

Latham, James

From: Turner, Andrew
Sent: 11 December 2017 15:30
To: Neighbourhood Planning Team
Subject: RE: Bodenham Regulation 16 neighbourhood development plan consultation

Re: Bodenham Regulation 16 Draft Neighbourhood Development Plan

Dear Neighbourhood Planning Team,

I refer to the above and would make the following comments with regard to the above proposed development plan.

It is my understanding that you do not require comment on Core Strategy proposals as part of this consultation or comment on sites which are awaiting or have already been granted planning approval.

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

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

Herefordshire.gov.uk

Andrew Turner
Technical Officer (Air, Land & Water Protection)
Economