsustainable location. There is no guarantee at all that any enhanced services will be provided. This means that the development will attract commuters who will arrive planning to travel by car to their place of work, and for leisure and shopping. They will have to do that because there is no realistic alternative.

59. The paragraph 14 'presumption' is not engaged for unsustainable development. Why else is paragraph 14 couched in terms of sustainability being 'the golden thread'? This is a major area of concern up and down the country, and a major battleground. It has been considered in Country Life/Times/Daily Mail articles, and it has been considered by a Parliamentary Committee. But paragraph 14 in its own terms should lead to dismissal of the appeals on the basis that the developments are unsustainable, do not benefit from the presumption in favour of development, and accord with neither the existing nor the emerging local plans.

60. The previous decision should be given careful consideration. Then, with the housing then proposed and with employment land availability as it then was, the Inspector found that the balance was just in favour of approvals. But he set out the unsustainability of the proposals, the lack of ability to accommodate more than 800 dwellings without substantial additional employment, and the need to retain Sainsbury's for employment.

Conclusion

61. It is time that the tide turned for the residents of Buntingford. We have a three plank argument, led by sustainability. Both appeals should be dismissed.

Representations made by interested parties at the Inquiry

62. The material points of the cases made by Messrs Waite, Bowman, Jones, Reeves and Spears at the Inquiry (see ID18, ID19, ID20 and ID21) generally accord with the case made by the Buntingford Alliance.

Written Representations

63. The material points of the cases made by those who submitted written representations in opposition to the proposed developments generally accord with the case made by the Buntingford Alliance.

Conditions and Unilateral Undertakings

Conditions

64. Recommended conditions are included in two Schedules attached to this report. The reason for each condition appears after the condition. They are in line with conditions agreed by the Council and the Appellant (ID34 and ID35) though they have been amended, where necessary, to meet the tests set out in the Planning Practice Guidance (PPG) and in the interests of clarity and precision.

65. Conditions 3 and 4, in both cases and with regard to their time limits, depart from those set out in Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995. The Appellant put forward the time limits as a commitment to progress the developments at the earliest opportunity. The Council has welcomed this commitment and there is therefore no reason not to include the conditions as agreed.

Unilateral undertakings

66. At the Inquiry the Appellant submitted a signed and dated unilateral undertaking, made under Section 106 of the Act, for each proposed development (ID14 and ID15). The transitional period under Regulation 123(3) of the Community and Infrastructure Levy Regulations 2010, after which planning obligations designed to collect pooled contributions may not lawfully be used to fund infrastructure that could be funded by Community and Infrastructure Levy (CIL) contributions, ended on 6 April 2015. Both main parties and BA were consulted on the consequences of this for each application and their representations have been taken into account in this report. The Appellant submitted revised unilateral undertakings for both developments and these are included as Inquiry Documents (ID31 and ID32). The Council has assessed the revised obligations and has concluded that they comply

with Regulation 123(3). The obligations of the undertakings are all necessary to make the development acceptable in planning terms. They are all, furthermore, directly related to the development, are fairly and reasonably related in scale and kind to the development, and are in place to mitigate the effects of the development. The Legal Undertakings therefore comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Conclusions

Numbers in square brackets at the end of each paragraph refer to earlier paragraphs in this Report.

67. The Secretary of State has not indicated, given that he recovered the appeals after the close of the Inquiry, the matters he wishes to be informed about. Objectors to the proposed developments, principally the Buntingford Alliance, are primarily concerned that the sites are not sustainable locations for the proposed developments, with particular regard to their effect on the visual amenity and character of the area and on local infrastructure, to the loss of best and most versatile agricultural land, and to poor local employment opportunities and poor public transport links to employment areas outside Buntingford that would result in high levels of out commuting from the two developments. These matters all relate to the sustainability of the two sites for the provision of housing and sustainability is a matter specifically addressed by paragraph 7 of the NPPF.

68. The main issue is whether the sites are sustainable locations for housing. The conclusion on the main issue must then be considered in the light of the under supply of housing in the District. This will be considered in the overall planning balance.

The main issue – sustainable location for housing

The visual amenity and character of the area

69. The east boundary of the field that is the site of the permitted Area 1 and would be the site of proposed Areas 2 and 3 is a natural ridge from where ground level falls away to the west towards the town and to the east towards Haley Hill Ditch. Land to the east of the ridge is known as the Wyddial Plateau and is farmed countryside interspersed by occasional small blocks of woodland and farmsteads. The plateau is also criss-crossed by public rights of way including a footpath that follows Haley Hill Ditch from Owles Lane to Hare Street Road and beyond. The field and the plateau are within the Wyddial Plateau Landscape Character Area (WPLCA). [31, 32, 53, 54]

70. From this footpath and from others further afield the tree belt along the east boundary of the field is a distinctive feature of the area. The tree belt, which would be reinforced and where appropriate extended in accordance with an agreed condition for both developments, would screen the developments in views from public rights of way on the plateau to the east. Furthermore, if the dwellings were to be glimpsed through the tree belt it would only be the upper parts of their roofs because another agreed condition would restrict the ridge heights of all proposed dwellings relative to ground levels. The proposed developments would not have a significant adverse effect on the character or visual amenity of the WPLCA. [31, 32, 53, 54]

71. The proposed developments would extend the built form of the town and would fundamentally alter the character of the field. But the field is featureless and will be reduced in size by the development of Area 1. Furthermore, the built form of the town on its east side will be extended by the permitted Taylor Wimpey residential development to the north of Hare Street Road. The two proposed developments would extend the built form of the town no further than this permitted development and no further than the permitted development of land at the former Sainsbury's site at the south end of the town. The proposed developments would not have a significant adverse effect on the character of Buntingford. [31, 32, 53, 54]

72. The greatest visual effect of the two proposed developments would be on the amenity of users of two public footpaths; public footpath 15 crosses the north-east corner of Area 1 and public footpath 21 diagonally crosses Area 2 from Owles Lane at its south-east corner to a turning head on Snells Mead. Rather than crossing an open field users of these two footpaths would pass through housing developments. The footpaths will be used for access to countryside to the east of the town and, for existing residents of the town, that countryside would be reached slightly further into their walks than is currently the case. Nevertheless, the proposed developments would have an adverse effect on the visual amenity of the combined site. The field can be seen in views from footpaths to the west of the town but these are distant views and the introduction of housing developments on the field would not be visually intrusive from these public vantage points. [31, 32, 53, 54]

73. Both developments include parts of the tree belt along the east edge of the field and they would each have the same adverse effect on the character and visual amenity of the area. Cumulatively, the adverse effect would not be materially greater. The proposed developments, both individually and cumulatively, would have a less than significant adverse effect on the character and visual amenity of the area. Both developments would, nevertheless, be contrary to saved LP policy GBC3.

Local infrastructure

74. Buntingford is not a large town and both developments are within easy walking and especially cycling distance of all existing services and facilities. It is a thriving town and the additional population resulting from the two developments would help to sustain these existing services and facilities. Section 106 undertakings would result in index linked financial contributions for education, childcare, youth and library facilities. These contributions, which would be calculated using the County Council's standard formula, would include the provision of a new two form first school in Buntingford, expansion of Edwinstree Middle School to a five form entry, expansion of Freman College to a nine form entry, and provision of out-of-school childcare at the new first school. The undertakings would also provide for the payment of a commuted sum, based on £620.88 for each dwelling, to be used to improve health facilities in the locality of the developments. [26]

75. The contributions to the County Council would also include changing the layout of Buntingford Library to create a larger children's area and the enhancement of facilities at the existing youth facility in Buntingford. If the library is under threat of closure this is less likely to occur if the population of Buntingford is increased. Also, £10,000 would be paid to the County Council to either identify a site for a new first school or the expansion of an existing school in Buntingford. Outdoor sports for the increased population of the town would also be enhanced by payment of a financial contribution to the District Council based on their standard formula. Taking into account the various aforementioned financial provisions of the Section 106 Unilateral Undertakings and other factors, the proposed developments would not place an unacceptable burden upon local infrastructure. In this regard both developments accord with saved LP policy IMP1. [26]

Best and most versatile agricultural land

76. Paragraph 112 of the NPPF states that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land and that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of

poorer quality land in preference to that of a higher quality. The combined site is about 14 hectares of Grade 2 land as classified under the Agricultural Land Classification (ALC). Grade 1, Grade 2 and Grade 3A land is regarded to be best and most versatile agricultural land. The proposed development would result in the loss of about 14 hectares of best and most versatile agricultural land. [38, 55]

Local employment opportunities and public transport links

77. Buntingford does not, as a matter of fact, have a railway station. The nearest main line railway stations are at Royston to the north, Stevenage to the west and Bishop's Stortford to the south-east. From these stations there are trains direct to Kings Cross and Liverpool Street stations in London but there are no bus services from Buntingford to the nearest railway stations. Buntingford is not well connected by bus services. There is a service between Royston and Hertford that passes through Buntingford but this is neither a fast nor a frequent service. The three aforementioned towns plus Harlow, Hertford and Welwyn Garden City to the south are all within a 30 kms radius of Buntingford and are the nearest towns where employment opportunities are likely to be found, in addition to those that might become available through development of employment land in Buntingford. [50]

78. There is available employment land in Buntingford, including 2 hectares retained for this purpose at the Sainsbury's site and, potentially in accordance with a proposed allocation in the draft East Hertfordshire District Plan, there will be 3 hectares at Buntingford Business Park. An Employment Land Study was carried out on behalf of the Council in 2014. The study indicated that there is the potential to increase job opportunities in Buntingford by between 1100 and 1300. Such an increase would go a long way towards providing job opportunities for the likely increase in the working population that would result from the appeal proposals in addition to other permitted housing developments in Buntingford. Whilst there is no knowing whether employment land will be developed the possibility that it might be would be enhanced by a financial provision of the Section 106 Unilateral Undertakings; a one off contribution of £20,000 for the marketing of employment land and buildings in Buntingford. [25, 49, 57]

79. Shopping opportunities currently exist in Buntingford for day-to-day food and other needs, for existing and proposed residents of the town, and access to these facilities would be enhanced, particularly for elderly residents, by a financial provision of the Section 106 Undertakings; a one off contribution of £75,000 towards the establishment and operation of a hopper bus service in the town. It is inevitable, however, that current and future residents of the town will travel to nearby larger towns where main food and comparison shopping opportunities exist. If they intend to buy bulky goods they will travel by private car but if not they could benefit from improvements to public transport links to these towns that would result from another financial provision of the Section 106 Unilateral Undertakings; a sustainable transport contribution, index linked and calculated in accordance with the County Council's standard formula. This contribution, if not wholly used to improve public transport, would be used to encourage occupiers of the developments to travel by means other than the private motor car. The contribution would also provide sustainable transport options for access to employment opportunities in nearby larger towns. [39, 58]

80. Buntingford has poor public transport links to the other towns in the District and elsewhere, and currently has insufficient employment opportunities for the intended increase in the population of the town. But land exists for the creation of

employment opportunities and the Appellant has entered into unilateral undertakings that would enhance marketing of this land and would enhance sustainable transport opportunities for both existing and intended residents. In this regard also, both developments accord with saved LP policy IMP1. However, the field is a less sustainable location for housing in comparison to sites in, or on the edge of, large towns in the District that have a railway station and better public transport.

Paragraph 7 of the NPPF

81. Paragraph 7 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental. In terms of the economic role, the developments would result in the creation of construction jobs, new and existing employment opportunities in the town would have a greater pool of potential employees to draw from, and the new residents of the town would contribute to the vitality of the town's shops and facilities. In terms of their social role the most important factor is the provision, through the Section 106 unilateral undertakings, of 40% affordable housing. There is a significant shortfall in the provision of affordable housing in the District, as there is in all parts of the country. Furthermore, there is no reason to suppose that the developments would not be of high quality and all parts of the two developments would be within easy walking and cycling distance of shops, facilities and services in the town. The proposed developments satisfy the economic and social roles of sustainable development. [35, 36]

82. The environmental role of sustainable development demands careful consideration. The field itself has very low biodiversity credentials whereas the two developments, which would include significant areas of landscaping, would improve the biodiversity of the site. The tree belt would be enhanced and managed and in both cases an agreed condition would require the implementation of improvements to the biodiversity of the area as set out in Section 7 of an Ecological Appraisal and Protected Species Report. Another agreed condition in each case would require the submission and prior approval by the local planning authority of a Green Travel Plan. It is expected that these plans would encourage new residents of the town to travel other than by private motor car. Furthermore, 15% of the proposed dwellings would be constructed to Lifetime Home Standards.

83. Balanced against the environmental credentials of the proposed developments and improvements to the biodiversity of the area is the loss of best and most versatile agricultural land, the likelihood that a higher percentage of journeys would be made by motor car if the developments are compared to housing developments in or on the edge of major urban areas, and the private car journeys that would be made by some new residents to access train services and areas of employment. Employment provision in Buntingford is being addressed through the EHDP. The provision of 2 hectares of employment land at the Sainsbury's site has been secured through the grant of planning permission and there is other employment land available in the town. The one off contribution of £20,000 for the marketing of this employment land may well result in new jobs being created in the town. The developments would also adversely affect the character and visual amenity of the area but this harm would be less than significant and is to be expected if the development of edge of settlement greenfield land is required, as is likely, to meet the housing needs of the District. [37, 38]

84. A conclusion on whether the developments meet the environmental role of sustainable development is finely balanced. However, despite the loss of Grade 2 agricultural land and the likelihood that intended residents would predominantly use

their private motor cars for journeys to work and for major food and comparison shopping purposes, the balance falls on the developments satisfying the environmental role of sustainable development. The developments also satisfy the economic and social roles of sustainable development and may therefore be regarded to be, overall, sustainable developments. [29, 60]

Conclusion on the main issue

85. The proposed developments would have a less than significant adverse effect, both individually and cumulatively, on the character and visual amenity of the area and would not, taking into account provisions of the unilateral undertakings, place an unacceptable burden upon local infrastructure. There is no doubt that the field that is the site of the two proposed developments is in a less sustainable location than sites in, or on the edge of, larger towns in the District and the developments would result in the loss of 14 hectares of best and most versatile agricultural land. The proposed developments do conflict with saved LP policy GBC3. However, the sites are, overall, sustainable locations for housing.

Other matters

86. Concern has been expressed about the possibility of traffic congestion at the junction of Hare Street Road with High Street/Station Road if traffic associated with the development of Area 3 was to be added to existing traffic. There is no evidence to indicate that traffic congestion at the junction would reach an unacceptable level. There is also no evidence to indicate that the developments would result in unacceptable congestion anywhere else on the local road network or would compromise highway safety. Traffic associated with the development of Area 2 would, in addition to that associated with Area 1, use Snells Mead for access to the main road through the town. Residents of this residential road would notice an increase in traffic on their road but the increase would not cause unacceptable noise or disturbance. [27]

The planning balance

87. Planning applications must, with regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration and was published in March 2012. The NPPF therefore postdates the LP. Paragraph 215 of the NPPF states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework and paragraph 216 states that the weight to be given to policies in emerging plans should accord to the stage of preparation of the plan.

88. The Inspector in his decision on Area 1 found that LP policies GBC2 and GBC3 were out of date in terms of identifying settlement boundaries but were of significant weight in terms of their protection of the countryside from unnecessary development, as this is an aspiration of the NPPF. The emerging East Hertfordshire District Plan to 2031 (EHDP) has been the subject of consultation but has not yet been the subject of independent examination. It is therefore at an early stage in the process leading to adoption and the EHDP is thus afforded very limited weight. [48]

89. Paragraph 47 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites to provide five years of housing against their housing requirements. The Appellant's uncontested assessment of

current housing supply is, at the very best, 3.3 years. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. It is a conclusion of this report that LP policies GBC2 and GBC3 are out of date given the Council's accepted position regarding the housing land supply position. [17-19, 43, 44]

90. BA regard the Inspector's decision on Area 1 to be an important material consideration. He did suggest that, at that time, a commitment of more than 800 new dwellings without an accompanying growth in employment would not be an environmentally sustainable outcome. The situation has changed since then and new housing commitments are about 1000 and employment opportunities in the town have not appreciably improved. But he did not indicate that 800 new dwellings was any sort of threshold beyond which, as suggested by BA, any further commitments would be inherently unsustainable. Furthermore, his comments about the balance between housing growth and employment were made under the heading of 'Prematurity'. A planning judgement must be made on the specifics of the applications and on the circumstances pertaining at the current time. [14, 15, 48]

91. Paragraph 14 of the NPPF states that there is a presumption in favour of sustainable development and that, for decision taking, this means, where relevant policies in the development plan are out-of-date, granting planning permission for development unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. These benefits are, primarily, the provision of market and affordable housing units in a District where there is a significant under supply of housing land. This particular material consideration significantly and demonstrably outweighs the adverse effects of the two developments and justifies determination of the appeals other than in accordance with the development plan. [20, 44]

92. The circumstances that have resulted in Buntingford being a 'magnet for developers', a claim made by BA, started with the failure of the Council to maintain a five year housing land supply. Paragraphs 47 and 49 of the NPPF are not engaged unless this has occurred. The failure of the Council and the circumstance that places Buntingford as the largest town in the District outside the Green Belt has, indeed, resulted in BA's claim. But housing developers respond to circumstances and opportunities and they are entitled to pursue those opportunities and to have their applications and appeals for the development of land assessed on their planning merits and with regard to national and local planning policy and the requirement of Section 38(6) of the Planning and Compulsory Purchase Act 2004. The appeals made in this case have been so assessed.

Recommendation

93. I recommend in both appeals that planning permission be granted subject to conditions set out in appendices to this report.

John Braithwaite

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms R Clutton	Of Counsel instructed by Mr G Robertson, Solicitor to the Council
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FOR THE APPELLANT:

Mr P Shadarevian	Of Counsel instructed by Mr P Brady of Planning Law Practice
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He called

Mr G Surkitt DipServ	Consultant with Woods Hardwick Ltd
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Ms R Bodium CMLI	Director of JBA Consultancy Services Ltd
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Mr R Parker MTD DMS MIHT MILT	Director of Peter Brett Associates LLP
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Mr E Keymer FRICS	Keymer Cavendish Limited
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FOR THE RULE 6 PARTY (see paragraph 2 of the Report above):

Mr R Jameson	Planning Solicitor
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He called

Mr S Baker MRTPI	Resident of Buntingford
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INTERESTED PERSONS:

Mr G Waite	Resident of Buntingford
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Mr S Bowman	Resident of Buntingford
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Mr J Jones	East Hertfordshire District Councillor for Buntingford
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Mr M Reeves	Resident of Buntingford
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Mr P Spears	Resident of Espenden and Chairman of Aspenden Parish Council and Buntingford Civic Society
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DOCUMENTS

- 1 Council's letter of notification for Appeal A.
- 2 List of those notified of Appeal A.
- 3 Council's letter of notification for Appeal B.
- 4 List of those notified of Appeal B.
- 5 Mr Jameson's opening statement on behalf of the Rule 6 party.
- 6 Mr Shadarevian's opening submissions on behalf of the Appellant.
- 7 Bundle of third party representations at application stage.
- 8 Statement of Common Ground for Area 2 (Appeal A).
- 9 Statement of Common Ground for Area 3 (Appeal B).
- 10 Statement of Common Ground Supplement.
- 11 List of plans and documents submitted for the application for Area 2.
- 12 List of plans and documents submitted for the application for Area 3.
- 13 Summary of Section 106 Obligations.
- 14 Section 106 Unilateral Undertaking for Area 2 (Appeal A).
- 15 Section 106 Unilateral Undertaking for Area 3 (Appeal B).
- 16 Letter dated 6 January 2015 from Mr Watson to Mr K Steptoe.
- 17 Memo from Ms J Pierce to Ms H Izod regarding the two applications.
- 18 Representation by Mr M Reeves.
- 19 Representation by Mr J Jones.
- 20 Representation by Mr S Bowman.
- 21 Representation by Mr G Waite.
- 22 Extract from the Daily Mail dated 19 November 2014.
- 23 Letter dated 6 January 2015 to the Inquiry from Mr M Moulton FRICS.
- 24 Mr Jameson's closing submissions.
- 25 Mr Shadarevian's closing submissions on behalf of the Appellant.
- 26 Costs application by the Appellant.
- 27 LPA's defence to costs application.
- 28 Letter dated 3 July 2014 from Ms H Izod to Mr E Keymer.
- 29 E-mail dated 24 December 2014 from Mr T Britton to Ms R Clutton.
- 30 Appellant's response to the LPA's defence to costs application.
- 31 Revised Section 106 Unilateral Undertaking for Area 2 (Appeal A).
- 32 Revised Section 106 Unilateral Undertaking for Area 3 (Appeal B).
- 33 East Herts Delivery Study.
- 34 Area 2 Agreed Conditions.
- 35 Area 3 Agreed Conditions.

RECOMMENDED CONDITIONS FOR APPLICATION NO. 3/14/0528/OP (Area 2)

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 16700/1019A, 16700/1021 rev B, 16700/1022B, JBA 14/07-SK03 rev A, JBA 14/07-SK04 rev A, JBA 14/07-03 rev A, C-207128/SK24 rev P6, C-207128/SK28 rev P2.

Reason: To comply with Section 92 of the Town and Country Planning Act.

2. Details of the appearance, landscaping, layout, and scale of the development (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins, and the development shall be carried out as approved.

Reason: To comply with the provisions of Article 4 of the Town and Country Planning (Development Management Procedure) Order 2010.

3. Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.

Reason: To ensure that the outline permission is implemented at the earliest opportunity.

4. The development hereby permitted shall begin no later than one year from the date of approval of the last of the reserved matters to be approved.

Reason: To ensure that the outline permission is implemented at the earliest opportunity.

5. The landscaping scheme referred to in condition 2 shall include replacement, reinforcement and where appropriate the extension of screen planting on the eastern boundary of the land, together with proposals for the future management and maintenance of this area whilst the development hereby permitted remains.

Reason: To minimise the landscape and visual impact of the development.

6. No development or groundworks shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved programme, and this condition shall only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the proper investigation of archaeological remains.

7. No development shall take place until a detailed surface water drainage scheme has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on the submitted Flood Risk Assessment C-207128D dated 14 March 2014 and shall include a restriction in run-off and surface water storage as outlined in the FRA, and pollution prevention measures. The approved scheme shall be implemented in phases, prior to the first occupation of each phase of the development.

Reason: To prevent the increased risk of flooding and to improve and protect water quality.

8. No development shall take place until a scheme to deal with any contamination of land and/or groundwater has been submitted to and approved in writing by the Local Planning Authority and until the measures approved in that scheme have been

fully implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement in writing:

- i) A site investigation, based on the details contained in the Submitted Geoenvironmental Desk Study Report (J14066 dated March 2014), shall be carried out to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;
- ii) An options appraisal and remediation strategy, giving full details of the remediation measures required and how they are to be undertaken, based on the results of the site investigation and detailed risk assessment referred to in i) above;
- iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in ii) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: To minimise and prevent pollution of the land and the water environment.

9. The development hereby permitted shall not be brought into use until a verification report, demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation, has been submitted to and approved in writing by the Local Planning Authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plans shall be implemented as approved.

Reason: To minimise and prevent pollution of the land and the water environment.

10. No dwelling shall be occupied until the access, junction and parking arrangements serving that dwelling have been completed in accordance with the approved in principle plan, drawing number C-207128/SK28 rev P2, to the standards outlined in Roads in Hertfordshire and constructed to the Highway Authority's specification. This will include widening of the proposed access road to enable two HGVs to pass one another with 0.5m tolerance, and a preferred road radius of 40m.

Reason: To ensure the adequate provision of parking and access in the interests of highway safety and convenience.

11. No development shall take place, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:

- i) the programme and phasing of works on site;
- ii) the parking of vehicles of site operatives and visitors;
- iii) loading and unloading of plant and materials;
- iv) storage of plant and materials used in constructing the development;
- v) the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
- vi) wheel washing facilities;

- vii) measures to control the emission of dust and dirt during construction;
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- ix) construction vehicle routing and access;
- x) the protection of pedestrians using the public footpath that crosses the site.

Reason: To minimise the impact of construction vehicles on the local road network.

12. No development shall take place until additional scale layout plans showing the arrangements to be implemented at the intersection of the site entrance with public footpath 21, along with details of temporary fencing/signing to protect the alignment of the footpath, have been submitted to and approved in writing by the Local Planning Authority in accordance with Hertfordshire County Council's Rights of Way Good Practice Guide.

Reason: To protect users of the public right of way.

13. A Green Travel Plan, with the object of reducing travel to and from the development by private car, shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of any dwelling and the proposed measures shall be implemented to an agreed timetable.

Reason: To promote the use of non car modes of transport.

14. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage in accordance with BS5837: 2012 'Trees in relation to Design, Demolition and Construction', for the duration of the works on site. In the event that trees or hedging become damaged or otherwise defective during the construction period or within five years following practical completion of the approved development, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as shall be agreed with the Local Planning Authority.

Reason: To ensure the continuity of amenity afforded by existing trees and hedges.

15. The recommendations to mitigate and enhance the biodiversity of the site highlighted in Section 7 of the Ecological Appraisal and Protected Species report dated March 2014 shall be implemented as approved.

Reason: To protect the habitats of protected species.

16. The dwellings hereby permitted shall be designed so that their ridge heights do not exceed 117.5 m AOD across the site.

Reason: In the interests of the landscape character of the area.

RECOMMENDED CONDITIONS FOR APPLICATION NO. 3/14/0531/OP (Area 3)

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 16700/1021B, 16700/1023B, JBA 14/07-SK03 rev A, JBA 14/07-04 rev A, JBA 14/07-SK05 rev A, C-207128/SK25 rev P5, C-207128/SK29 rev P2.

Reason: To comply with Section 92 of the Town and Country Planning Act.

2. Details of the appearance, landscaping, layout, and scale of the development (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins, and the development shall be carried out as approved.

Reason: To comply with the provisions of Article 4 of the Town and Country Planning (Development Management Procedure) Order 2010.

3. Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.

Reason: To ensure that the outline permission is implemented at the earliest opportunity.

4. The development hereby permitted shall begin no later than one year from the date of approval of the last of the reserved matters to be approved.

Reason: To ensure that the outline permission is implemented at the earliest opportunity.

5. The landscaping scheme referred to in condition 2 shall include replacement, reinforcement and where appropriate the extension of screen planting on the eastern boundary of the land, together with proposals for the future management and maintenance of this area whilst the development hereby permitted remains.

Reason: To minimise the landscape and visual impact of the development.

6. No development or groundworks shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved programme, and this condition shall only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the proper investigation of archaeological remains.

7. No development shall take place until a detailed surface water drainage scheme has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on the submitted Flood Risk Assessment C-207128D dated 14 March 2014 and shall include a restriction in run-off and surface water storage as outlined in the FRA, and pollution prevention measures. The approved scheme shall be implemented in phases, prior to the first occupation of each phase of the development.

Reason: To prevent the increased risk of flooding and to improve and protect water quality.

8. No development shall take place until a scheme to deal with any contamination of land and/or groundwater has been submitted to and approved in writing by the Local Planning Authority and until the measures approved in that

scheme have been fully implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement in writing:

- i) A site investigation, based on the details contained in the Submitted Geoenvironmental Desk Study Report (J14067 dated March 2014), shall be carried out to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;
- ii) An options appraisal and remediation strategy, giving full details of the remediation measures required and how they are to be undertaken, based on the results of the site investigation and detailed risk assessment referred to in i) above;
- iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in ii) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: To minimise and prevent pollution of the land and the water environment.

9. The development hereby permitted shall not be brought into use until a verification report, demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation, has been submitted to and approved in writing by the Local Planning Authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plans shall be implemented as approved.

Reason: To minimise and prevent pollution of the land and the water environment.

10. No dwelling shall be occupied until the access, junction and parking arrangements serving that dwelling have been completed in accordance with the approved in principle plan, drawing number C-207128/SK25 rev P5, to the standards outlined in Roads in Hertfordshire and constructed to the Highway Authority's specification. This will include widening of the proposed access road to enable two HGVs to pass one another with 0.5m tolerance, and a preferred road radius of 40m.

Reason: To ensure the adequate provision of parking and access in the interests of highway safety and convenience.

11. No development shall take place, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:

- i) the programme and phasing of works on site;
- ii) the parking of vehicles of site operatives and visitors;
- iii) loading and unloading of plant and materials;
- iv) storage of plant and materials used in constructing the development;
- v) the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;

- vi) wheel washing facilities;
- vii) measures to control the emission of dust and dirt during construction;
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- ix) construction vehicle routing and access;
- x) the protection of pedestrians using the public footpath that crosses the site.

Reason: To minimise the impact of construction vehicles on the local road network.

12. No development shall take place until additional scale layout plans showing the arrangements to be implemented at the intersection of the site entrance with public footpath 15, along with details of temporary fencing/signing to protect the alignment of the footpath, have been submitted to and approved in writing by the Local Planning Authority in accordance with Hertfordshire County Council's Rights of Way Good Practice Guide.

Reason: To protect users of the public right of way.

13. A Green Travel Plan, with the object of reducing travel to and from the development by private car, shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of any dwelling and the proposed measures shall be implemented to an agreed timetable.

Reason: To promote the use of non car modes of transport.

14. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage in accordance with BS5837: 2012 'Trees in relation to Design, Demolition and Construction', for the duration of the works on site. In the event that trees or hedging become damaged or otherwise defective during the construction period or within five years following practical completion of the approved development, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as shall be agreed with the Local Planning Authority.

Reason: To ensure the continuity of amenity afforded by existing trees and hedges.

15. The recommendations to mitigate and enhance the biodiversity of the site highlighted in Section 7 of the Ecological Appraisal and Protected Species report dated March 2014 shall be implemented as approved.

Reason: To protect the habitats of protected species.

16. The dwellings hereby permitted shall be designed so that their ridge heights do not exceed 117.5 m AOD across the site.

Reason: In the interests of the landscape character of the area.



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

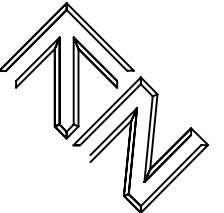
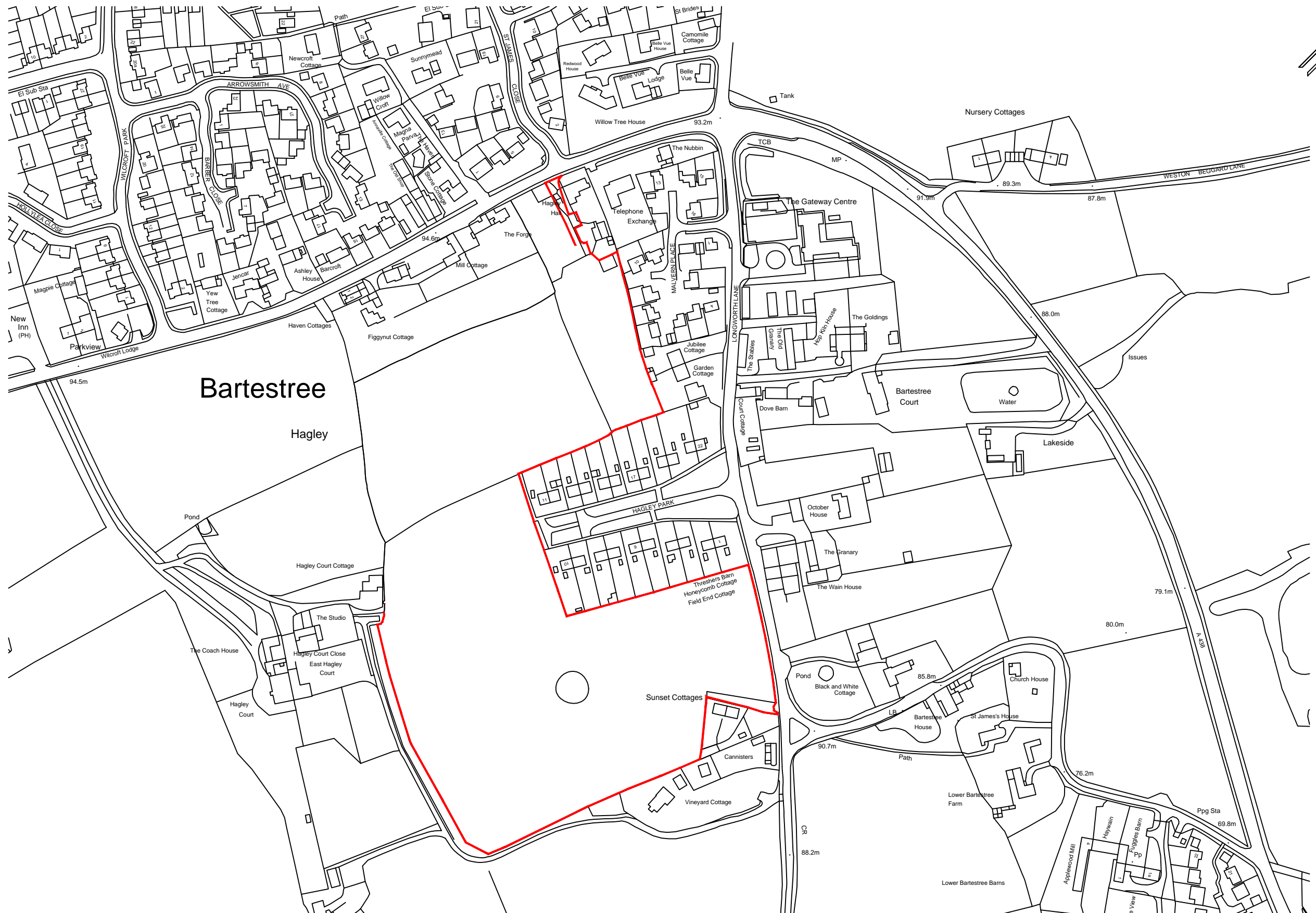
SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Appendix 4- Site Location Plan



Bartestree

Hagley

Longworth Lane Bartestree

D	02-12-14	MkH	Red Line Amended
C	25-11-14	SB	Red Line Amended/Blue Line shown
B	20-11-14	MkH	Red Line Amended
A	27-02-14	MkH	Red Line Amended to Title

Rev	Date	By	Revision notes
Status			

Application

Project	Longworth Lane Bartestree
Title	Red Line

Drawn by PG	Issue date 08/01/14
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Scale(s) 1:2500 @ A3

Drawing No 2014-006-001 rev D



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Appendix 5 - Bartestree with Lugwardine Group Parish Council Statement

**Bartestree with Lugwardine Group
Parish Council, Herefordshire.**

**Statement of Wendy Soilleux (Chair)
on behalf of Bartestree with Lugwardine
Group Parish Council**

**Planning Inquiry:
APP/W1850/W/15/3051153
Gladman Developments**

(Herefordshire Council Reference: P143771/0).

Contents:

- Section 1: The Group Parish – the historic evolution of the two parishes and principal settlements of Lugwardine and Bartestree.
- Section 2: The site and the appeal proposal.
- Section 3: The Bartestree with Lugwardine Neighbourhood Development Plan (NDP) - the progress made on the NDP, the implications of relevant NDP policies for the appeal proposal and the evolution of the Plan as a result of continuing consultation with the local residents.
- Section 4: Main Planning Considerations - the Parish Council's main concerns arising from the appeal proposal.
- Section 5: Housing requirements and cumulative effects - The current planning position in the parish; introduces the other large-scale sites and describes some of the impacts arising from such rapid housing growth.
- Section 6: Traffic. This section describes the Parish Council's concerns regarding the implications of traffic growth on the safe operation of the highway network, discusses the proposed footway on Longworth Lane and particular implications for the operation of the cross-roads junction with the A438.
- Section 7: Community facilities: This section describes the lack of a full range of community facilities and the impacts that additional unplanned growth will have on these facilities and services.
- Section 8: Conclusion - the development will not be representative of sustainable development and in clear and obvious conflict with the provisions of the NDP and Core Strategy/NPPF.
- Section 9: Appendix: Reference Documents: 1-5
1. Neighbourhood Development Plan with Maps A, B & C
 2. Consultation Statement
 3. Basic Conditions Statement
 4. List of Approved Planning Applications from 2011-2016
 5. LIDAR Image of Site to show possible Carriage Way.
 6. Section of Action Plan from Parish Plan 2008.

**Bartestree with Lugwardine Group Parish Council, Herefordshire,
Statement for Planning Inquiry: APP/W1850/W/15/3051153
(Herefordshire Council Reference: P143771/0).**

Statement of Wendy Soilleux on behalf of Bartestree with Lugwardine Group Parish Council on the Appeal and Public Inquiry into the proposal by Gladman Developments to build up to one hundred new homes off Longworth Lane, Bartestree, Lugwardine, Herefordshire.

My name is Wendy Soilleux, I have lived in Lugwardine for fourteen years, served on the Parish Council for nine years and was elected as Chair on May 10th 2011. I was a teacher of Science at St. Mary's Catholic Secondary School in Lugwardine for 22 years and have been retired for 10 years. My evidence is produced on behalf of the Bartestree with Lugwardine Group Parish Council and is set out as follows:

Section 1. The Group Parish of Bartestree with Lugwardine

1. As stated in the Neighbourhood Development Plan, the group parish of Bartestree with Lugwardine is situated in a pleasant rural location 5 kilometres east of Hereford. It straddles the busy A438 Hereford to Ledbury road and is bordered by the River Lugg along its western and southern sides.
2. The village settlements of Bartestree and Lugwardine do not have the same boundaries as the parishes of the same names. Parish Boundary Map A (See Appendix: Doc1) shows that Lugwardine Parish is the much larger (area 854 hectares) and Bartestree Parish is the much smaller (area 170 hectares) of the two parishes. However, the village settlements of Bartestree and Lugwardine respectively are more or less the areas enclosed by their respective settlement boundaries as shown on Settlement boundary Map B (See Appendix: Doc1). These differences in division can lead to considerable confusion when defining locations.
3. The two villages of Bartestree and Lugwardine are ancient and separate sites and both are mentioned in the Domesday Book, completed by the Normans in 1086. From early times, the two villages consisted of a small number of

historic houses with their associated estates of historic parklands, gardens and traditional orchards and woodlands. Included amongst these are New Court, Lugwardine Court, Hagley Court, Bartestree Court and the Longworth Estate as shown on Map C (See Appendix: Doc1). As a consequence of their ancient origins, there are more than 43 heritage assets within the two parishes, ranging from 'milestones' to 'Grade II* listed buildings'.

4. Although the two parishes were brought together in 1928 for ecclesiastical and administrative purposes, each village settlement has retained its individuality and separateness, dating back to its origins.
5. Lugwardine village has a conservation area at its core designated in 1988 and consists of a mixture of older buildings, some timber framed and listed, and more recent developments of mostly bungalows and some houses from the 1960s onwards increasing the number of dwellings by about 90.
6. Bartestree originally consisted of three historic estates, Bartestree Court, Hagley Court and the much larger Longworth Estate. (See Appendix: Doc1 Map C). From the late 1960s onwards, the building of Wilcroft Park, Williams Mead, St. James Close, Malvern Place, Frome Park developments and the Frome Court conversion of Pugin's former convent into apartments, together with additional adjacent housing, being the most recent, has added at least 380 new homes.
7. These significant developments over the last fifty years mean that their populations have almost doubled. Nevertheless the two villages still sit among fields and woods. There is pasture and arable land, corn, hops and even vines.
8. There has been a tendency towards ribbon development along the A438 for both Bartestree and Lugwardine but there are still fields separating the two villages and the residents wish to retain these open spaces so that the separate character and identity of the villages is maintained. This was reinforced in the 'Land adjacent to William's Mead, Bartestree' appeal

decision made on 31st March 2015 (Appeal Ref: APP/W1850/A/14/2224785), where the Inspector agreed that the 'separateness' of the two villages was worthy of preservation, notwithstanding the absence of landscape designation.

9. The Parish is home to St Michael's Hospice set up as a registered charity in 1986 and provides palliative care for short-term residential patients and their families. There is an in-patient unit and a Day Hospice. It serves the local community and county together with neighbouring areas. The Hospice is the major provider of palliative care education and training within Herefordshire.
10. There are no medical or healthcare facilities in the villages. These are all provided in Hereford. There is one public house in Lugwardine and a Catholic Secondary School. Bartestree has a Primary school, a village shop, hairdressers, a furniture showroom and planning permission has been granted for a fish and chip shop.
11. The local road network is dominated by the A438 Hereford to Ledbury road. There are a number of lanes leading off the A438; Tidnor Lane, Cotts Lane, Lumber Lane and Rhystone Lane in Lugwardine and Whitestone Lane and Longworth Lane in Bartestree together with an unnamed lane near Frome Park. These are all true country lanes and all bar Whitestone Lane are effectively for most of their lengths single lane roads, with passing spaces. They are not suitable for heavy goods vehicles or to be the access points for large-scale developments. Several have junctions with the A438, which have very limited visibility and exits from Tidnor and Rhystone Lanes requiring the assistance of mirrors.
12. According to the 2011 Census, the population of the group parish is 2051, made up of 380 under 16 year olds; 1347 aged 16 - 64 and 324 people who are 65 and over. The number of dwellings in its core is 647 and the total number of dwellings is 846. Each part of the group parish has a concentrated core of dwellings, surrounded by significant swathes of historic parkland, green fields, trees and wonderful views.

13. The villages are currently served by one bus service, the number 476 DRM service between Hereford and Ledbury, which runs approximately every hour during the daytime but evening services are restricted. Sunday and Bank Holiday services are reduced to 5 a day. The nearest railway stations are Hereford, which is 3.5 miles away, and Ledbury, which is 10 miles away.
14. As a rural community private car ownership and usage is the predominant method of transport, with 57.8% of all homes owning 2 or more vehicles.
15. Bartestree with Lugwardine consists of 846 households, of which 92% are owner occupied, 0.4% are shared ownership and 14.4% are social housing or privately rented housing. Of these households, 92% occupy houses or bungalows, 7.5% flats or maisonettes and 0.5% static caravans.
16. The crime rate in Bartestree and Lugwardine is recorded as being very low with only minor offences being committed.

Section 2 The Site and Appeal Proposal

The Site

17. This is a green-field site that consists of 5.42 hectares of historic parkland and priority habitats, including traditional orchard trees. The access to the site is via Longworth lane, a 'C' road that leads to the A438 at Bartestree crossroads to the north. Both the old orchard, which occupies the northern part of the site, and the historic parkland associated with the listed Hagley Court are designated as UK Habitats of Principal Importance.

The Proposal

18. The proposal is outline, except for access, for up to 100 houses with associated green spaces and traditional community orchard and a play area. The relocation of very old, traditional orchard trees to a different part of the site is offered.

Section 3 Bartestree with Lugwardine Neighbourhood Development Plan

19. In response to the Localism Act 2011, the Parish Council expressed a strong desire to enact Neighbourhood Planning Powers. This was felt to be a natural extension of its earlier Parish Plan work, which resulted in the production of two Parish Plans in 2008 and 2014 respectively.

20. The Bartestree with Lugwardine Parish Council designated Neighbourhood Area was approved by Herefordshire Council on 6th September 2012. The Neighbourhood Area includes the entire parish as shown in Parish Boundary Map A (Appendix: Doc1).

21. A steering group was set up and work on the Neighbourhood Development Plan started in November 2012. The Parish Council would like to stress that the designation of the Neighbourhood Area was fully nine months before the first large-scale planning applications arrived in July and October 2013.

These were:

(a) July 2013, Herefordshire Council application ref: S131964/O, to build 30 dwellings, of which 10 would be affordable, on Quarry Field, Cotts Lane, Lugwardine;

and

(b) October 2013, Herefordshire Council application Ref: P132536/F, to build 50 new dwellings of which 18 will be affordable, on land on Ledbury Road west of Williams Mead, Bartestree.

22. From the start the Plan policies were based on the opinions expressed by local residents in questionnaires circulated to all households for the two Parish Plans, which were produced in 2008 and 2014 respectively. As a result of the extensive developments outlined above, residents were strongly of the view that future building should be restricted to small groups of less than ten dwellings, infill and windfall and conversions of redundant buildings

and that heritage assets including green spaces and traditional parklands should be protected and preserved.

Consultation

23. During the processes of producing two Parish Plans in 2008 and 2014 and our recent Neighbourhood Development Plan, our parishioners have been consulted at every stage by means of questionnaires and consultation events held in the village hall. The response to the Regulation 14 Neighbourhood Development Plan questionnaire was 60% of the adult Group Parish population and 76% of all households. These consultations are clearly documented in the Consultation Statement that accompanies our Neighbourhood Development Plan.

24. By contrast, the Developers have made little attempt to engage in consultation with the residents and Group Parish Council. They did not ask to make a presentation at a Parish Council meeting. They claim to have sent out their first flyer to 547 households but none reached Lugwardine village residents. As I said earlier, as a Group Parish we are a single entity and important issues such as major planning applications affect the whole of the Group Parish. Residents in the village settlement of Lugwardine have been totally ignored and have received no communication from the Developer at any stage.

25. I would also add that Gladman made no response to the Regulation 14 public consultation and have not, in our view, engaged to any extent whatsoever in the formulation of the plan. Given our understanding of the NPPF's guidance on community consultation, we find this surprising and disappointing. Of all the large-scale development proposals in the parish, the appeal proposal is by far the largest and yet we feel that the community consultation has been, in many ways, the poorest. Whereas other developers (Application No: PI32536/F: Land adjacent to Williams Mead and Application No: 140926/0 Land South of A438) either addressed the parish council at a meeting or held open days, Gladman did nothing beyond the leaflet drop and even then a closing date for responses was not defined. The Parish Council is aware of

people whose comments against the proposal were not included in the submitted Statement of Community Involvement as a consequence.

26. As above, it should be emphasised that prioritising small-scale and brown-field developments were the preferred method for addressing our proportionate housing growth from the outset and not a reaction to the influx of applications received during the period prior to adoption of the Council's Core Strategy. During this period the Parish was subjected to a number of applications predicated on the Council's inability to demonstrate a supply of housing land as required by the NPPF.

The Status of the emerging NDP

27. The Regulation 16 public consultation for the NDP will close on 3rd May 2016. After working on our Plan for 36 months and being assured by our Hereford Council advisors that it is in compliance with both the Herefordshire Local Plan and the NPPF at Regulation 16, we are confident that it is sufficiently robust to carry weight when this development is considered at Appeal by Public Inquiry.

28. At Paragraph: 007 Reference ID: 41-007-20140306 the NPPG gives advice on the weight that can be attached to an emerging neighbourhood plan when determining planning applications.

29. *"Planning applications are decided in accordance with the development plan, unless material considerations indicate otherwise. An emerging neighbourhood plan may be a material consideration. [Paragraph 216 of the National Planning Policy Framework](#) sets out the weight that may be given to relevant policies in emerging plans in decision taking. Factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan comes into force, decision makers should respect evidence of local support prior to the referendum when seeking to apply weight to an emerging neighbourhood plan. The consultation statement submitted with the draft neighbourhood plan*

should reveal the quality and effectiveness of the consultation that has informed the plan proposals. And all representations on the proposals should have been submitted to the local planning authority by the close of the local planning authority's [publicity period](#). It is for the decision maker in each case to determine what is a material consideration and what weight to give to it."

30. NPPG Paragraph: 082 Reference ID: 41-082-20160211 goes on to advise on how planning applications should be decided where there is an emerging neighbourhood plan but the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. We understand this to be the case:

31. *"Where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, decision makers may still give weight to relevant policies in the emerging neighbourhood plan, even though these policies should not be considered up-to-date.*

32. [Paragraph 216](#) of the National Planning Policy Framework sets out the weight that may be given to relevant policies in emerging plans in decision taking.

33. Further assistance to decision makers in these circumstances can be found in [guidance on the relationship between a neighbourhood plan and a local plan](#).

34. Documentation produced in support of or in response to emerging neighbourhood plans, such as basic conditions statements, consultation statements, representations made during the pre-examination publicity period and independent examiners' reports, may also be of assistance to decision makers in their deliberations.

35. Planning Practice Guidance also addresses the question of [prematurity in relation to neighbourhood plans](#)."

36. Taking this into account, the Parish Council is firmly of the view that the NDP should be afforded weight for the purposes of decision taking in relation to this appeal. We understand, however, that our policies relevant to the supply of housing should be considered out-of-date. This, however, does not render them an irrelevance and after three years worth of preparatory work and

refinement, taking into account a wide range of views from within and beyond the Parish boundaries, we consider it would be wholly unreasonable for our emerging plan to be considered irrelevant or inconsequential. The ‘power’ of the NDP as envisaged by the NPPG and NPPF at its first Core Planning Principle, would be eroded before the plan is made. In the context of the obvious strides we have made towards meeting our proportionate growth target, we consider this would be wholly unreasonable and would constitute evidence that parishes are being held responsible for addressing the County-wide housing land deficit. This in itself is contrary to the Council’s “Core Strategy” which recognises the primacy of Hereford City and the market towns as service centres and thus recipients for the majority of housing growth.

37. For the avoidance of doubt, we consider that our Plan policies BL3, BL4, BL5, BL7 and BL8 are all relevant to the supply of housing. The plan does, however, make provision for the indicative minimum housing growth of 18% or 152 dwellings over the plan period to 2031. I will now review the specific policies of the emerging NDP that are relevant to the appeal proposals and demonstrate how they conflict with the NDP; which after all encapsulates the locals’ views on the development of *their* parish. For the avoidance of doubt I consider that BL2 Extensions to properties and BL11, Working from Home, are not relevant to the appeal and are not discussed further.

Table 1: Assessment of the appeal proposals against the relevant emerging policies of the Bartestree with Lugwardine Group Neighbourhood Development Plan 2016

NDP emerging Policy	Assessment of appeal proposals against the Policies
Policy BL1 Housing design criteria	The Parish Council understands that the scheme is in outline and that future submissions will determine the detailed design and layout of housing should the appeal succeed. The appeal proposals are, however, contrary to some of the policy’s criteria, including the removal and relocation of traditional orchard. The Parish Council is sceptical that the orchard trees can be successfully

	transplanted.
BL3 Infilling and windfalls	This Policy acts to support the sustainable growth of the parish by supporting appropriate infill and windfall sites.
BL4 Settlement boundaries	As per Herefordshire Local Plan Policy RA2 and supporting text, the NDP reinstates a settlement boundary. This is drawn to reflect existing sites with planning permission. The appeal site is outside the settlement boundary and would be contrary to the Settlement Boundary policy.
BL5 Housing in the open countryside	The appeal proposal is neither a replacement dwelling, extension to a dwelling or local needs housing. It is in conflict with emerging Policy BL5
BL6 Redundant buildings	This Policy acts to support the sustainable re-use, subject to criteria, of redundant rural buildings
BL7 Rural exceptions sites	This Policy recognises that exceptionally, it may be necessary to release land beyond the settlement boundary to address unmet need for affordable housing. Such proposals will be held against the provisions of the Herefordshire Local Plan.
BL8 Conserving Historic Character	This Policy acts to prevent inappropriate development affecting specified designated and non-designated heritage assets. The appeal proposals conflict with this policy as they would result in the direct loss of two habitats of principal importance in the form of parkland and traditional orchard. The Policy is considered consistent with the NPPF and Herefordshire Local Plan in that it identifies important local landscapes and features within the landscape and acts to protect them

	for their own intrinsic value.
BL9 Protecting Green Space	This Policy identifies locally important green spaces
BL10 Affordable housing	This Policy reinforces Herefordshire Local Plan Policy H1. The Parish Council accepts that the appeal proposals would provide 35% affordable housing.
BL12 Supporting local businesses	The Parish Council recognises that development, in general, can help support local services.
BL13 Transport and highways	The appeal proposals are contrary to this Policy. The Parish Council does not believe that the additional traffic arising from the appeal scheme can be safely accommodated on the local highway network.

Section 4 Main Planning Considerations

Heritage, Landscape and Environmental Concerns

38. This application has to be considered against the policies of the National Planning Policy Framework (NPPF), the Herefordshire Local Plan and the Bartestree with Lugwardine Neighbourhood Development Plan. The policies of all three indicate a presumption in favour of sustainable development. Sustainable development means to ensure that actions carried out today will not be in any way detrimental to future generations. The NPPF and Herefordshire Local Plan both refer to three dimensions or roles when defining sustainable development. These are the economic, social and environmental roles.

39. The policies of the Neighbourhood Development Plan support small developments on preferably brown-field but also green-field sites within settlement boundaries.
40. These policies reflect the wishes of local residents, whose views were obtained as a result of three in-depth questionnaires and other consultation events, conducted during the preparation of two Parish Plans and the more recent NDP. Parishioners have maintained the same view on housing policy throughout. They think that there has been an abundance of large-scale development in the past but are still prepared to accept a moderate rate of development in the future. In the NDP questionnaire conducted in 2014, 66% of respondents would accept the building of more dwellings but only 7% would accept more than the designated allocation set out in the Herefordshire Core Strategy, with 89% against. 83% prefer development on infill sites; 83% prefer brown-field over green-field sites; 65% prefer the building to be within the existing villages and 91% favour the conversion of redundant buildings, the conversion of Pugin's convent is a good example of this. We have drawn up these policies because, in the spirit of localism, they reflect the wishes of local people, whilst planning and providing for our proportionate increase in housing, as required by the Core Strategy and the NPPF.

Heritage

41. The current proposal is a large development on, not just a green-field site outside the settlement boundaries, but one that is unregistered historic parkland associated with Hagley Court, one of the five adjacent designated heritage assets.
42. Originating from the road in front of Sunset Cottages, there is evidence of a raised 'track' that extends from the south-eastern edge to the north-western edge of the site (See Appendix: Doc5). The 'track' dies out disproportionately in dry weather indicating that it has a stony base. This 'track' is of both historical and archaeological interest as it could be either a carriageway to Hagley Court or an old Toll Road. Before any development is considered, we

request that this feature is thoroughly investigated in case it is worthy of scheduled ancient monument status.

43. The boundary of this historic site with Longworth Lane is marked by an old low-level, dry-stone wall, all along its length. If the development were to go ahead, this wall would need to be repaired and restored as an important heritage feature and component of the historic parkland. The visibility display required would almost certainly require the relocation and rebuilding of this wall further back from its current position.

44. The 'flag on edge' barrier to retain the bank along the north-eastern edge of Hagley Park to allow the introduction of a new footway is out of keeping with the stone walls adjacent and opposite and should be replaced by a stone retaining wall with due care given to the roots of the nearby oak tree. No mention is made of a similar barrier, which would be required on the south-eastern edge of Hagley Park. This should also be a stone retaining wall to blend in with the surrounding local heritage assets.

Valued Landscape

45. This site is an undeveloped, green area, much valued by local people, who are very anxious to preserve the surviving orchard and parkland and their views over local countryside. The appeal site itself is traversed by public footpath LU13 and is an area over which local people enjoy walking in pleasant, peaceful surroundings that provide an oasis of calm away from the noise and fumes of traffic on the busy A438 road. The effects of the tranquillity and sanctuary of such historic landscapes cannot be monitored by a measuring device but can be likened to those captured by poets and writers in their narratives to convey to those unable to have the experience firsthand.

46. Moreover, by replacing the existing appeal site characteristics with a modern housing estate, effects on the character of the area and users of the public footpath will be severe. As above, the group parish has taken an entirely rational approach to protecting designated and non-designated heritage

assets, with BL8 resisting inappropriate development in such areas. This approach to protecting land that is valued to residents on historic and environmental grounds is wholly consistent with the NPPF and Herefordshire Local Plan and acts to give the community and developers alike, certainty moving forward.

47. The first ideas for an 'embryonic' forerunner of NDP Policy BL8 emerged in the Action Plan of the first Parish Plan of 2008 as being the wishes of the majority those who responded to the questionnaire. These are shown in a table (See Appendix: Doc 6) and are summarised as follows:

Parishioners wanted conservation areas to be preserved, and the landscape and fabric of the village protected, trees and hedges in particular. They wanted the burial ground to be tidy and an attractive area for those who visit the graves and for the PRowS to be cleared and their locations publicised.

48. Support for these themes continued in the responses to the Planning for Real consultation and questionnaire for the second Parish Plan 2014 (response rate 50%) and the NDP questionnaire at Regulation 14 (response rate 60%). Responses to the NDP questionnaire indicated that 66% of respondents wanted more green open public spaces within the villages; 58% wanted more stringent measures for the conservation of heritage assets; 85% wanted enhanced protection of the natural environment; and 76 people named particular views that they valued. Altogether, 272 comments were made regarding the importance of buildings, monuments, places, vistas and views.

Environment

49. The use of the site for building such a large development raises many environmental issues of concern. The Parish Council considers the loss of traditional orchard contrary to the NDP.

50. Specifically, the proposal to relocate mature orchard trees is unsound. According to the Royal Horticultural Society: “*A tree taller than 2.5m may be difficult to establish in a new position. Large trees may need to be transplanted by a specialist arborist. Preparation would need to start a year in advance of the move. Once transplanted, the crown would need to be reduced by 25-30% to minimise water loss.*” The very, very mature orchard trees, at least 7 or 8 metres tall with a girth of at least 1.5 metres would be unlikely to survive such an ordeal. Even with the most experienced and dedicated arborist carrying out the process, relocation of such large, mature trees is totally unrealistic.
51. It is the old, partially decaying orchard trees that provide a habitat for the Noble Chafer Beetle. Trees in this state would not be suitable for attempted relocation and the habitat would be lost. In terms of valued landscape and priority habitats, the Group Parish Council considers that building on this site could not be called sustainable development.

Section 5 Housing Requirements and Cumulative Effect

52. According to the Herefordshire Local Plan, Bartestree with Lugwardine is a main village and as such is required to achieve a minimum *indicative* increase in housing of 18% of its pre-plan total of 846 dwellings during the twenty year plan period from 2011-2031. This level of growth is described as ‘proportionate’ by the Herefordshire Local Plan, which looks to direct 5,300 of the required 16,500 dwellings to suitable rural settlements. This is an increase of a minimum of 152 new dwellings across Bartestree and Lugwardine. Reference to the ‘List of Planning Approvals’ (See Appendix: Doc4) demonstrates that the appeal proposal, if allowed, would in conjunction with the two other major developments and small-scale approvals lead to over 200 dwellings in Bartestree alone. The Parish Council would contest the view that such growth in such a concerted period of time can be described as proportionate.

The current position

53. As of the end of March 2016, 144 new dwellings, including three large-scale developments of 30, 40 and 51, have been approved for the Group Parish by the Local Authority. This information is shown in the 'List of Planning Approvals'. This means that within the first five years of the plan period, the Group Parish is within 8 of the minimum number of dwellings required with fifteen years of the plan period remaining. The Parishioners and the Group Parish Council are of the view that development can only be sustainable development if there is now a pause to allow the 144 dwellings already approved to be built; for their inhabitants to be successfully absorbed into village life; and for the local infrastructure and services to be allowed to develop and be extended to cope with the 144 new dwellings.

54. Both parishioners and the Group Parish Council feel very strongly that to allow the building of up to another 100 homes, as proposed by Gladman Developments, would not be sustainable development. Coming so soon after the first 144 new dwellings, the cumulative effect of up to another 100 homes so early in the plan period, would severely overload all of the local infrastructure and services and unreasonably increase the volume of traffic on our roads. Should this development go ahead, we would have achieved 90 dwellings above our minimum target and yet be only a quarter of the way through the plan period. Taken in conjunction with reasonable windfall rates, we maintain that such a rapid rate of development would not be sustainable development and would in itself devalue the painstaking work that has, over the course of 36 months, gone into the responsible formulation of the NDP. The adverse effects on community cohesion that this in itself would have should not be underestimated.

Section 6 Traffic

55. Traffic from the proposed site would have its access on to Longworth Lane, a narrow, poor quality 'C' category road, opposite and very close to Field End

Cottage, whose occupants would experience car headlights glaring into both ground and first floor windows. This would be intolerable and unacceptable and severely reduce their privacy and quality of life.

56. The 144 new dwellings already approved will increase the volume of traffic by at least 200 and possibly as many as 300 more vehicles on local roads on a daily basis. The cumulative effect of vehicles from up to another 100 homes could mean a total increase of 400 or more vehicles daily.

57. Imagine an additional 100 vehicles leaving the site each morning, turning left towards Bartestree Crossroads and interacting with the many parents taking their children to Gateway Nursery at the Northern end of the lane. (Nursery capacity is up to 100 children). Imagine that, morning after morning, you find yourself in a queue at the crossroads. In the end you will choose an alternative route by travelling along the very narrow 'C' category Tidnor Lane or 'unclassified' Lower Bartestree Lane, which are totally unsuited for use by large numbers of the large family vehicles of today. Even if you persist in the queue at Bartestree Crossroads, you will encounter a very busy crossroads with poor visibility left, right and straight across, with no traffic lights to help the situation.

58. A recent traffic survey indicated that the crossroad is at its busiest between 08.00 and 09.00, during which time 96 vehicles entered Longworth Lane, 51% from the Hereford direction, 39% from Whitestone Lane and 10% from the Ledbury direction. During the same period, 105 vehicles exited Longworth Lane. 63% turned towards Hereford, 28% drove into Whitestone lane and 9% turned towards Ledbury.

Section 7 Community Facilities

59. It might be possible for the facilities that do exist to cope with 144 new families over perhaps a five-year period but an additional 100 families would put an

enormous strain on them. Making a conservative estimate that only half of the new families would require a school place for a child would mean that 122 more school places would be needed. The primary school has no further scope for building extension and the secondary school is the designated one for Catholic children throughout the whole of Herefordshire and would not be able to provide the places needed.

60. The nearest doctor's surgery and pharmacy are 2.7 km away in Tupsley and are not accessible by public transport. There is no permanent Post Office and the very recent introduction of a mobile Post Office for two hours a week would not be anywhere near adequate to serve a potential population of 2500 people. In terms of available community facilities, this development is not sustainable.

Section 8 Conclusion

61. The Group Parish Council is not against development. This is clearly demonstrated by the fact that it has supported applications to build 63 new dwellings in the Group Parish since April 2011, an average of 12 per annum. As well as this, three other large-scale applications have been approved. All of these sites have been clearly recognised and accepted as forming part of the revised settlement boundary within the NDP.

62. With a total of 144 already approved, a lower average of 3 or 4 windfall applications a year would ensure that our Group Parish more than adequately plays its part in helping to deliver Herefordshire's housing supply. There is every indication that this sort of average will easily be maintained as applications for small numbers of new dwellings continue to be submitted at a steady rate.

63. Consultations with parishioners for the 2008 and 2014 Parish Plans and for the recent Neighbourhood Development Plan confirm that parishioners welcome applications for small developments but feel that the group parish

has already been subjected to enough large ones. The Group Parish Council is in favour of small developments but very much against any more large ones as it considers these to be unsustainable in the many respects stated. The proposed Gladman development falls into this category. To put it simply: it is too many houses too quickly and in the wrong place.

64. The Parish Council would under-score that its Statement acts in support not only of its own position relative to the emerging NDP, but also that of the Council's Reasons for Refusal and would ask the Inspector to support the local community in the work undertaken to date and give due weight to the emerging NDP. To ignore the NDP would run contrary to one of the founding principles that both NPPF and Herefordshire Local Plan are built on; that planning should be "genuinely Plan led, empowering local people to shape their surroundings, with succinct neighbourhood plans setting out a positive vision for the future of the area."

65. It is our firm belief that we have, at every stage, acted positively in shaping our collective vision for the future growth of our parish and that allowing the appeal would be severely prejudicial to all that has gone before.

The contents of this statement are true

Signed *S W Soilleux*.....

Date...17-04-16...

Appendix 6 - Signed Statement of Common Ground

Town and Country Planning Act 1990 – Section 78
Town and Country Planning (Development Management Procedure) (England) Order 2013
Town and Country Planning (Inquiries Procedure) (England) Rules 2002

Appeal by Gladman Developments Ltd
Longworth Lane, Bartestree
Herefordshire

Against the Refusal of Planning Permission by
Herefordshire Council on the Application for:

“Outline application for up to 100 dwellings with associated open space and landscaping and community orchard with all matters reserved, except for access.”

Appeal Reference: APP/W1850/W/15/3051153

Statement of Common Ground

Between



&



April 2016

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APPENDICES

- Appendix 1 - Agreed Core Document List
- Appendix 2 – FPCR Facilities Plan
- Appendix 3 - Letter to Residents Regarding Additional Consultation
- Appendix 4 - List Consultees for Gladman March 2016 Consultation
- Appendix 5 – Wood Pasture and Parkland DEFRA Mapping
- Appendix 6 - Traditional Orchard DEFRA Mapping

1 INTRODUCTION

1.1 Background

1.1.1 This Statement of Common Ground has been prepared jointly by Gladman Developments Limited (hereinafter referred to as 'The Appellant'), and Herefordshire Council (hereinafter referred to as the "Council").

1.1.2 The Statement refers to Appeal Ref: APP/W1850/W/15/3051153 against the refusal of Herefordshire Council to grant outline planning permission:

"Outline application for up to 100 dwelling with associated open space and landscaping and community orchard with all matters reserved, except for access."

1.1.3 A copy of the full suite of application documents are enclosed with the appeal submission. The planning application was refused by delegated powers on 31st March 2015. A copy of the Decision Notice is at **Core Document 5.2 (CD5.2)**.

1.1.4 This Statement sets out the agreed matters of fact and agreed positions between the Council and the Appellant in respect of this appeal, comprising;

- A description of the site and surroundings;
- A list of relevant planning policies and other policy documents;
- A list of other material considerations;
- Matters relating to site status and designation;
- Matters relating to housing land supply;
- Matters relating to design, indicative layout and residential amenity;
- Matters relating to access and highway capacity/impact;
- Matters relating to landscape and visual impacts
- Matters relating to arboriculture
- Matters relating to flood risk and drainage
- Matters relating to land contamination
- Matters relating to Archaeology and Built Heritage
- Section 106 Matters; and
- Areas of disagreement.

2 SITE LOCATION AND DESCRIPTION

2.1 The Appeal Site

- 2.1.1 The appeal site is situated south of the A438 road and west of the C1130 Longworth Lane. The A438 is a main distributor road passing through the village of Bartestree between Hereford and Ledbury some 14km to the east. Longworth Lane meets the A438 north-east of the appeal site, providing a connection to the settlement of Withington some 1.3km further north.
- 2.1.2 The appeal site is approximately 5.42 hectares and comprises two distinct parcels separated by a hedgerow.
- 2.1.3 The southern portion of the site is an Unregistered Historic Park and Garden, and also a wood-pasture and parkland 'Habitat of Principal Importance'. The parkland is listed on the Council's Heritage Environment Record (HER) database as Hagley Park / Court Landscape Park (HER MHE16346). This section comprises a pastoral agricultural field with several individual and groups of trees on and around the appeal site, some of which are covered by Tree Preservation Orders (TPOs).
- 2.1.4 The northern portion of the site comprises an old orchard designated as a 'Habitat of Principal Importance' (Traditional Orchard). The northern boundary is defined by a hedgerow and properties off the A438.
- 2.1.5 Public footpath LU13 runs from the south-eastern corner adjacent Sunset Cottages to the north-western corner adjacent Hagley Court. At this point, footpath LU13 meets public footpath LU29, which runs north along the field margin to the A438.
- 2.1.6 The appeal site is bound by hedgerow, with intermittent mature trees. The hedgerow on Longworth Lane overtops an old stone wall.
- 2.1.7 To the north-east of the site and located on the A438 are two Grade II listed buildings; Hagley Hall and The Forge (which includes the adjoining former forge). The remainder of the north-eastern and eastern boundaries are defined by existing properties on Longworth Lane, Malvern Place and Hagley Park; the latter being a 1960's development that protrudes westward from Longworth Lane by 100 metres towards the appeal site. Hagley Park is separated from the appeal site by a mixture of fencing and hedgerows.
- 2.1.8 The south eastern boundary is located along Longworth Lane, which is defined by a mature boundary hedgerow with a number of mature hedgerow trees and two properties at Sunset Cottages. The southern and western boundaries are defined by a mature boundary hedgerow with individual and small groups of trees, which define the boundary edge. Directly beyond this is the property at Vineyard Cottage.

- 2.1.9 Beyond the south eastern boundary are properties on Longworth Lane and Black and White Cottage, a Grade II listed property. Beyond the western boundary is the Grade II listed building Hagley Court and other pastoral fields.
- 2.1.10 The Appeal Site slopes gently from a high point of 94.73m Above Ordinance Datum (AOD) on the northern boundary to 90.43m AOD on the southern boundary. At the proposed point of access, levels within the appeal site are c. 1m higher than Longworth Lane.

2.2 Surrounding Area

- 2.2.1 Bartestree is located in Herefordshire and is approximately 2.5km east of Hereford.
- 2.2.2 The following shops, facilities and services in Bartestree are located within the following distances, when measured from the centre of the site:
- The Bus Stop on the A438 – 255m (via A438)
 - Bartestree Stores (food and convenience store) – 310m (via A438)
 - The Hair Salon – 310m (via A438)
 - Fine Furniture Ltd – 320m (via A438)
 - The Gateway Centre Children’s Nursery - 320m (via Longworth Lane)
 - Bartestree Village Hall – 750m (via A438)
 - Bartestree Village Hall playing fields – 750m (via A438)
 - Lugwardine Primary Academy – 870m (via A438)
 - St Michaels Hospice – 1.14km (via Longworth Lane and Frome Park)
 - St Peter Lugwardine Church – 1.6km (via A438)
 - St Mary’s Secondary School – 1.75km (via A438)
 - Crown and Anchor Bar & Restaurant – 1.98km (via A438)
- 2.2.3 Shops, services and facilities found in Bartestree are shown on FPCR Plan **6122-L-06 REV A** and appended to this statement at **Appendix 2**.
- 2.2.4 The parties agree that the guidance in paragraph 4.11 of Manual for Streets is relevant:
- “Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes’ (up to about 800 m) walking distance of residential areas which residents may access comfortably on foot. However, this is not an upper limit and PPS13 states that walking offers the greatest potential to replace short car trips, particularly those under 2 km. MfS encourages a reduction in the need to travel by car through the creation of mixed-use neighbourhoods with interconnected street patterns, where daily needs are within walking distance of most residents.”**
- 2.2.5 While parts of the site will be located in excess of the 800m distance of some facilities and services within Bartestree, the parties agree this distance is not an upper limit.

2.3 Transport Links

- 2.3.1 The closest bus stop to the site is located on the A438, approximately 255m from the centre of the site. This bus stop is used for the no. 476 service.
- 2.3.2 The journey time to Hereford for this service is approximately 15 minutes and approximately 25 minutes to Ledbury.
- 2.3.3 There is also a no.469 bus service, which only operates on school days. This service travels from Lugwardine (adjacent to St Mary's R C High School), via Hereford to Bromyard. There is one bus service a day in the morning at school times and no Saturday or Sunday service via Lugwardine.
- 2.3.4 Bus times are provided in table 2.1 of the Highways SoCG.
- 2.3.5 The nearest railway station to the site is located in Hereford, approximately c.5.7km from the site. The railway station provides opportunities for linked trips to regional and national destinations including services to Birmingham New Street, Manchester Piccadilly, Cardiff Central, Milford Haven and London Paddington.
- 2.3.6 Further information on transport links from Bartestree can be found within the submitted Transport Assessment (**CD1.8**) and Highways Statement of Common Ground.

3 PLANNING HISTORY AND ENVIRONMENTAL ASSESSMENT

3.1 Planning History

3.1.1 The following planning applications are relevant to the appeal site:

Application Reference: S111124/F – Hagley Hall, Bartestree

3.1.2 Erection of 2 no. detached dwellings, conversion of existing barn and erection of ancillary garages. Demolition of existing dilapidated stone boundary wall and rebuilding to allow formation of vehicular access and visibility splays. Formation of new access drive. Demolition of existing garden wall (June 2011, Approved).

3.1.3 A copy of the site plan, officer report and decision notice are enclosed at **CD16.13, CD16.14** and **CD16.15** respectively.

3.1.4 The development relating to this permission has been implemented and therefore the permissions are extant.

Application Reference: P142867/AM – Hagley Hall, Bartestree

3.1.5 Non-material amendment of planning permission S111124/F (Erection of 2no. detached dwellings, conversion of existing barn and erection of ancillary garages. Demolition of existing dilapidated stone boundary wall and rebuilding to allow formation of vehicular access and visibility splays. Formation of new access drive. Demolition of existing garden wall) - Amend the garage roof covering from clay tiles to Redland Old Hollow Clay Pantiles in Vintage Red (October 2014, Approved).

3.1.6 A copy of the decision notice is enclosed at **CD16.16**.

3.2 Relevant Planning Applications and Appeals in Bartestree

Relevant Applications and Appeals

Application Reference P140926/O – Land south of the A438 Bartestree

3.2.1 Outline proposal for the erection of 60 dwellings (including 21 affordable houses) and a change of use of land to form community open space.

3.2.2 Permission was refused for three reasons, including that the development of the site would result in the loss of an important element of the designed historic landscape in the foreground of the unregistered parkland associated with the Grade II listed Hagley Court.

3.2.3 The committee report and decision notice are enclosed at **CD16.17 and CD16.18**.

- 3.2.4 The refusal was appealed (appeal reference: APP/W1850/A/14/2227014), but later withdrawn pursuant to permission being granted for a lower number of dwellings (see below).

Application Reference: 143720/O – Land south of the A438, Bartestree

- 3.2.5 Outline proposal for the erection of 40 dwellings (including 14 affordable houses) and change of use of land to form community open space.
- 3.2.6 Permission was granted in July 2015.
- 3.2.7 The committee report and decision notice are enclosed at **CD16.19 and CD16.20**.

Application Reference: P133115/F - Land adjacent to Gateway Nursery, Longworth Lane, Bartestree

- 3.2.8 Full proposal for the demolition of redundant buildings and erection of three dwellings, new vehicular access and driveways.
- 3.2.9 Permission was granted in February 2014.
- 3.2.10 The committee report and decision notice are enclosed at **CD16.21 and CD16.22**.

Application Reference: P140531/O – Land at Quarry Field, Cotts Lane, Lugwardine

- 3.2.11 Outline proposal for the erection of 30 dwellings (including 10 affordable houses).
- 3.2.12 Permission was refused for three reasons, including that the development cannot demonstrate a safe and suitable access, the site is not well served in terms of pedestrian access to village facilities and that the loss of this green space would be detrimental to the setting of the village and the nearby listed buildings.
- 3.2.13 The committee report and decision notice are enclosed at **CD16.23 and CD16.24**.
- 3.2.14 The refusal was appealed (APP/W1850/A/14/2218385) and was subsequently allowed by the Planning Inspectorate on 12th February 2015. The appeal decision is enclosed at **CD16.25**.

Application Reference: P132536/F - Land at William's Mead, Bartestree

- 3.2.15 Full proposal for the erection of 50 dwellings (including 18 affordable houses).
- 3.2.16 Permission was refused for three reasons, including that the development of this site would be detrimental to the legibility and character of Bartestree and Lugwardine and prejudicial to the rural setting of the respective villages and the detrimental impact on the adjacent Grade II Listed Building Prospect Cottage.
- 3.2.17 The committee report and decision notice are enclosed at **CD16.26 and CD16.27**.
- 3.2.18 The refusal was appealed (APP/W1850/A/14/2218385) and was subsequently dismissed by the Planning Inspectorate on 31st March 2015. The appeal decision is enclosed at **CD16.28**.

Application Reference: P140757/O - Land east of Church House and west of A438, Bartestree

- 3.2.19 Outline proposal for the erection of 51 dwellings (including 18 affordable houses).
- 3.2.20 Permission was refused for two reasons, including that the site lies outside the defined settlement boundary for Bartestree on land which functions as a locally important green gap and that residential development would be in conflict with the rural and historic landscape setting.
- 3.2.21 The committee report and decision notice are enclosed at **CD16.29** and **CD16.30**.
- 3.2.22 The refusal was appealed (APP/W1850/W/15/3003191) and was subsequently allowed by the Planning Inspectorate on 7th July 2015. The appeal decision is enclosed at **CD16.31**.

3.3 Pre-Application Advice

- 3.3.1 The Appellant requested pre-application advice in May 2014 from the Council. Written advice was received on 23rd June 2014 which can be found at **CD3.3**. The Appellant also met with the Case Officer on 9th July 2014 to discuss the proposal.

3.4 Community Consultation

- 3.4.1 As part of a pre-application community consultation, an informative leaflet was distributed to the local community on 2nd December to 547 households and businesses. Interested parties then had the opportunity to provide their comments on the proposals.
- 3.4.2 The Statement of Community Involvement (**CD1.21**) documents the results of the community consultation process.

3.5 Environmental Screening

- 3.5.1 A request for an EIA Screening Opinion was issued to Herefordshire Council on 3rd December 2014 and the Council responded by letter dated 17th December 2014, confirming that the proposed development would be unlikely to have any significant effects upon the environment. A copy of this correspondence is enclosed at **CD3.4** and **CD3.5** of the Core Documents.

3.6 Planning Application

- 3.6.1 The planning application the subject of this appeal was submitted to the Council and made valid on 30th December 2014 with reference P143771/O.
- 3.6.2 The application was refused under delegated powers on 31st March 2015. The Decision Notice states five reasons for refusal. The Decision Notice is enclosed at **CD5.2**. The Officer's Report is also enclosed at **CD5.1**.

3.7 Second Application

- 3.7.1 A second application was submitted to Herefordshire Council on 7th January 2016 with reference Ref: P160030/O.
- 3.7.2 The application was received on 7th January 2016, however on 18th January 2016, the Council exercised its powers under Section 70B of the Town and Country Planning Act 1990 and declined to determine the application due to the appeal of the first application and the similarity between the two schemes.

3.8 Reason for Refusal 3 and Consultation on the updated Access Arrangement and Footway Improvements Plan and Illustrative Framework Plan

- 3.8.1 Following the refusal of the application to which this appeal relates, discussions with Herefordshire Council Highways department continued. Amendments to the original access scheme have been agreed such that the Council would no longer wish to pursue Reason for Refusal 3.
- 3.8.2 Accordingly, it is proposed that the amended access plan (the Hydrock Access Arrangement and Footway Improvements Plan, reference: C14298/005 Rev P11) is utilised at the Appeal.
- 3.8.3 Similarly, some minor amendments have also been made to the Illustrative development Framework Plan (Plan Ref: 6122-L-02 Rev T).
- 3.8.4 To ensure all consultees and interested parties involved on the application and appeal are aware of the proposed changes, the Appellant agreed with the Council and the interested parties (correspondence at **CD17.1 to CD17.6**) and wrote to those parties and also properties in the immediate vicinity of the appeal site on 1st April 2016. A copy of the letter is enclosed at **Appendix 3** and the list of those contacted is enclosed at **Appendix 4**.
- 3.8.5 The letter invites any comments by 25th April 2016, which shall be provided to the Inspector.

4 RELEVANT POLICIES

4.1 The Development Plan

- 4.1.1 The Development Plan currently comprises:
- The Herefordshire Local Plan Core Strategy 2011-2031 – adopted October 2015; and
 - The ‘saved’ policies of the Herefordshire Unitary Development Plan (UDP)
- 4.1.2 The Regional Spatial Strategy for the West Midlands was revoked by Order on 20th May 2013 and no longer forms part of the Development Plan.

4.2 Herefordshire Local Plan Core Strategy 2011-2031

- 4.2.1 The Herefordshire Local Plan Core Strategy (LPCS) sets out strategic planning policies to deliver the long-term vision for the county, indicating general locations for strategic growth, particularly housing and employment land.
- 4.2.2 The Inspector’s Report on the Examination of the LPCS was published on 29th September 2015 and the Council subsequently adopted the LPCS on 16th October 2015.
- 4.2.3 The Officer’s Report and Decision Notice for this application were published prior to the adoption of the LPCS, therefore the decision notice refers to the policies of the UDP and draft policies of the LPCS.
- 4.2.4 The Appellant wrote to the Council on 9th March 2016, requesting confirmation of the new LPCS policies which would supersede those in the Decision Notice and on which they would rely on in defence of the appeal.
- 4.2.5 The Council responded on 9th March 2016, setting out those policies which should now be considered in relation to each Reason for Refusal.
- 4.2.6 The correspondence from the Council is enclosed at **CD6.3**.
- 4.2.7 The list below sets out the policies relevant to the appeal proposal:
- SS1 – Sustainable Development
 - SS2 – Delivering New Homes
 - SS3 – Ensuring Sufficient Housing Land Delivery
 - SS4 – Movement and Transportation
 - SS6 – Environmental Quality and Local Distinctiveness
 - RA1 - Rural housing distribution
 - RA2 - Housing in settlements outside Hereford and the market towns
 - RA3 - Herefordshire’s countryside

- H1 – Affordable Housing
- H3 – Ensuring an Appropriate Range and Mix of Housing
- OS1 – Requirement for Open Space, Sports and Recreational Facilities
- OS2 – Meeting for Open Space, Sports and Recreational Needs
- LD1 – Landscape and Townscape
- LD2 – Biodiversity and Geodiversity
- LD3 – Green Infrastructure
- LD4 – Historic Environment and Heritage Assets
- SD1 – Sustainable Design and Energy Efficiency
- ID1 – Infrastructure Delivery
- MT1 – Traffic Management, Highway Safety and Promoting Active Travel

4.2.8 The site is not allocated for development by the policies of the Core Strategy.

4.2.9 Appendix 8d to the Core Strategy identifies Unregistered Parks and Gardens. The Hagley Court / Park (Grid Reference: 356181-240845) and Longworth (Grid Reference: 356538-240017) Unregistered Parks are relevant to the Appeal. The Council's identification of Unregistered Parks and Gardens in the County relies on mapping undertaken for the 2001 Survey of Historic Parks and Gardens in Herefordshire (Whitehead. D). This mapping did not form part of the Council's evidence base for the Unitary Development Plan 2007 or production of the Herefordshire Local Plan – Core Strategy.

4.2.10 There is currently no settlement boundary for Bartestree contained within the adopted Development Plan.

4.2.11 Policies SS2, SS3, RA1, RA2 and RA3 are relevant policies for the supply of housing.

4.2.12 In accordance with the Framework's requirement to "boost significantly the supply of housing", the housing requirements set out in Policies SS2 (16,500 net new dwellings across the County and 5,300 to Rural Settlements) are expressed as minimum requirements. They should not be perceived as a cap on sustainable development and it is agreed that it should not be presumed that harm will automatically arise if the minimum requirements are exceeded.

4.3 Saved Polices of the Herefordshire UDP

4.3.1 Appendix 1 of the LPCS sets out the saved Herefordshire Unitary Development Plan (UDP) policies and Proposals Maps. The preamble to the table contained in that Appendix confirms the list of policies which have been saved until they are replaced by policies or proposals contained in the Hereford Area Plan, Bromyard Development Plan, the Minerals and Waste Local Plan or other Neighbourhood Development Plans.

- 4.3.2 It is agreed that none of the saved Herefordshire UDP policies are of relevance to the appeal proposal.

5 OTHER MATERIAL CONSIDERATIONS

5.1 Evidence Base Documents

5.1.1 The following Council evidence base documents are also of relevance to this Appeal:

- Five Year Housing Land Supply Statement (March 2015)
- Five Year Housing Land Supply (2015 – 2020) Position Statement (January 2016)
- Herefordshire Local Housing Requirement Update (September 2014)
- Herefordshire Local Housing Market Assessment (Update 2012)
- Strategic Housing Land Availability Assessment (March 2012)
- Urban Fringe Landscape Sensitivity Analysis (January 2010)
- Green Infrastructure Strategy (February 2010)
- Herefordshire Rural Housing Background Report 2013
- Rural Settlement Hierarchy Background Paper 2010

5.2 Supplementary Planning Guidance

5.2.1 Relevant supplementary planning guidance for the appeal comprises:

- Landscape Character Assessment SPG (2004 updated 2009)
- Biodiversity SPG (2004)
- Planning Obligations SPD

5.2.2 The Planning Obligations SPD is set to be updated following the adoption of the Community Infrastructure Levy.

5.3 Community Infrastructure Levy

5.3.1 Herefordshire Council are currently consulting on the preliminary draft charging schedule until 28th April 2016.

5.3.2 Herefordshire Council estimate that the Community Infrastructure Levy will be adopted in early 2017.

5.4 Bartestree with Lugwardine Neighbourhood Plan

5.4.1 On 6th September 2012, the Bartestree with Lugwardine Neighbourhood Area was designated by Herefordshire Council.

- 5.4.2 Bartestree with Lugwardine Parish Council carried out public consultation on their draft Neighbourhood Plan (Regulation 14) from November 2015 to January 2016.
- 5.4.3 Bartestree with Lugwardine Parish Council then submitted their Neighbourhood Development Plan to Herefordshire Council on 16th March 2016, which is currently out to Regulation 16 consultation until 3rd May 2016. A copy of the consultation document and plans is enclosed at **CD10.9**.
- 5.4.4 The Neighbourhood Plan sets out a vision for Bartestree with Lugwardine until 2031. Bartestree Village Policies Map includes a proposed settlement boundary, which is drawn to exclude the Appeal Site.
- 5.4.5 The list below sets out the Bartestree with Lugwardine Neighbourhood Plan policies relevant to the appeal proposal:
- BL1 - Housing Design Criteria
 - BL3 - Infilling and Windfalls
 - BL4 - Settlement Boundaries
 - BL5 - Housing in the Countryside
 - BL8 - Conserving Historic Character
 - BL10 - Affordable Housing
 - BL13 - Transport and Highways
- 5.4.6 The parties agree that the draft Neighbourhood Plan still has to be independently examined before the Neighbourhood Plan can be adopted. The weight to be given to relevant policies falls to be judged having regard to NPPF paragraph 216. The National Planning Practice Guidance¹ also provides guidance on the weight that may be attached to an emerging neighbourhood plan (**CD10.12**).
- 5.4.7 It is agreed that the appeal proposal would not be premature to the Bartestree with Lugwardine Neighbourhood Plan having regard to the Planning Practice Guidance at paragraph 14, reference ID:21b-014-20140306.
- 5.4.8 It is agreed that policies BL3, BL4, BL5 and BL8 are relevant policies for the supply of housing and are out of date. It is agreed that weight may still be attributed to these policies, with the degree of weight a matter for the decision taker, including having regard to NPPF paragraph 216.

¹ Paragraph: 007 Reference ID: 41-007-20140306

5.5 General and National Planning Guidance

5.5.1 The following general and national policy documents and statements are relevant to the appeal:

- National Planning Practice Guidance
- The Plan for Growth (HM Treasury March 2011)
- The Ministerial Statement issued by Greg Clarke (Minister of State for Planning) entitled 'Planning for Growth' dated March 2011
- Guidelines for Landscape and Visual Impact Assessment, Third Edition, Landscape Institute and IEMA (2013)
- An Approach to Landscape Character Assessment (October 2014) Natural England
- Historic England - Historic Environment Good Practice Advice in Planning Note 2
- Historic England - Historic Environment Good Practice Advice in Planning Note 3
- Historic England - Conservation Principles, Policies and Guidance

6 AREAS OF COMMON GROUND

6.1 Introduction

6.1.1 This section of the statement sets out the matters that are agreed between the two parties.

6.2 Settlement sustainability, site status and designations

6.2.1 The two parties agree that:

- For the purpose of proportionate housing growth Bartestree and Lugwardine are identified as a single settlement. They are recognised as such in Figure 4.14 of Policy RA2 (Housing in Settlements outside Hereford and other Market Towns) of the LPCS and as a settlement that will be the main focus of proportionate housing development outside Hereford and the Market Towns.
- Bartestree/Lugwardine is a sustainable settlement. It has a range of shops, services and community facilities and it is in a location which could accommodate additional housing development to contribute towards meeting the market and affordable housing needs of Herefordshire. An increase in the number of houses would also support local services and businesses.

6.3 National Planning Policy Framework

6.3.1 The two parties are in agreement that the National Planning Policy Framework sets out a presumption in favour of sustainable development.

6.3.2 The two parties agree that paragraphs 7, 11-14 of the NPPF and the “Presumption in Favour of Sustainable Development” are pertinent to the appeal site, along with paragraph 6, which states “The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.”

6.3.3 Both parties agree that paragraph 8 of the NPPF highlights that the three roles of sustainable development should not be read in isolation because they are mutually dependent.

6.4 Housing Land Supply

6.4.1 The parties agree that in her examination of the Core Strategy, the Inspector concluded that the Council was able to demonstrate a five year housing land supply although in doing so it is agreed that the Inspector was considering the requirement side of the housing land supply calculation on the basis of completions up to 31 March 2014 but with a supply of sites as of 1 April 2015 (based upon the Council’s March 2015 Five Year Housing land Supply Up-Date).

6.4.2 Recent appeal decisions at Rosemary Lane, Leintwardine (**CD11.16**) and Leadon Way, Ledbury (**CD11.17**) have confirmed that Herefordshire Council cannot demonstrate a 5 year housing

land supply. Relevant policies for the supply of housing are therefore out of date and the presumption in favour of sustainable development, in Policy SS1 and paragraph 14 of the Framework, is engaged.

- 6.4.3 It is agreed that Table 1 below represents the net housing completions that have occurred in the County since the base date of the Core Strategy on 1 April 2011 and 31 March 2015, the stepped minimum net annual housing requirement for the same period and the under-supply of new homes for the period.

Table 1

Year	Net Completions	Core Strategy Policy SS2 Stepped Minimum Net Annual Requirement (600dpa)	Shortfall Against <u>Indicative</u> Requirement
2011/2012	341	600	259
2012/2013	201	600	399
2013/2014	331	600	269
2014/2015	774	600	176
TOTAL	1647	2400	753

- 6.4.4 It is agreed that under-performance should be addressed within 5 years, this being known as the Sedgefield approach in planning terms.
- 6.4.5 It is agreed that Herefordshire Council has persistently under-performed with regard to housing delivery and that accordingly a 20% buffer is justified.
- 6.4.6 It is also agreed that the buffer should be applied to the five year housing requirement and any accumulated shortfall.
- 6.4.7 It is agreed that the deliverable supply is 4,140 dwellings and against the residual requirement of 1,141 dwellings, the housing land supply is 3.63 years. The shortfall from the 5 year requirement (5,704) is therefore 1,564 dwellings.
- 6.4.8 The parties agree the inability to demonstrate a 5 year housing land supply is a material consideration and the weight to be attached to the extent of the shortfall is a matter for the decision maker.

6.5 Affordable Housing

- 6.5.1 The parties agree there is a significant need for affordable housing in Herefordshire.
- 6.5.2 Table 16 of the Herefordshire Local Housing Requirements Study Update (September 2014) sets out that there is a total affordable housing need for 3,457 homes identified across Herefordshire

over the 2012-17 period using the Basic Needs Assessment Model. This is equivalent to 691 homes per annum.

- 6.5.3 It is agreed that if the backlog need is addressed over the plan period up to 2031, the annual net housing need would be 369 homes per annum.
- 6.5.4 It is agreed that the proposed development is in accordance with Policy H1 (Affordable Housing – thresholds and targets) of the Local Plan Core Strategy and would deliver up to 35% affordable housing on site (up to 35 dwellings).
- 6.5.5 It is agreed that the delivery of affordable housing, without subsidy, should be given significant weight.

6.6 Design, Indicative Layout and Residential Amenity

- 6.6.1 The application was submitted in outline and was accompanied by an Illustrative Development Framework Plan and a Design and Access Statement.
- 6.6.2 As set out in Section 3.8, the Appellant has amended the Illustrative Development Framework Plan. Drawing No. 6122-L-02 Rev T of March 2016 (**CD16.1**) will have been the subject of an appropriate and proportionate public consultation and it is agreed no parties would be prejudiced by its introduction to the Inquiry.
- 6.6.3 The parties agree that subject to a scheme of mitigation to be secured by condition, the development of the site would not have an unacceptable impact on existing residential amenity in terms of either noise or air quality.

6.7 Highways, Access and Accessibility

- 6.7.1 Matters relating to highways, access and accessibility will be dealt with through a separate Statement of Common Ground between the Council and the Appellant's Transport Consultants, Hydrock.

6.8 Heritage

- 6.8.1 The Glossary to the Local Plan Core Strategy defines "heritage asset" as:
- "A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated assets and assets identified by the local planning authority."**
- 6.8.2 The parties agree that this definition of heritage asset is consistent with the definition in the Glossary of National Planning Policy Framework.
- 6.8.3 The appeal site is not within a designated conservation area and therefore Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is not engaged.

6.8.4 It does however lie within the setting of three statutorily listed buildings and accordingly Section 66 of that Act is engaged. Section 66 (1) states:

“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

6.8.5 The buildings in question are all listed grade II and are:

- Hagley Court
- Hagley Hall
- The Forge

6.8.6 Black and White Cottage, a Grade II listed property located to the south east of the Appeal Site, would be unaffected by the proposed development.

6.8.7 Whilst the parties disagree about whether harm would be caused to any or all of the identified heritage assets (and where harm is identified the degree of that harm) the harm that the Council alleges (which the Appellant does not accept) would be less than substantial. This means that with regard to the matter of harm this appeal must be considered in accordance with paragraph 134 of the Framework.

6.8.8 The Historic Maps set out in the Appellant’s Heritage Statement (**CD1.14**) represent the basis for establishing the development history of the site. For ease of reference, the relevant maps are set out below and they are provided at **CD14.5 and 14.6**:

- Ordnance Survey First Series Drawing, 1815
- Lugwardine Tithe map, 1839
- Ordnance Survey, 1888 1:2500
- Ordnance Survey, 1904 1:2500
- Ordnance Survey, 1929 1:2500
- Ordnance Survey, 1971 1:2500
- Ordnance Survey, 1978-88 1:2500
- Ordnance Survey, 1983 1:2500
- Ordnance Survey, 1991 1:2500
- Ordnance Survey, 1995 1:2500
- Ordnance Survey, 1996 1:2500
- Ordnance Survey, 1886 1:10560
- Ordnance Survey, 1905 1:10560
- Ordnance Survey, 1930-31 1:10560
- Ordnance Survey, 1938-53 1: 10560

- Ordnance Survey, 1952 1: 10560
- Ordnance Survey, 1964 1:10000
- Ordnance Survey, 1973 1:10000
- Ordnance Survey, 1983 1:10000
- Ordnance Survey, 1995 1:10000
- Ordnance Survey, 2006 1:10000
- Ordnance Survey, 2013 1:10000

- 6.8.9 Appendix 8d of the LPCS was carried forward from the Herefordshire Unitary Development Plan (UDP) of 2007. The UDP did not identify the extent of the Parkland for Hagley Park / Court or Longworth, either on the UDP Proposals Map (Bartestree Inset Map 2), nor in the evidence base, but does provide a Grid Reference 356181-240845.
- 6.8.10 The Parkland around Hagley Court identified by the Council in Appendix 8 of the Core Strategy (reference 356181-240845) of the Herefordshire Local Plan (adopted in October 2015) as part of policies LD4 is not registered and accordingly does not appear on the Historic England Register of Parks and Gardens. The parkland defined in the same Appendix for “Longworth” is also relevant (reference 356538–240017) and it is also not registered.
- 6.8.11 This means that for the purposes of the Framework the Park cannot be regarded as a designated heritage asset (see Appendix 2 to the Glossary) in the terms set out there. It is, by virtue of the Core Strategy, Policy LD 4 and Appendix 8, a non designated heritage asset and covered (in particular) by paragraph 135 of the Framework for the purposes of national planning policy.
- 6.8.12 The parties agree that that paragraph 135 is not a restrictive policy and that in considering impacts of development on a non-designated asset, that a “balanced judgment” is required.
- 6.8.13 The site is not subject to any of the other restrictive policies to which footnote 9 of the NPPF refers.

6.9 Archaeology

- 6.9.1 The parties are in agreement that the conclusions of the Archaeological Desk-Based Assessment by CgMs submitted with the planning application are accurate and there are no impacts on the setting of any archaeological heritage assets in the surrounding landscape and there is no reason to believe the site has any undiscovered below-ground archaeological remains.
- 6.9.2 It is agreed that a condition can be imposed to secure the evaluation and recording of any archaeological remains.

6.10 Flood Risk and Drainage

- 6.10.1 The site is located within Flood Zone 1 (<0.1% chance of flooding).

- 6.10.2 Surface water runoff is proposed to be controlled via an on-site attenuation pond in accordance with National Standards for Sustainable Drainage, with the discharge rate limited to current greenfield run-off rates and a 30% allowance for climate change.

6.11 Landscape

- 6.11.1 The parties agree with the description of the site and surrounding area set out in Section 2 of this document.
- 6.11.2 The parties also agree the following:
- 6.11.3 The appeal site is not the subject of any formal national landscape designation. The Wye Valley AONB lies approximately 2km to the south east of the site; there would be no more than a 'negligible negative' effect on the AONB's landscape and views.
- 6.11.4 The site lies within National Character Area 100: Herefordshire Lowlands, and is located within the Principal Settled Farmlands Landscape Type as identified in Herefordshire Council's Landscape Character Assessment Supplementary Planning Guidance (2004 – updated 2009).
- 6.11.5 The viewpoint locations (Figures 6- 14, LVIA) are broadly representative of the site and site context.
- 6.11.6 Further viewpoints may be included in evidence to illustrate other views of the site.
- 6.11.7 Perimeter hedging would be retained with the exception of the Longworth Lane road frontage where approximately 60m of the hedgerow would be removed to create visibility splays.
- 6.11.8 A 10m section of the internal hedgerow which bisects the site would be removed to allow for the internal road layout.
- 6.11.9 It may be possible to provide longer term planting for those lengths of hedge that will be lost to facilitate the development.

6.12 Trees

- 6.12.1 The site includes a Tree Preservation Order (TPO), confirmed subject to modifications on 29th July 2015 for 21 individual trees and two groups of trees. A copy of the TPO can be found at **CD13.15 and CD13.16**. The TPO covers two groups of Lime trees and four individual trees in the southern field of the Appeal Site together with the remainder of the trees outside the Appeal Site, forming part of Hagley Court.

6.13 Ecology

- 6.13.1 It is agreed that the southern field compartment (as illustrated on the accompanying MAGIC map extract – Figure 1, Appendix 5), meets the definition of Wood Pasture and Parkland as a Habitat of Principal Importance as listed on the Natural Environment & Rural Communities (NERC) Act 2006 and priority habitat as listed on the Herefordshire Biodiversity Action Plan (BAP).

- 6.13.2 It is agreed that the northern field compartment (excluding its southern extent as illustrated on the accompanying MAGIC map extract – Figure 2, Appendix 6) supports an orchard which meets the definition of a traditional orchard Habitat of Principal Importance as listed on the NERC Act 2006 and a priority habitat on the Herefordshire BAP.
- 6.13.3 It is agreed that a record of noble chafer, a NERC Species of Principal Importance and Herefordshire priority species, dating from 2005 exists for the on-site orchard and that the invertebrate survey conducted in 2014 targeting the species found no evidence, although suitable habitat for the species is present in the form of nine highly suitable trees. It is agreed that due to the inability to access all suitable features on four of these trees, the presence of species cannot be discounted.
- 6.13.4 It is agreed that the hedgerows forming boundaries to the site meet the definition of hedgerows as Habitat of Principal Importance as listed on the NERC Act 2006. The parties agree that 60m of hedgerow on Longworth Lane will need to be removed.
- 6.13.5 It is agreed that impacts upon local populations of birds, badgers, hedgehog, great crested newts, reptiles and bats could potentially be adequately mitigated using standard approaches which could be secured through condition. Impacts upon these species are not an area of dispute.

6.14 Agricultural Land

- 6.14.1 A search of Herefordshire's Council Agricultural Land Classification (ALC) Map (**CD16.32**) identifies that approximately half of the northern field (comprising the traditional orchard) comprises grade 2 Best and Most Versatile (BMV) agricultural land. The remainder of the appeal site is Grade 3 agricultural land; however, the document does not differentiate between Grades 3a and 3b.
- 6.14.2 The Council did not undertake an assessment in the mapping of the ALC.

6.15 Economic Benefits

- 6.15.1 It is agreed that in accordance with paragraphs 54 and 55 of the Framework 100 new market and affordable dwellings will contribute to the vitality of the area and will help support economic activity and growth.
- 6.15.2 It is agreed that the proposal will generate an estimated 112 new economically active residents, potentially generating a total gross expenditure of £3.15 million a year. The development would also result in New Homes Bonus payments and additional Council Tax payments.
- 6.15.3 It is agreed that in accordance with paragraph 19 of the Framework, significant weight should be attributed to the economic benefits of the proposal.

6.16 Land Contamination

- 6.16.1 The parties agree that the site is free from land contamination.

7 SECTION 106 MATTERS AND CONDITIONS

7.1 S.106

- 7.1.1 It is agreed that, subject to the Council demonstrating compliance with the CIL Regulations, the following Planning Obligations are required to mitigate or compensate for the effects of the development:
- A scheme for the maintenance and management of on-site open space by a management company.
- 7.1.2 A 'Draft' S.106 Obligation document is being prepared and will be subject to further discussion and agreement, wherever possible, with the Local Planning Authority. This will be provided to the Inspector as soon as possible or within 10 days of the commencement of the appeal in accordance with PINS guidance.
- 7.1.3 It is agreed the provision of a planning obligation would be consistent with the requirements of policies ID1 and SC1 of the LPCS. The Council therefore would no longer pursue its fifth reason for refusal.

7.2 Conditions

- 7.2.1 The parties will seek to agree a list of conditions in advance of the Inquiry.
- 7.2.2 It is agreed that 35% affordable housing (up to 35 dwellings) can be secured by planning condition.

8 AREAS OF DISAGREEMENT

8.1.1 The principal issues on which the parties do not agree are:

- Whether the proposals would give rise to significant and demonstrable adverse landscape and visual effects.
- Whether the appeal site constitutes a 'valued landscape' within the meaning of NPPF paragraph 109.
- Whether locally designated parks and gardens referred to in Core Strategy LD1 include the Unregistered Parks and Gardens in Core Strategy Appendix 8d.
- Whether the unregistered park and garden Hagley Park / Court, is associated with the designated heritage asset Hagley Court.
- Whether, and the degree to which, the proposals would adversely affect the significance of the nearby designated heritage assets.
- The degree to which the proposals would adversely affect the significance of a non-designated heritage asset in the form of the unregistered parkland.
- Whether the proposals would result in the total loss of the Biodiversity Action Plan priority habitat and the presence of the noble chafer beetle.
- Whether an acceptable design and layout for up to 100 dwellings could be achieved having regard to Core Strategy Policy SD1
- Whether the proposals would undermine the community cohesion of Bartestree.

9 SIGNED DECLARATION

- i. This final version Statement of Common Ground is jointly agreed by:



19/04/2016

.....

Signed

Date

Laurie Lane

On behalf of Gladman Developments Ltd



19/04/2016

.....

Signed

Date

PRINT NAME: EDWARD THOMAS

On behalf of Herefordshire Council

Appendix 1 - Agreed Core Document List

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Planning Appeal
Land at Longworth Lane, Bartestree

Herefordshire Council: Application No. P/143771/O
Appeal Ref: APP/W1850/W/15/3051153

CORE DOCUMENTS LIST

Date 28/05/2015

FOLDER 1

CD1	Planing Application Documents	
1.1	Application Forms and Certificates and Planning Application Letter	
1.2	Site Location Plan, Ref: 6122-L-04 Rev A	
1.3	Access Strategy, Drawing Number: C14298/001 Rev P2	
1.4	Footpath Arrangement, Drawing Number: C14298/002 Rev P4	
1.5	Development Framework Plan, Ref: 6122-L-02 Rev K	
1.6	Design & Access Statement, December 2014	
1.7	Landscape and Visual Impact Assessment, December 2014	
1.8	Transport Assessment, Hydrock Ref: R/C14298/003	
1.9	Framework Travel Plan, Hydrock Ref: R/C14298.004	
1.10	Ecological Appraisal, December 2014	
1.11	Bat Survey Report, December 2014	
1.12	GCN Report, December 2014	
1.13	Reptile Survey Report, December 2014	
1.14	Invertebrate Survey, November 2014 Ref: 6122E	
1.15	Arboricultural Assessment, December 2014	
1.16	Ground Conditions Desk Study, Hydrock Ref: R/14298/001	

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CD1 Planning Application Documents Cont'd		
1.17	Flood Risk Assessment, Hydrock Ref: R/14298/F002	
1.18	Air Quality Screening Report, 28th November 2014	
1.19	Noise Screening Report, 28th November 2014	
1.20	Foul Drainage Analysis, December 2014	
1.21	Statement of Community Involvement, December 2014	
1.22	Socio Economic Report, December 2014	
1.23	Planning Statement, December 2014	
1.24	Heritage Statement, Beardmore Urban	
1.25	Archaeology Desk Based Assessment, December 2014	

CD2 Post Submission Documents		
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2.2	15-03-26 Hydrock Technical Response	
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3.6	15-01-17 Email from landowner confirming that Tree Preservation Order received from Herefordshire Council	37-38
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3.8	15-01-21 FPCR objection letter sent to Herefordshire Council	47-48
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4.4	15-01-20 Conservation Manager Email	7-12
4.5	15-01-22 Environmental Health	13-14
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4.7	15-01-27 Woolhope Naturalists Field Club	17-22
4.8	15-02-02 Herefordshire CPRE	23-26
4.9	15-02-02 Welsh Water Response	27-30
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4.12	15-02-12 Conservation Manager Response	35-36
4.13	15-02-12 Bartestree and Lugwardine Parish Council	37-42
4.14	15-02-26 Housing Partnership	43-44
4.15	15-03-10 Ecology Response	45-46
4.16	Land Drainage Consultant (not dated)	47-50
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5.2	Decision Notice	

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6.1	Email from Ed Thomas withdrawing RfR 3		
6.2	Email from Ed Thomas confirming 3.63 years supply		
6.3	Email from Ed Thomas confirming relevant CS policies		

CD7	The Development Plan		
7.1	Herefordshire Core Strategy Combined		
7.2	Herefordshire Council Policies Map		

CD8	Local Plan Core Strategy EIP Documents		
8.1	Gladman Core Strategy Hearing Statement Representation - Extracts		
8.2	Inspector's Report to Herefordshire Council, Christine Thorby (29 September 2015)		

CD9	Development Plan Evidence Base		
9.1	Herefordshire Five Year Housing Land Supply Jan 2016		
9.2	Hereford Five Year Housing Land Supply Update (Mar 2015)		
9.3	Green Infrastructure Strategy (Feb 2010) - Extracts		
9.4	Landscape Character Assessment SPG 2004 (updated 2009)		
9.5	Planning Obligations SPD		
9.6	Biodiversity - Supplementary Planning Guidance (2004)		
9.7	Herefordshire Local Housing Req Update (Sept 2014)		
9.8	NO DOCUMENT		
9.9	Rural Housing Background Paper March 2013		
9.10	Rural Settlement Hierarchy Paper November 2010		
9.11	Bartestree SHLAA Assessment 2009		
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CD10	The Neighbourhood Plan		
10.1	Bartestree with Lugwardine Parish policies map		
10.2	Bartestree Village Policies Map		
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10.7	Consultation Statement Appendices		
10.8	Basic Conditions Statement		
10.9	NP Submission Plan Version		
10.10	NP Maps A, B and C		
10.11	Gladman Bartestree Reg 14 Reps		
10.12	NPPG Extracts Para's 07 & 083		
10.13	Gladman email to Parish Council		

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11.1	APP/V0510/A/14/2224671 - Land off Field End, Witchford, Cambridgeshire		
11.2	APP/A0665/A/14/2224763 - Land Adjacent and to rear of 13 Holly Tree Drive, Nether Peover, Cheshire		
11.3	APP/A0665/A/14/2214400 - Land at Well Meadow, Malpas, Cheshire		
11.4	APP/H1840/A/13/2203924 - Land between Leasowes Road and Laurels Road, Offenham, Worcestershire		

11.5	APP/W0530/A/13/2207961 - Land to the west of Cody Road, Waterbeach	
11.6	APP/C3105/A/13/2201339 - Land north of Gaveston Gardens and Rear of Manor Farm, Banbury Road, Deddington, Oxfordshire	
11.7	APP/F1610/A/13/2196383 - Land off Station Road, Bourton-on-the-Water, Gloucestershire	
11.8	APP/H1840/A/13/2199085 & APP/H1840/A/13/2199426 - Land at Pulley Lane, Droitwich, Wychavon	
11.9	APP/P0240/A/14/2228154 - Land to the east of Station Road, Langford, Bedfordshire	
11.10	APP/F1610/A/11/2165778 - Land at Highfield Farm, Tetbury, Gloucestershire	
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11.12	APP/A0665/A/14/2226994 - Land at Fountain Lane, Davenham, Cheshire	
11.13	APP/A0665/W/14/3000528 - Land at Hill Top Farm, By-Pass Road, Northwich, Cheshire	
11.14	APP/F1610/A/14/2228762 - Land to the east of Broad Marston Road, Mickleton, Gloucestershire	
11.15	APP/Y2810/A/14/2225722 - Salisbury Landscapes Ltd, Boughton Road, Moulton, Northampton	
11.16	APP/W1850/W/15/3006428 - Land off Rosemary Lane, Leintwardine, Herefordshire	
11.17	APP/W1850/W/15/3009456 Land south of Leadon Way, Ledbury, Herefordshire	
11.18	APP/H1840/W/15/3008340 Land off Worcester Road, Drakes Broughton, Worcestershire	
11.19	APP/W1850/W/15/3131690 Plot adjoining The Highlands, Hay Lane, Kimbolton, Herefordshire	
11.20	APP/X0360/2209286 Land west of Beech Hill Road, Spencers Wood, Berkshire	
11.21	APP/F1610/W/15/3131716 Land at Broadway Farm, Down Ampney, Gloucestershire	
11.22	APP/W1850/A/13/219246 Home Farm, Belmont, Hereford, HR2 9RX	
11.23	APP/W1850/A/14/2227072 Land at Aylestone Hill, Hereford, HR1 1JJ	
11.24	APP/H1705/A/13/2205929 Land at Razors Farm, Chineham, Basingstoke	
11.25	APP/Y2430/A/13/2191290 Former Asfordby mine, Asfordby Business Park	

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CD12	Relevant Judgements	
12.1	St Albans City and District Council v Hunston Properties Limited and Secretary of State for Communities and Local Government [2013] EWCA Civ 1610	
12.2	Hunston Properties Limited v SoS for Communities and Local Government and St Albans City and District Council EWHC 2678 (Admin)	
12.3	South Northamptonshire Council and the Secretary of State for Communities and Local Government and Barwood Homes Limited Neutral Citation Number [2014] EWHC 570	
12.4	South Northamptonshire Council and the Secretary of State for Communities and Local Government and Barwood Land and Estates Limited Neutral Citation Number [2014] EWHC 573	
12.5	Gallagher Homes Limited and (2) Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283	
12.6	Solihull Metropolitan Borough Council v Gallagher Homes and Lioncourt Homes; Ref: [2014] EWCA Civ 1610 (17 December 2014)	
12.7	Neutral Citation Number: [2013] EWHC 597 (Admin) Case Number: CO/12207/2012	
12.8	Secretary of State for Communities and Local Government and Harborough District Council v Ivan Crane (Neutral Citation Number: [2015] EWHC 425 (Admin))	
12.9	Secretary of State for Communities and Local Government and Shepway District Council and Plumstead v Phides Estates (Overseas) Ltd (Neutral Citation Number: [2015] EWHC 827 (Admin))	
12.10	Suffolk Coastal District Council v Hopkins Homes Ltd & Anor (2016) EWCA CIV 168 (17 March 2016)	
12.11	Stroud District Council v SSE & Gladman Developments (Neutral Citation Number: [2015] EWHC 488 (Admin))	
12.12	Forest of Dean DC and Secretary of State for Communities and Local Government and Gladman Developments (Neutral Citation Number: [2016] EWHC 421)(Admin)	
12.13	Woodcock and Secretary of State for Communities and Local Government and Mid Sussex Council (Neutral Citation No> [2015] EWHC 1173 (Admin))	
12.14	Barnwell Manor Wind Ltd and East Northants District Council Neutral Citation Number: [2014] EWCA Civ 137	
12.15	Colman and Secretary of State for Communities and Local Government and North Devon DC and RWE Renewables Neutral Citation Number: [2013] EWHC 1138 (Admin)	
12.16	Mordue and Secretary of State for Communities and Local Government and Jones and South Northants Council Neutral Citation Number: [2015] EWHC 539 (Admin)	

CD13	Ecology and Arboricultural Documents	
13.1	Biodiversity 2020 A strategy for Englands Wildlife and Ecosystem services	
13.2	Building Biodiversity into Herefordshires Local Development Framework December 2009	
13.3	Government Circular Biodiversity and Geological Conservation - Statutory Obligations	
13.4	Herefordshire Biodiversity Action Plan - Lowland Wood Pasture and Parkland	
13.5	Herefordshire Biodiversity Action Plan - noble chafer	
13.6	Herefordshire Biodiversity Action Plan - orchards	
13.7	Herefordshire Notable Chafer Distribution & Records	
13.8	MAGIC Traditional Orchard	
13.9	MAGIC Wood Pasture	
13.10	Natural Environment and Rural Communities (NERC) Act 2006	
13.11	Natural England Report 2011	
13.12	Noble Chafer Survey Report Iwade	
13.13	The Mitigation Strategy for Iwade Site	

13.14	Random Sample Orchard Monitoring Keith Alexander final draft	
13.15	TPO 575 Confirmed subject to Modifications 29 July 2015	
13.16	TPO 575 Plan	

FOLDER 6

CD14	Heritage Documents		
14.1	Conservation Principles Policies and Guidance Apr 2008		
14.2	Managing Significance in Decision Taking in the Historic Environment		
14.3	The Setting of Heritage Assets Historic England		
14.4	Historic Parks & Gardens in Herefordshire		
14.5	Historic Mapping 1-10,000		
14.6	Historic Mapping 1-2500		
14.7	Hagley Court Listing Entry		
14.8	Hagley Hall Listing Entry		
14.9	The Forge Listing Entry		

CD15	Landscape Documents		
15.1	GLVIA 3RD EDITION low res		
15.2	Herefordshire Lowlands NCA Profile 100		
15.3	Topic Paper 6 Techniques and Criteria for Capacity and Sensitivity		
15.4	Landscape Character Assessment Approach		

CD16	Other Documents		
16.1	Development Framework 6122 Rev T		
16.2	Highways Plan C14298_005_P11		
16.3	Highways Plan C14298-006-P2		
16.4	UDP Extracts		
16.5	UDP Proposals Map		
16.6	Manual for Streets - Extract		
16.7	NPPG Prematurity Document		
16.8	Written Ministerial Document - Planning for Growth		
16.9	Keep the Country Building Article - March 2015		
16.10	George Osborne - Rural Communities August 2015		
16.11	Annexe M - Planning Procedural Guide		
16.12	Bartestree and Lugwardine Plan April 2016		
16.13	111124 Hagley Hall Approved Plan		
16.14	111124 Hagley Hall Officers Report		
16.15	111124 Hagley Hall Decision Notice		
16.16	142867 Hagley Hall Amendment Decision Notice		
16.17	140926 South of A438 Committee Report 60 unit		
16.18	140926 South of A438 Decision Notice 60 unit		
16.19	143720 South of A438 Committee Report 40 unit		
16.20	143720 South of A438 Decision Notice 40 unit		
16.21	133115 Gateway Nursery Committee Report		
16.22	133115 Gateway Nursery Decision Notice		
16.23	140531 Quarry Field Committee Report		
16.24	140531 Quarry Field Decision Notice		
16.25	140531 Quarry Field Appeal Decision		
16.26	132536 William's Mead Committee Report		
16.27	132536 William's Mead Decision Notice		
16.28	132536 William's Mead Appeal Decision		
16.29	140757 Church House Committee Report		
16.30	140757 Church House Decision Notice		
16.31	140757 Church House Appeal Decision		
16.32	Hereford Agricultural Land Classification Map		
16.33	Hereford Five Year Housing Land Supply Update (Mar 2015)		
16.34	SHLAA Rural Report November 2015		
16.35	Fig 4 Hedgerow Removal For New Access Plan Rev A		
16.36	Fig 5 Hedgerow Proposed For New Access Plan		

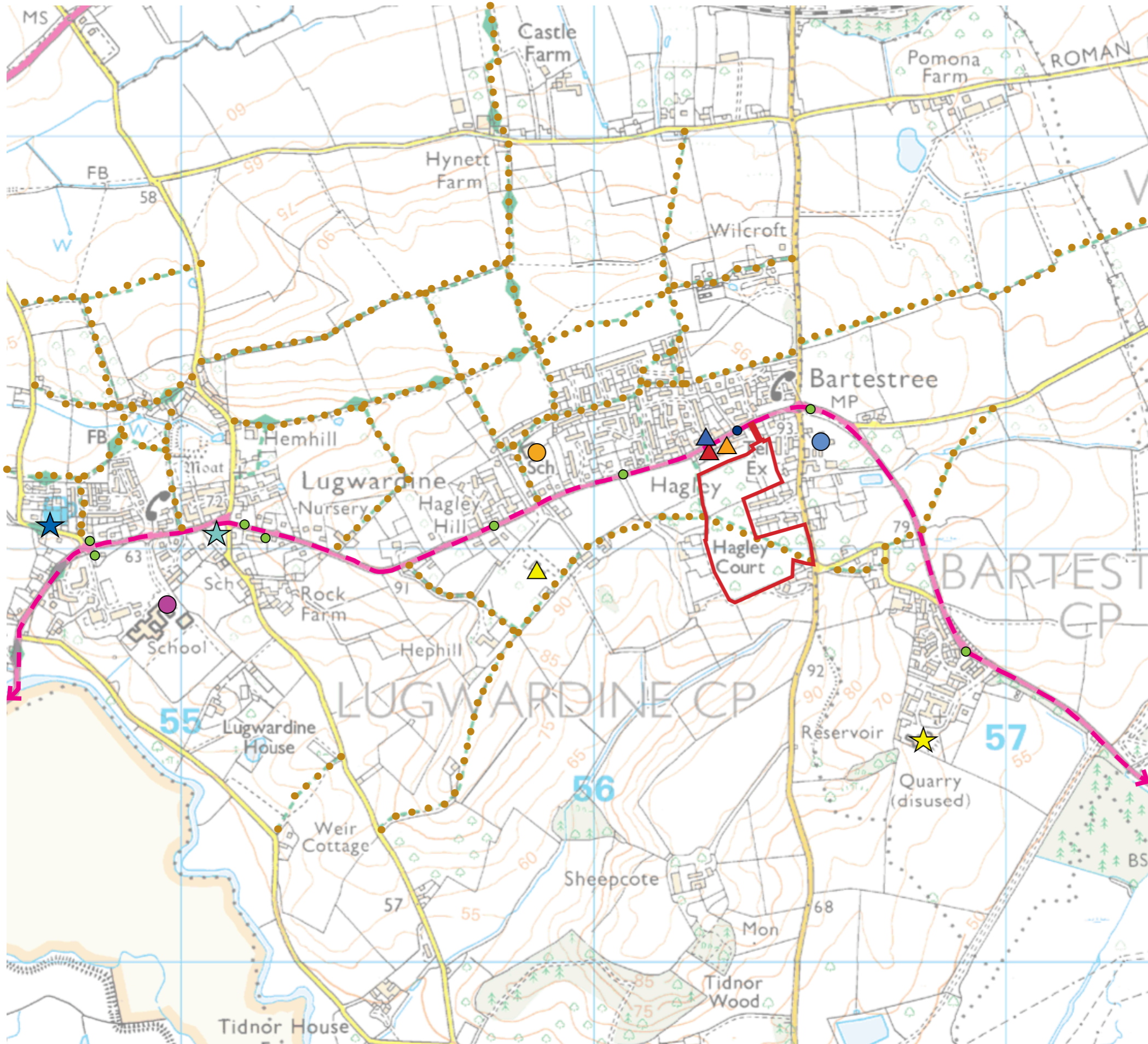
CD17	Re-consultation Documents		
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17.1	Re-consultation Letter	
17.2	Consultation Addresses	
17.3	Loveday Consultation Response	
17.4	Hall Consultation Response	
17.5	Parry Consultation Response	
17.6	Email to PINs with details of reconsulation	

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Appendix 2 – Facilities Plan

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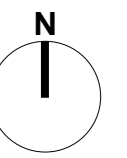


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	WALKING DISTANCE
	Site Boundary
	Footpaths linked to site
	Bus Route
	Bartestree Stores (food and convenience store) 310m
	Bartestree Village Hall 750m Bartestree Village Hall Playing Fields 750m
	Crown and Anchor Bar and Restaurant 1.98km
	St Mary's Secondary School 1.75km
	Lugwardine Primary Academy 870m
	The Gateway Centre Children's Nursery 320m
	St Peter Lugwardine Church 1.6km
	St Michael's Hospice 1.14km
	The Hair Salon 310m
	Timothy Hawkins Gallery 320m
	Bus Stop on the A438 255m
	Bus Stop

(Walking distance calculated from centre of development)



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Appendix 3 – Letter to Residents

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1st April 2016

Dear Sir / Madam,

**Re: Land off Longworth Lane, Bartestree
(Appeal Ref: APP/W1850/W/15/3051153) (LPA Ref: 143771)**

You may be aware that Gladman Developments has appealed against the decision of Herefordshire Council to refuse planning permission for up to 100 homes at the above site. The application that was submitted to and determined by the Council was an 'outline' application (i.e. a planning application which seeks the principle of development without details of layout, appearance, scale and landscaping submitted for determination). The application did, however, provide details relating to access and the provision of a simple priority junction from Longworth Lane.

The Council's third reason for refusal cited concerns regarding the details submitted for the proposed dedicated cycle / footway link to the A438, the provision of a footway on the A438 to Bartestree Stores and also details relating to the provision of a footway on Longworth Lane. Since the refusal of permission, we have been in discussions with the Local Authority and we have submitted Hydrock Plans C14298/005 and C14298/006 to address these concerns. These have now been accepted by the Local Authority and accordingly the Council has advised they no longer wish to pursue that reason for refusal.

The illustrative Development Framework Plan for the site (which sets out general principles for development) has also been amended. FPCR Plan 6122-L-02 Rev T shows minor amendments to include the relocation of the play area to the south-eastern corner of the site and the expansion of the community orchard, a related amendment to internal vehicle routes and a slight alteration to the suggested diverted route of public footpath LU13. These changes are within the scope of the indicative details originally submitted and the Council has confirmed there would be no objection to their introduction to the Appeal.

Since the three plans were not part of the original consultation undertaken by the Council on the application and to ensure that all parties involved have an opportunity to comment, we are contacting you to advise you of these changes and request any comments you may have (please note the plans are provided at A3 and should therefore not be used for scaling purposes). I would therefore be grateful if you can provide any comments you have **no later than Monday 25th April 2016**.

Yours faithfully,

Laurie Lane
Planning Manager, Gladman Developments Ltd

Please note that all correspondence received will be set out in an Addendum Statement which will be submitted to the Planning Inspector, along with the Appeal documents. A complete copy of all correspondence received (including any details such as your name and address (where you have provided them)) will be included within this document. This will ensure all comments are available to the Planning Inspector during the consideration of the appeal and shows who we have consulted.

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Appendix 4 – List Consultees for Gladman March 2016 Consultation

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The Occupier	1 Malvern Place	Bartestree
The Occupier	2 Malvern Place	Bartestree
The Occupier	3 Malvern Place	Bartestree
The Occupier	4 Malvern Place	Bartestree
The Occupier	5 Malvern Place	Bartestree
The Occupier	6 Malvern Place	Bartestree
The Occupier	7 Malvern Place	Bartestree
The Occupier	8 Malvern Place	Bartestree
The Occupier	9 Malvern Place	Bartestree
The Occupier	10 Malvern Place	Bartestree
The Occupier	11 Malvern Place	Bartestree
The Occupier	12 Malvern Place	Bartestree
The Occupier	13 Malvern Place	Bartestree
The Occupier	14 Malvern Place	Bartestree
The Occupier	15 Malvern Place	Bartestree
The Occupier	16 Malvern Place	Bartestree
The Occupier	1 St. James Close	Bartestree
The Occupier	2 St. James Close	Bartestree
The Occupier	3 St. James Close	Bartestree
The Occupier	4 St. James Close	Bartestree
The Occupier	5 St. James Close	Bartestree
The Occupier	6 St. James Close	Bartestree
The Occupier	7 St. James Close	Bartestree
The Occupier	8 St. James Close	Bartestree
The Occupier	9 St. James Close	Bartestree
The Occupier	10 St. James Close	Bartestree
The Occupier	11 St. James Close	Bartestree
The Occupier	12 St. James Close	Bartestree
The Occupier	13 St. James Close	Bartestree
The Occupier	14 St. James Close	Bartestree
The Occupier	15 St. James Close	Bartestree
The Occupier	16 St. James Close	Bartestree
The Occupier	17 St. James Close	Bartestree
The Occupier	18 St. James Close	Bartestree
The Occupier	19 St. James Close	Bartestree
The Occupier	20 St. James Close	Bartestree
The Occupier	21 St. James Close	Bartestree
The Occupier	22 St. James Close	Bartestree
The Occupier	23 St. James Close	Bartestree
The Occupier	24 St. James Close	Bartestree
The Occupier	25 St. James Close	Bartestree
The Occupier	27 St. James Close	Bartestree
The Occupier	Hagley Hall	Bartestree
The Occupier	Magna Parva	Bartestree
The Occupier	Mill Cottage	Bartestree
The Occupier	Newcroft Cottage	Bartestree
The Occupier	Stone Cottage	Bartestree
The Occupier	Sunny Mead	Bartestree
The Occupier	The Forge	Bartestree
The Occupier	The Haven	Bartestree

CD 17.2 Page 2

The Occupier	The Nubbin	Bartestree
The Occupier	Vineyard Cottage	Bartestree
The Occupier	38 Frome Park	Bartestree
The Occupier	8 Williams Mead	Bartestree
The Occupier	7 Hagley Orchard	Bartestree
The Occupier	Hagley House	Bartestree
The Occupier	Buckland	Bartestree
The Occupier	Stalls Farm	Bartestree
The Occupier	Bartestree Court	Bartestree
The Occupier	Black & White Cottage	Bartestree
The Occupier	Court Cottage	Bartestree
The Occupier	Dove Barn	Bartestree
The Occupier	Field End Cottage	Bartestree
The Occupier	Flat	Garden Cottage
The Occupier	Garden Cottage	Bartestree
The Occupier	Honeycomb Cottage	Bartestree
The Occupier	Hop Kiln House	Bartestree
The Occupier	Jubilee Cottage	Bartestree
The Occupier	Lakeside View	Bartestree
The Occupier	October House	Bartestree
The Occupier	The Goldings	Bartestree Court Barns
The Occupier	The Granary	Bartestree
The Occupier	The Old Granary	Bartestree Court Barns
The Occupier	The Stables	Bartestree Court Barns
The Occupier	The Wain House	Bartestree
The Occupier	Threshers Barn	Bartestree
The Occupier	1 Hagley Park	Bartestree
The Occupier	2 Hagley Park	Bartestree
The Occupier	3 Hagley Park	Bartestree
The Occupier	4 Hagley Park	Bartestree
The Occupier	5 Hagley Park	Bartestree
The Occupier	6 Hagley Park	Bartestree
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The Occupier	18 Hagley Park	Bartestree
The Occupier	19 Hagley Park	Bartestree
The Occupier	20 Hagley Park	Bartestree
The Occupier	21 Hagley Park	Bartestree
The Occupier	22 Hagley Park	Bartestree
The Occupier	The Cannisters	Bartestree
The Occupier	1 Sunset Cottages	Bartestree

CD 17.2 Page 3

The Occupier	2 Sunset Cottages	Bartestree
The Occupier	1 Wilcroft Park	Bartestree
The Occupier	2 Wilcroft Park	Bartestree
The Occupier	3 Wilcroft Park	Bartestree
The Occupier	4 Wilcroft Park	Bartestree
The Occupier	5 Wilcroft Park	Bartestree
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The Occupier	10 Wilcroft Park	Bartestree
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The Occupier	12 Wilcroft Park	Bartestree
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The Occupier	15 Wilcroft Park	Bartestree
The Occupier	16 Wilcroft Park	Bartestree
The Occupier	17 Wilcroft Park	Bartestree
The Occupier	18 Wilcroft Park	Bartestree
The Occupier	19 Wilcroft Park	Bartestree
The Occupier	20 Wilcroft Park	Bartestree
The Occupier	20A Wilcroft Park	Bartestree
The Occupier	21 Wilcroft Park	Bartestree
The Occupier	22 Wilcroft Park	Bartestree
The Occupier	23 Wilcroft Park	Bartestree
The Occupier	24 Wilcroft Park	Bartestree
The Occupier	25 Wilcroft Park	Bartestree
The Occupier	26 Wilcroft Park	Bartestree
The Occupier	27 Wilcroft Park	Bartestree
The Occupier	28 Wilcroft Park	Bartestree
The Occupier	1 Arrowsmith Avenue	Bartestree
The Occupier	2 Arrowsmith Avenue	Bartestree
The Occupier	3 Arrowsmith Avenue	Bartestree
The Occupier	4 Arrowsmith Avenue	Bartestree
The Occupier	5 Arrowsmith Avenue	Bartestree
The Occupier	6 Arrowsmith Avenue	Bartestree
The Occupier	8 Arrowsmith Avenue	Bartestree
The Occupier	9 Arrowsmith Avenue	Bartestree
The Occupier	10 Arrowsmith Avenue	Bartestree
The Occupier	11 Arrowsmith Avenue	Bartestree
The Occupier	12 Arrowsmith Avenue	Bartestree
The Occupier	13 Arrowsmith Avenue	Bartestree
The Occupier	14 Arrowsmith Avenue	Bartestree
The Occupier	15 Arrowsmith Avenue	Bartestree
The Occupier	16 Arrowsmith Avenue	Bartestree
The Occupier	17 Arrowsmith Avenue	Bartestree
The Occupier	18 Arrowsmith Avenue	Bartestree
The Occupier	19 Arrowsmith Avenue	Bartestree
The Occupier	20 Arrowsmith Avenue	Bartestree
The Occupier	21 Arrowsmith Avenue	Bartestree

CD 17.2 Page 4

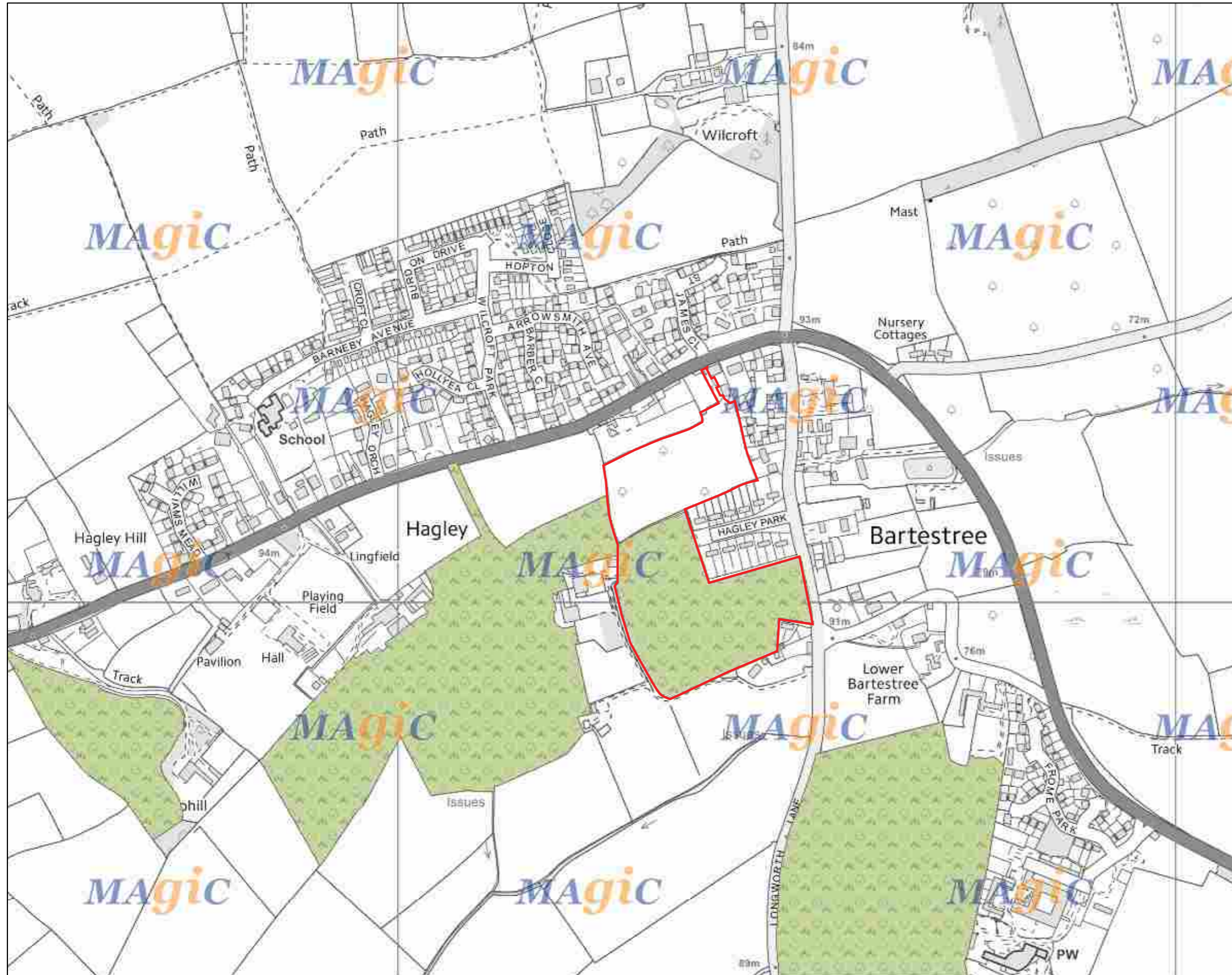
The Occupier	22 Arrowsmith Avenue	Bartestree
The Occupier	23 Arrowsmith Avenue	Bartestree
The Occupier	24 Arrowsmith Avenue	Bartestree
The Occupier	25 Arrowsmith Avenue	Bartestree
The Occupier	1 Barber Close	Bartestree
The Occupier	2 Barber Close	Bartestree
The Occupier	3 Barber Close	Bartestree
The Occupier	4 Barber Close	Bartestree
The Occupier	5 Barber Close	Bartestree
The Occupier	6 Barber Close	Bartestree
The Occupier	7 Barber Close	Bartestree
The Occupier	8 Barber Close	Bartestree
The Occupier	9 Barber Close	Bartestree
The Occupier	10 Barber Close	Bartestree
The Occupier	11 Barber Close	Bartestree
The Occupier	12 Barber Close	Bartestree
The Occupier	14 Barber Close	Bartestree
The Occupier	Gateway Nursery Ltd	The Gateway Centre
The Occupier	Apple Tree Mill	Lower Bartestree Barns
The Occupier	Applewood Mill	Bartestree
The Occupier	Bartestree House	Bartestree
The Occupier	Church House	Bartestree
The Occupier	Fuggles Barn	Lower Bartestree Barns
The Occupier	Lower Bartestree Farm	Bartestree
The Occupier	St. James House	Bartestree
The Occupier	The Haywain	Lower Bartestree Barns
The Occupier	1 Lower Bartestree Barns	Bartestree
The Occupier	1A Lower Bartestree Barns	Bartestree
Bartestree Parish Council	Eve Wilson - Parish Clerk	evewilsonmediator@tiscali.co.uk
Angela Hall	Stile Cottage	Larport Lane
Wendy Soilleux	14 Traherne Close	Lugwardine
David Greenow	Tarsmill Farm	Dinedor

CD 17.2 Page 8

HEREFORD	HR1 4DW		
HEREFORD	HR1 4DW		
HEREFORD	HR1 4DW		
HEREFORD	HR1 4DW		
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HEREFORD	HR1 4DZ		
HEREFORD	HR1 4DZ		
HEREFORD	HR1 4DZ		
Longworth Lane	Bartestree	HEREFORD	HR1 4GA
Bartestree	HEREFORD	HR1 4DT	
HEREFORD	HR1 4DT		
HEREFORD	HR1 4DT		
HEREFORD	HR1 4DT		
Bartestree	HEREFORD	HR1 4DT	
HEREFORD	HR1 4DT		
HEREFORD	HR1 4DT		
Bartestree	HEREFORD	HR1 4DT	
HEREFORD	HR1 4DT		
HEREFORD	HR1 4DT		
Dormington	HR1 4EN		
HEREFORD	HR1 4AF		
HR2 6PE			

Appendix 5 – Wood Pasture and Parkland DEFRA Mapping

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Legend

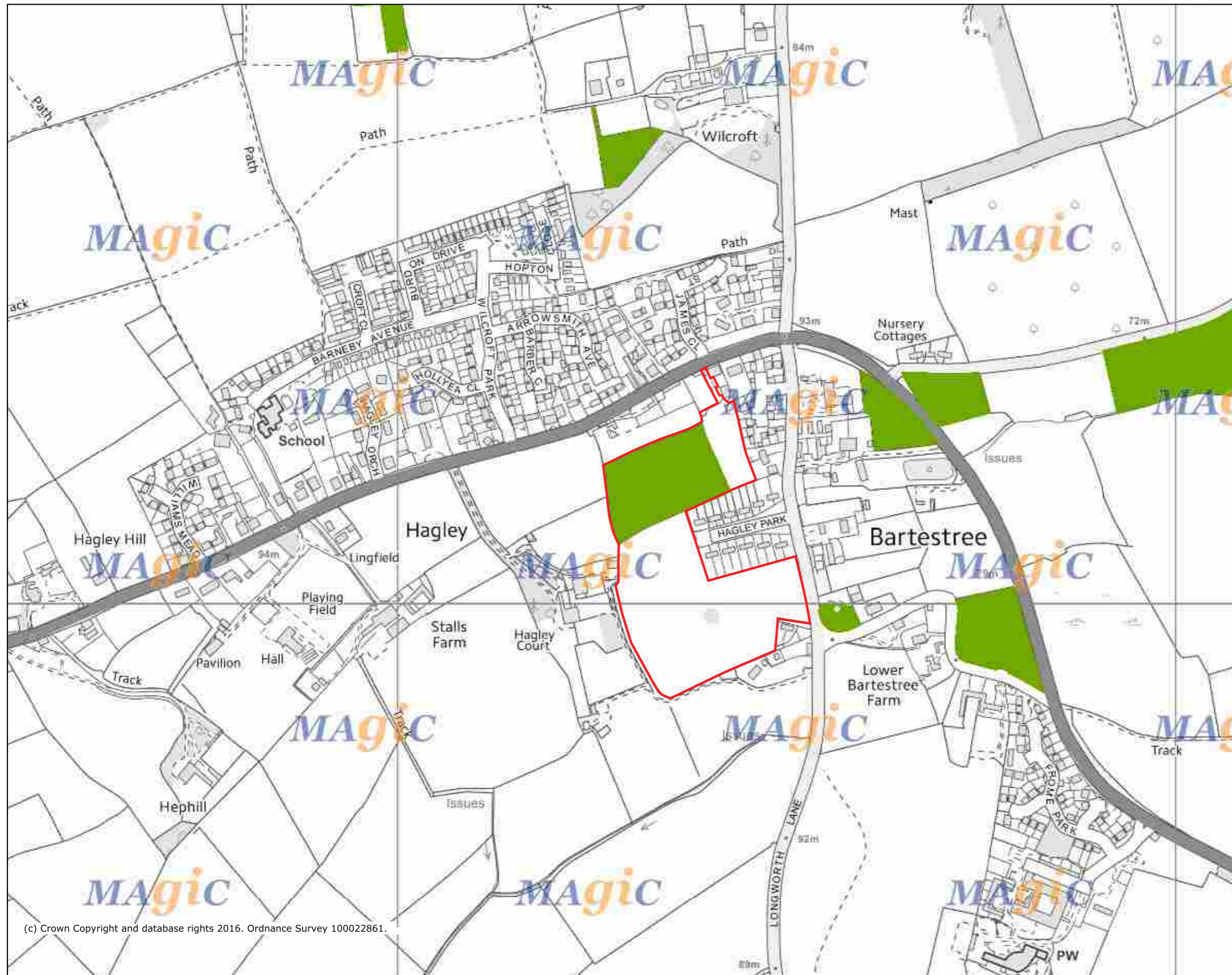
- Woodpasture and Parkland BAP Priority Habitat (England)
- Application Site Boundary

Projection = OSGB36
 xmin = 355200
 ymin = 240500
 xmax = 357400
 ymax = 241800
 Map produced by MAGIC on 7 April, 2016.
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Appendix 6 – Traditional Orchard DEFRA Mapping

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Legend

- Priority Habitat Inventory - Traditional Orchards (England)
- Application Site Boundary

Projection = OSGB36
 xmin = 355200
 ymin = 240500
 xmax = 357400
 ymax = 241800

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Historic England

WEST MIDLANDS OFFICE

Mr James Latham
Herefordshire Council
Neighbourhood Planning & Strategic Planning
Planning Services, PO Box 230, Blueschool House
Blueschool Street
Hereford
HR1 2ZB

Direct Dial: 0121 625 6887

Our ref: PL00017120

26 April 2016

Dear Mr Latham

**BARTESTREE WITH LUGWARDINE REGULATION 16 NEIGHBOURHOOD PLAN
CONSULTATION**

Thank you for the invitation to comment on the above Neighbourhood Plan.

Our comments remain substantively the same as those expressed in our earlier correspondence (14th January 2016) viz:

“Historic England is supportive of both the Vision and objectives set out in the Plan and consider that it takes a suitably proportionate approach to the historic environment of the Parish. Beyond those observations we have no further substantive comments to make”.

I hope you find this advice helpful.

Yours sincerely,

Peter Boland
Historic Places Advisor
peter.boland@HistoricEngland.org.uk

cc:



THE AXIS 10 HOLLIDAY STREET BIRMINGHAM B1 1TG

Telephone 0121 625 6870
HistoricEngland.org.uk



Latham, James

From: Cotton, Julian
Sent: 03 May 2016 11:59
To: Neighbourhood Planning Team
Subject: Bartestree with Lugwardine Regulation 16

Dear Neighbourhood Planning.

I can confirm that I have no further comments on this plan.

Regards,

Julian

Julian Cotton, Archaeological Advisor, Herefordshire Council

Latham, James

From: Howells, Mathew
Sent: 03 May 2016 15:25
To: Neighbourhood Planning Team
Subject: RE: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan consultation

Dear Neighbourhood Planning Team,

With regard to the following NDP we would like to make one comment on the policy statement below.

“Policy BL13 Transport and Highways (CS Policy MT1)

Proposals for development will need to show:

V. the site is linked to the village by an existing footway/cycleway or through the creation of a new footway/cycleway that provides safe passage to the range of village facilities including bus stops; and also include a possible foot/cycle bridge across the River Lugg near to the A438.”

We would like consideration be given to some additional wording (in red below), is added to the end of the policy statement

“Secure cycle parking to be provided at strategic bus stops to facilitate cycle and ride.”

Kind Regards
Mathew Howells
Senior Transport Planning Officer
Transportation - Planning
Herefordshire Council
P.O. Box 236
Plough Lane,
Hereford
HR4 0WZ
Tel: 01432 383143
E-mail: mathew.howells@herefordshire.gov.uk

From: Neighbourhood Planning Team
Sent: 22 March 2016 10:53
Subject: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan consultation

Dear Consultee,

Bartestree with Lugwardine Parish Council have submitted their Regulation 16 Neighbourhood Development Plan (NDP) to Herefordshire Council for consultation.

The plan can be viewed at the following link: <https://www.herefordshire.gov.uk/planning-and-building-control/neighbourhood-planning/neighbourhood-areas-and-plans/bartestree-with-lugwardine-group>

Once adopted, this NDP will become a Statutory Development Plan Document the same as the Core Strategy.

Latham, James

From: Mike Wilson
Sent: 02 May 2016 13:38
To: Neighbourhood Planning Team
Subject: Reg 16 Comment Bartestree with Lugwardine NDP
Attachments: Reg-16 comments.docx

Hi

Please find attached Reg 16 comments Bartestree with Lugwardine NDP.

Please notify the local planning authority's decision under regulation 19 in relation to this Neighbourhood Development Plan.

Regards

Mike Wilson
Parish Councillor
Bartestree with Lugwardine Group Parish Council

Reg 16 Feedback on the Bartestree with Lugwardine Neighbourhood Development Plan

Overview

1. Verbose, repetitive, lacks evidence, contradictive, not easy to reference and not in line with / repeats higher plans.

Introduction

2. NPPF 183 “Parishes...can use neighbourhood planning to: set planning **POLICIES** through neighbourhood plans to determine decisions on planning applications.....”. Thus the plan is only required to set the policies for planning officers of the planning authority to carry out their duties within the neighbourhood development area. In the light of that:

Verbose

3. The following sections / paragraphs are superfluous to the needs of the document:
 - a. Summary of draft
 - b. 1.1 Overview
 - c. 1.3 How the neighbourhood development plan fits into the Planning system
 - d. 1.4 Sustainability appraisal
 - e. 1.5 Key issues
 - f. 1.7 Community engagement and consultation
 - g. 5. Risk assessment
4. Whilst many of these were necessary in the early development of the plan, they are not required in the final plan and should be covered, if required, in the accompanying letters and documents.

Repetitive

5. If retained, many of the paras listed in para 3 above repeat information already stated or contained in higher plans.

Lacks Evidence

6. In particular for para 3.4, there is no evidence why, at the second para, applications rejected or withdrawn have not been included. It was never put to the Parish.

Contradictive

7. Under Summary of Draft, para 3, bullet point 4, and para 3.8, policy BL8, which determines from the Core Strategy policy LD4, historic character is to be conserved. Yet the proposed settlement boundary still shows an area where this is not the case.
8. There still remains considerable misunderstanding between the “village envelope or Settlement Boundary” as is commonly understood by Parishioners and the planning definition of the term Settlement Boundary. The village envelope is a line including all the properties and public areas generally around the heart of the village(s). The planning definition of the term Settlement Boundary is the area within which there is **a presumption in favour of residential development.**

9. The land ESE of the road leading to St Michael's Hospice and the old Bartestree Convent has been included within the new Settlement Boundary even though it would affect the setting of 4 listed properties and an existing cemetery if developed. Decisions over the inclusion of this site were influenced by the results of a poll of 107 people who attended 2 consultation days. The fact that there would be a poll and that the result would influence decisions was not made known to the remaining 1493 voting residents in the parish area. Hardly an inclusive and balanced result.
10. Similarly, with Public Open Space (Green Spaces – BL9). The policy protects them, but equally those on the edge of the Settlement Boundary should not be included as there is not a presumption in favour of residential development. E.g. the Village Hall and Playing fields and the 2 (INCA) sites on the south side of the A438.

Not easy to reference

11. The formatting of the document does not lend itself to being easily referenced. The first 2 sections have no para numbers. When para numbers are introduced, the sub-paras are then further divided without any identification.

Not in line with / repeat higher plans.

12. Para's 3.5 to 3.9 neither add to nor change anything to what is already covered by the Core Strategy and are not therefore required.
13. Sites shown by the SHLAA to be of low/minor constraints, annotated "Highly suitable" and adjacent to the Settlement Boundary, without other mitigating factors (mineral deposits etc.), have not been included.
 - a. HLAA/366/001
 - b. O/Bart/008
 - c. HLAA/088/001 (Non disclosable pecuniary interest – owned by stepson)
14. Whilst the minimum number of properties required by the core strategy has almost been achieved, there is an absolute minimum of sites to allow for further development, beyond that figure and within the plan period, without a full review of the of the Settlement Boundary.

Latham, James

From: Kinsey, Nadine
Sent: 04 May 2016 09:10
To: Neighbourhood Planning Team
Cc: Webster, Nick
Subject: FW: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan consultation

Hi NPT

No issues with the Reg 16 Bartestree Plan.

Can you advise who prepares the Basic Conditions Statement - is it yourselves or the Inspector?

Thanks
Nadine

From: Neighbourhood Planning Team
Sent: 22 March 2016 10:53
Subject: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan consultation

Dear Consultee,

Bartestree with Lugwardine Parish Council have submitted their Regulation 16 Neighbourhood Development Plan (NDP) to Herefordshire Council for consultation.

The plan can be viewed at the following link: <https://www.herefordshire.gov.uk/planning-and-building-control/neighbourhood-planning/neighbourhood-areas-and-plans/bartestree-with-lugwardine-group>

Once adopted, this NDP will become a Statutory Development Plan Document the same as the Core Strategy.

The consultation runs from 22 March 2016 to 3 May 2016.

If you wish to make any comments on this Plan, please do so by e-mailing: neighbourhoodplanning@herefordshire.gov.uk, or sending representations to the address below.

If you wish to be notified of the local planning authority's decision under Regulation 19 in relation to the Neighbourhood Development Plan, please indicate this on your representation.

Kind regards

James Latham
Technical Support Officer

Neighbourhood Planning, Strategic Planning & Conservation teams
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ldf@herefordshire.gov.uk (for Strategic Planning enquiries)

Date: 03 May 2016
Our ref: 181870
Your ref: None



James Latham
Technical Support Officer
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BY EMAIL ONLY

neighbourhoodplanning@herefordshire.gov.uk

Dear Mr Latham

Bartestree with Lugwardine Neighbourhood Development Plan (NDP) Regulation 16

Thank you for your consultation on the above dated 22 March 2016 which was received by Natural England on 22 March 2016.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Bartestree with Lugwardine Neighbourhood Plan

We are pleased to see that our previous advice has been taken into consideration in relation to the River Wye SAC and priority habitat.

Other advice included a requirement for development to deliver ecological enhancements and green infrastructure provision. Please see our previous response to the draft neighbourhood plan (dated 18 January 2016) for more detailed comments.

Habitats Regulations Assessment (HRA) Report and Addendum

We confirm that having read the Habitats Regulations Assessment (HRA) Report and Addendum, we agree with the conclusion that the Bartestree with Lugwardine Plan will not have a likely significant effect on the River Wye SAC.

Environment Report

Natural England welcomes the production of an Environmental Report. Having reviewed the report Natural England confirms that it meets the requirements of the Strategic Environmental Assessment (SEA) European Directive and national regulations, and that we concur with its conclusions.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Tom Reynolds on 020 802 61050. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a



feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

Tom Reynolds
Planning Adviser
South Mercia Team



Latham, James

From: Morgan Barbara <Barbara.Morgan@networkrail.co.uk>
Sent: 27 April 2016 15:45
To: Neighbourhood Planning Team
Subject: Bartestree with Lugwardine Neighbourhood Development Plan

Dear Sir/Madam

Network Rail has been consulted by Herefordshire Council on the Bartestree with Lugwardine Neighbourhood Development Plan (NDP) document. Thank you for providing us with this opportunity to comment on this Planning Policy document.

The Consultation statement appendices states:-

“Network Rail (West): The company that owns and manages the rail infrastructure throughout the County that the two train operators run their trains on. Their interests include the railway itself and the land on which it is built, the stations and network buildings and structures (signal boxes, foot-bridges etc), and include bridges, level crossings, and current redundant lines or railway land. Should be consulted if your area includes, or is adjacent to any part of this route or if your plan has an interest in transport connections that include this line. Contact details: barbara.morgan@networkrail.co.uk”

Can you please amend the contact details to read townplanningwestern@networkrail.co.uk.

Regards,

Barbara Morgan
Town Planning Technician (Western and Wales)
1st Floor, Temple Point
Redcliffe Way, Bristol BS1 6NL

Tel: 0117 372 1125 – Int: 085 80125

Email: townplanningwestern@networkrail.co.uk

www.networkrail.co.uk/property

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Network Rail Infrastructure Limited registered in England and Wales No. 2904587, registered office Network Rail, 2nd Floor, One Eversholt Street, London, NW1 2DN

Latham, James

From: RRA Architects <info@rra-arch.com>
Sent: 14 April 2016 18:24
To: Neighbourhood Planning Team
Cc: Claire Rawlings; Mark Powles
Subject: Regulation 16 Representation to the Bartestree and Lugwardine Neighbourhood Development Plan
Attachments: NDP representation with app (9).pdf

FAO: Neighbourhood Planning Team,
Planning Services,
PO Box 230,
Hereford
HR1 2ZB

Dear Sir/Madam,

Re: Regulation 16 Representation to the Bartestree and Lugwardine Neighbourhood Development Plan

Please find attached a representation which has been submitted on behalf of my client Mrs D Patterson to the Regulation 16 version of the Bartestree and Lugwardine Neighbourhood Development Plan.

This is a resubmission of a representation made at the Regulation 14 stage of the Plan. This is being resubmitted at this stage as some of the points raised in the statement have not been adequately considered and addressed to date. These relate to the Plan's reliance on all of its current commitments and windfall to deliver its minimum housing requirement over the plan period as well as its approach to development in the Conservation Area of Lugwardine. To address these points the representation seeks Land to the Rear of New Rents, Lugwardine to be included within the settlement boundary. Inclusion of this site would help build certainty and flexibility into ensuring a robust Plan is produced which will deliver over the plan period.

Please could you confirm receipt of this representation and also notify RRA of the Local Planning Authorities decision under Regulation 19 in relation to this NDP.

Many thanks,

Kind regards,

Mark Powles

RRA Architects

Website: <http://www.rra-arch.com>
Hereford: +44 (0)1432 27 87 07
Cheltenham: +44 (0)1242 26 93 74
London: +44 (0)0207 3775458



Bartestree and Lugwardine Neighbourhood Development

Plan

Regulation 14

Representation

Prepared on behalf of Mrs D Patterson

By CR Planning Solutions

January 2016



1. Introduction

- 1.1 This representation has been made by CR Planning Solutions on behalf of Mrs D Patterson and is being made to the draft Regulation 14 version of the Bartestree and Lugwardine Neighbourhood Development Plan (BLNDP).
- 1.2 The BLNDP has reached Regulation 14 and is now out to public consultation when representations are invited for consideration by the steering group. This consultation ends on 18/01/16.
- 1.3 The BLNDP has to meet four basic conditions which include:
- Having regard to national planning policy.
 - Being in conformity with the strategic policy of the development plan.
 - Contributing to the achievement of sustainable development.
 - Being compatible with EU obligations and Human Rights.
- 1.4 This representation welcomes certain aspects of the BLNDP, however, has a number of concerns which are outlined in section 4. This representation will demonstrate that the Plan as written does not fully meet the basic conditions.
- 1.5 To address these concerns this representation seeks an amendment to the settlement boundary to include a relatively small area of land, owned by Mrs Patterson, to the rear of New Rents, Lugwardine. Inclusion of this site, within the settlement boundary, for a small sensitively designed housing scheme would ensure flexibility is built into delivering a resilient BLNDP which is plan-led, giving complete clarity and certainty on where and how Lugwardine and Bartestree can jointly deliver all of their minimum housing requirement and fulfil their role as a main focus for growth within the two Parishes.

2. Adopted Herefordshire Core Strategy

- 2.1 As stated above, the BLNDP is required to be in conformity with the adopted Core Strategy for Herefordshire and plan positively to support local development as per paragraph 16 of the NPPF.
- 2.2 Paragraph 4.8.26 of the Core Strategy states that Neighbourhood Plans will be the principle mechanism by which new rural housing will be identified, allocated and managed. It goes on to say that the proportional growth **target** for each Parish provides the basis for the **minimum** level of new housing that will be accommodated in each neighbourhood plan.
- 2.3 Bartestree and Lugwardine have been identified in Policy RA2 as settlements to accommodate future growth to meet the housing needs of the Parishes. In meeting Policy RA2 development should be located within or adjacent to the main built up area and result in a high quality sustainable scheme.
- 2.4 During the plan period 2011-2031, the Parishes are required to deliver a minimum growth figure which equates to 18% of the current number of dwellings in the Parish, a total of 152 new dwellings. As set out in paragraph 4.8.11 of the Core Strategy the rural housing target provided is a **minimum** and these figures should not be seen as a cap on development. This ensures the Core Strategy is a positive plan which supports local

development and is meeting the requirements of the NPPF which seeks development plans to boost significantly the supply of housing to meet the needs of the market and not to restrict growth.

BLNDP - Areas of Support

3.1 There are several aspects of the BLNDP which are welcomed. These relate to:

- the need for the Plan to be prepared in conformity with the National Planning Policy Framework and the Herefordshire Core Strategy
- the need to plan positively for development reflecting the requirements of the NPPF.
- The need to meet the strategic development needs of the area
- recognition in the NDP Vision and Objectives that the housing figure provided 'is a minimum' requirement
- the provision of housing to meet the needs of the diverse and growing community in a manner that is appropriate to the character of the village and its countryside setting.

3.2 This representation supports these positive and sound starting points, however, has concerns that these are not fully followed through into the detail of the BLNDP. These concerns are provided below in section 4.

4. Meeting the Basic Conditions

4.1 The following areas of concern are raised:

Conflict between the Vision and the Plan's approach to housing development.

4.2 In recognising the need to plan positively at the outset of the Plan it is concerning to note, particularly given the market interest in the area, that the Plan at section 1.3 has viewed the minimum housing target of 152 dwellings for the two settlements of Bartestree and Lugwardine as its maximum requirement. This position is contrary to the Core Strategy as identified in section 2 of this representation and as stated in the BLNDP's Vision and Objectives, which both refer to the target figure of 152 as being a minimum figure.

4.3 The BLNDP Vision states, '*Sustainable housing development will have been provided by a mix of large and small scale developments increasing the number of dwellings by a minimum of 152 using designs that blend appropriately with existing housing stock and will have been absorbed by the community*'.

4.4 There is therefore an inconsistency in terms of the BLNDP's Vision and the more restrictive approach taken to housing delivery in the BLNDP's policies. This puts the BLNDP at risk of not delivering on its stated Vision.

High dependency on Planning Commitments

4.5 It is noted that of the required 152 dwellings a total of 145 dwellings have either been approved or constructed. The BLNDP states that the majority of these units are accounted for within planning commitments

4.6 The Plan is therefore heavily dependent on delivery of all of its current commitments to meet its minimum housing requirement and has assumed that these will all come forward

as consented. Given this position, it is of concern that the Plan has not built in a degree of flexibility to address under delivery of sites or address the potential for permissions to lapse. A lapse rate of between 5% - 10% is a figure recognised by local planning authorities, which based on a commitment figure of say 140 units, would leave a residual to address of around 7- 14 additional units. This approach to housing supply would ensure delivery of a flexible and resilient plan and address the concerns of a Plan so reliant on delivery of all of its current commitments.

Windfall

4.7 It is also noted that the Plan anticipates the remainder of its minimum requirement (7 units) to be delivered through windfall opportunity and does not seek a further housing allocation in the BLNDP. To again strengthen the BLNDP and provide certainty to the community and the Local Planning Authority on how and where these additional units will be provided it is recommended that an additional small site is included which would address this issue as well as the points made in paragraph 4.6. Inclusion of an additional small housing site would help to deliver a more resilient plan, provide greater certainty and a degree of flexibility. This in turn would ensure that the BLNDP was fully compliant with the NPPF, the Core Strategy and was able to demonstrate how it met, in full, its minimum requirement with respect to housing delivery.

Approach to development in the Conservation Area

4.8 There is further concern over the approach taken in Policy BL8 of the BLNDP. This Policy states that within the Conservation Area of Lugwardine, new development would only be permitted in exceptional circumstances. It is noted that no definition of an exceptional circumstance is provided. However, putting this to one side, the restrictive approach to development within the Conservation Area is contrary to para 137 of the NPPF. This states that plans should look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. It goes on to state that proposals which preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably. In addition, Policy LD4 of the Core Strategy states that development proposals affecting heritage assets should preserve or enhance heritage assets and their settings. It is recommended that a more positive approach to development within Lugwardine's Conservation Area is reflected in the BLNDP to align the plan to both the local and national plan policy position.

Summary

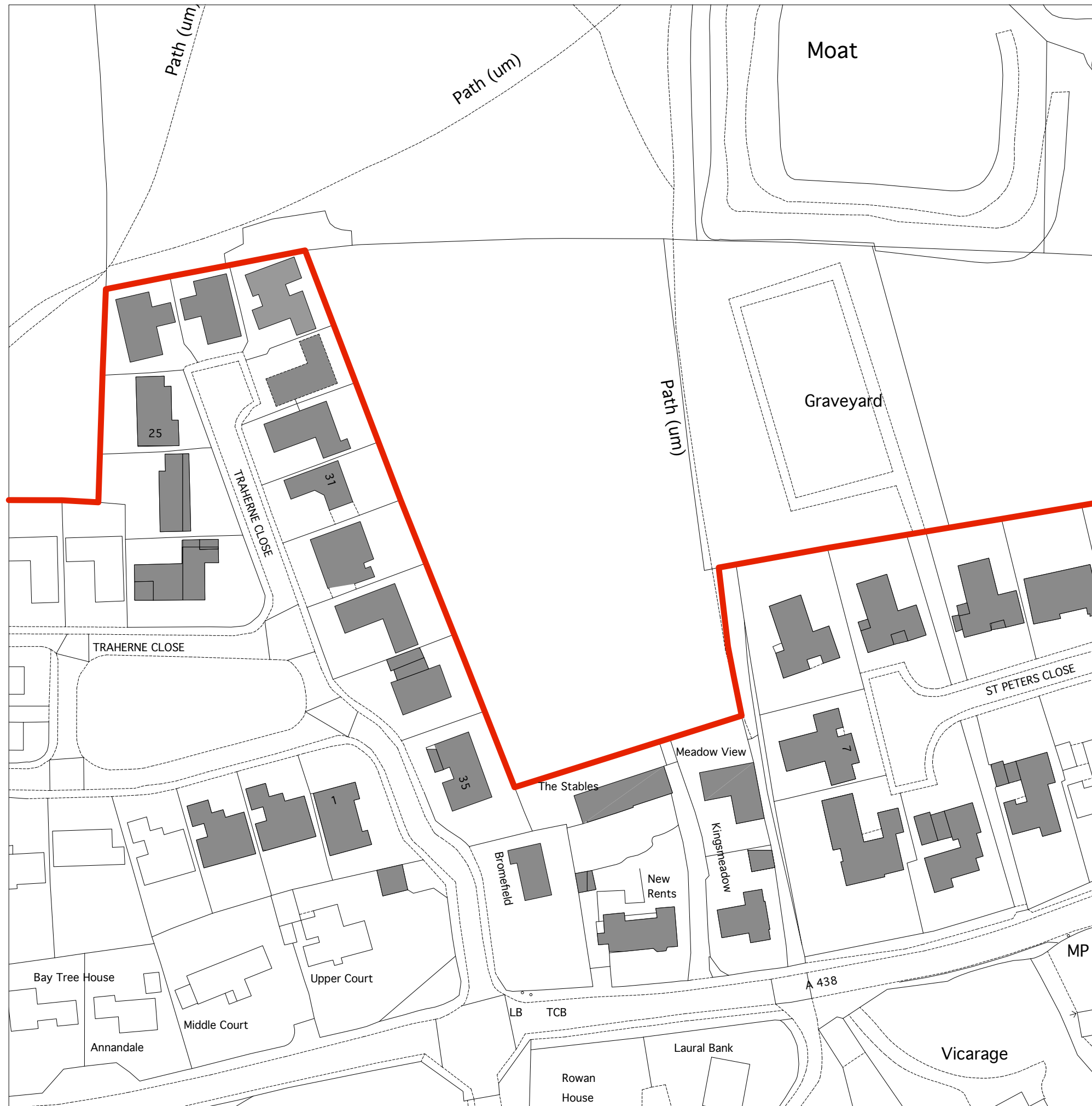
4.9 It is acknowledged that a large proportion of the Parishes housing requirement has been accounted for primarily through its current commitments. However, to address the points raised in section 4, strengthen the resilience and flexibility of the BLNDP and build in further certainty on where and how the Parishes minimum housing requirement is fully met over the Plan period it is recommended that the settlement boundary is amended to include land to the Rear of New Rents as a suitable site for residential development. The Plan at Appendix A shows the current settlement boundary as per the draft BLNDP and Appendix B shows the amendment sought through this representation.

5. Land to the Rear of New Rents, Lugwardine.

- 5.1 Land to the Rear of New Rents presents a highly sustainable development opportunity adjacent to the built form of Lugwardine which would ensure a deliverable housing site and help to provide affordable housing and community benefit as well as provide certainty that the housing needs of the area will be met.
- 5.2 This 1 hectare site is currently used as grazing land and forms a flat, well contained site enclosed by fencing which could accommodate in the region of 12 dwellings. The site is of a proportional size, is able to deliver a mix of housing including bungalows and affordable homes to meet local needs and would represent a relatively low density of development.
- 5.3 Housing abuts three sides of the site in addition to the graveyard of St Peter's Church. The site is therefore well related to the built form, and forms a logical rounding off of the settlement. In addition, the relative containment of the site would help mitigate any visual impact of new development within the Conservation Area.
- 5.4 The site was assessed over 5 years ago through the SHLAA process and was not considered suitable primarily due to the lack of an access into the site and heritage issues relating to the setting of the Scheduled Ancient Monument (SAM) located to the north of the site and the Conservation Area. Five years later, these constraints have been addressed and the site is now considered suitable, available and achievable for a sensitively designed housing development of approximately 12 units. An access solution to the site can be delivered and a heritage statement will be prepared which will inform the scheme layout to ensure the requirements of paragraph 137 are met in full and the proposal preserves those setting elements that make a positive contribution to the SAM.
- 5.5 A sensitive low density layout is proposed which incorporates generous areas of open space, respects its position in the Conservation Area, fully addresses the setting of the SAM and the amenity of adjoining residential properties.
- 5.6 In addition, it should be recognised that altering the settlement boundary at this point will not undermine the key aims of the boundary which are as stated in section 1.6 of the BLNDP to (i) prevent coalescence between the settlements thus preserving their historic separate identity and (ii) to prevent further incursion into open countryside.

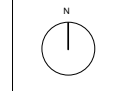
6. Conclusion

- 6.1 This representation respectfully seeks the support of the BLNDP steering group to include the highly sustainable development opportunity, Land to the Rear of New Rents, within the settlement boundary of Lugwardine and identify the site as suitable for a small residential development to include affordable houses.
- 6.2 Including this site would ensure that the Plan can fully account for its minimum housing requirement and provides both certainty and a degree of flexibility to help address concerns over any lapse in the delivery of its committed housing sites. This will ensure the plan is robust in providing for the housing needs of the Parishes over the plan period and is in full conformity with the Core Strategy and the NPPF.



CURRENT DRAFT SETTLEMENT BOUNDARY

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DRAFT FOR COMMENT 17.06.2015

Revision	Description	Date	Check	Rev



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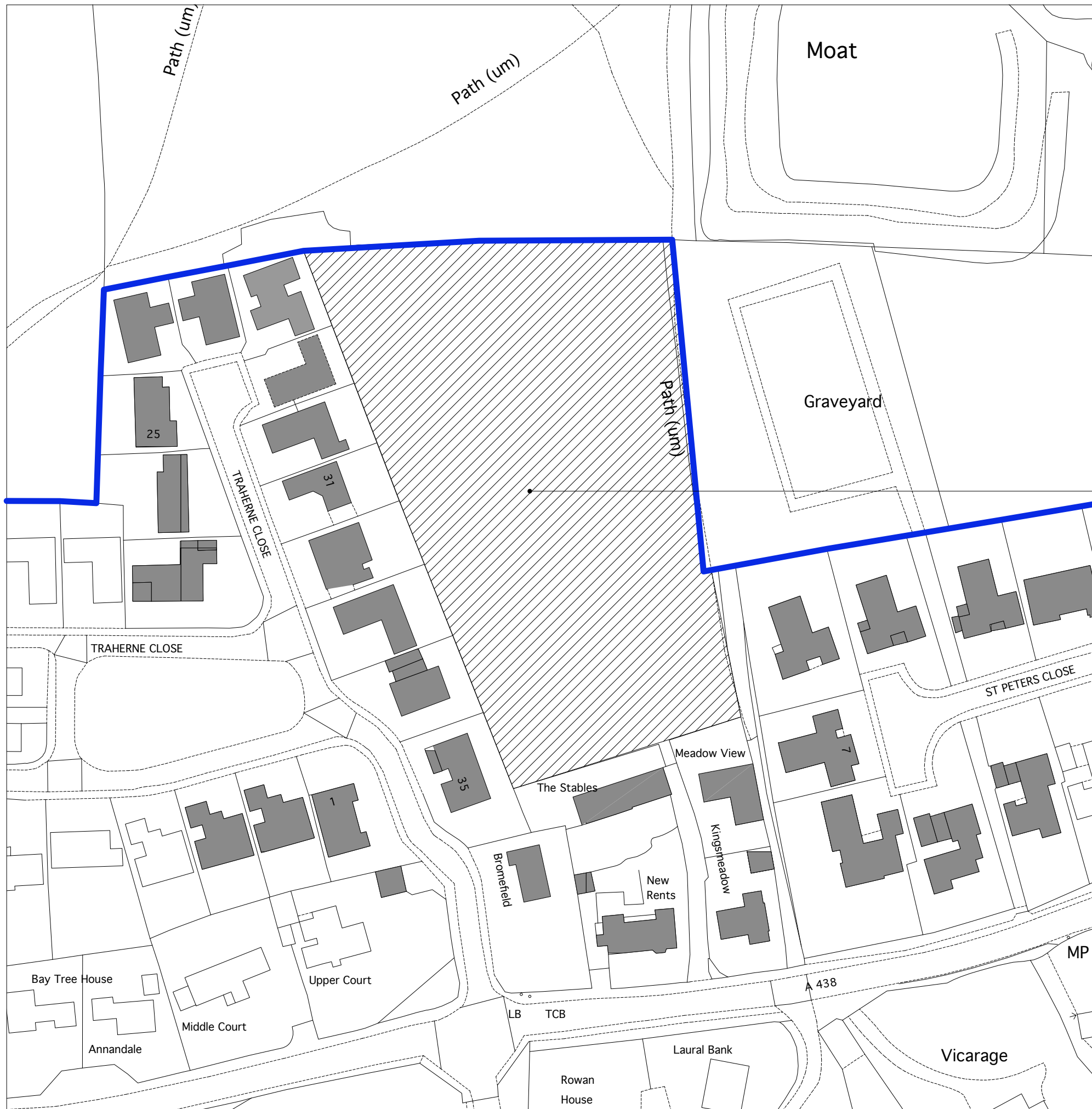
Client
Deb Patterson

Project
Land to Rear of New Rents Lugwardine

Drawing Title
APPENDIX A

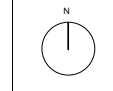
Status Proposal	Date Jan 2016	Drawn By ORS
Scale 1:100@A1/1:200@A3	Drawing Number 2339 P(1) 01	Revision -

APPENDIX A -



Proposed Residential Site

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Client
Deb Patterson

Project
 Land to Rear of New Rents Lugwardine

Drawing Title
APPENDIX B

Status	Date	Drawn By
Proposal	Jan 2016	ORS
Scale	Drawing Number	Revision
1:100@A1/1:200@A3	2339 P(1) 02	-

**APPENDIX B -
 PROPOSED REVISED SETTLEMENT
 BOUNDARY**

Neighbourhood Development Plan – conformity assessment

Name of NDP: Bartestree & Lugwardine Neighbourhood Development Plan

Date: 18 April 2015.....(Reg 16).....

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
Policy BL1 Housing Design Criteria	SD1, RA2	Y	
Policy BL2 Extensions to Properties	SD1	Y	
Policy BL3 Infilling and Windfalls	SD1, RA2, RA3	Y	
Policy BL4 Settlement Boundaries	RA2	Y	
Policy BL5 Housing in the Countryside	RA3	Y	
Policy BL6 Redundant Rural Buildings	RA5	Y	
Policy BL7 Rural Exception Sites	H2	Y	
Policy BL8 Conserving Historic Character	LD1, LD4	Y	
Policy BL9 Protecting Green Spaces	OS2, OS3	Y	
Policy BL10 Affordable Housing	H1	Y	

Policy BL11 Working from Home	E3	Y	
Policy BL12 Supporting Local Businesses	RA6,E1,E4	Y	
Policy BL13 Transport and Highways	MT1	Y	

Other comments/conformity issues:

Para 1.6, first line - At the start of the Plan period, Bartestree with Lugwardine was designated as a main village. It would be helpful to add that this was a designation in the Unitary Development Plan.

Para 4.2, Provision of sites for intensive agriculture/horticultural. “Applications for the installation of all forms of large-scale, intensive agriculture such as polytunnels, poultry units, indoor dairy units and pig units are not considered appropriate within the setting of this Neighbourhood Area”. Although the emphasis is on large scale developments, this statement is not in conformity with the Core Strategy and is prohibitive in nature. Policy RA6 is encouraging of many kinds of rural proposals and it does not make a distinction on size of developments apart from ensuring the development is commensurate with its location and setting. A policy or statement reflecting this approach would be more advisable.

Planning application 143771 for 100 dwellings is currently awaiting an appeal following a refusal decision by the local authority. The appeal is due to commence 10th May 2016. This site is mapped on Map B as an unsupported site by the community. An appeal hearing/inquiry on this site is pending and the final outcome will have a bearing on the NDP due to the site size should the appeal be allowed. However, progress towards a draft Plan will be a material consideration in the appeal decision also.

A table of housing sites with planning permission including site capacities would be helpful in the housing section of the plan. Although capacity of sites with planning permission is set out in the supporting text, it would helpful if it was more clearly set out in a table rather than submerged in the text.

Latham, James

From: Growth Development <growth.development@severntrent.co.uk>
Sent: 29 March 2016 11:54
To: Neighbourhood Planning Team
Subject: RE: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan consultation

Dear Sir,

Thank you for contacting us in relation to the consultation for Bartestree with Lugwardine Neighbourhood development plan. Severn Trent Water do not provide water or waste water services to this parish in Herefordshire and we therefore have no comments in relation to the Neighbourhood plan.

Thanks

Helen Everitt
Growth and Water Efficiency Analyst
Environmental Planning and Strategy
growth.development@severntrent.co.uk

From: Neighbourhood Planning Team [<mailto:neighbourhoodplanning@herefordshire.gov.uk>]
Sent: 22 March 2016 10:53
Subject: Bartestree with Lugwardine Regulation 16 Neighbourhood Development Plan consultation

Dear Consultee,

Bartestree with Lugwardine Parish Council have submitted their Regulation 16 Neighbourhood Development Plan (NDP) to Herefordshire Council for consultation.

The plan can be viewed at the following link: <https://www.herefordshire.gov.uk/planning-and-building-control/neighbourhood-planning/neighbourhood-areas-and-plans/bartestree-with-lugwardine-group>

Once adopted, this NDP will become a Statutory Development Plan Document the same as the Core Strategy.

The consultation runs from 22 March 2016 to 3 May 2016.

If you wish to make any comments on this Plan, please do so by e-mailing: neighbourhoodplanning@herefordshire.gov.uk, or sending representations to the address below.

If you wish to be notified of the local planning authority's decision under Regulation 19 in relation to the Neighbourhood Development Plan, please indicate this on your representation.

Kind regards

James Latham
Technical Support Officer
Neighbourhood Planning, Strategic Planning & Conservation teams
Herefordshire Council
Planning Services
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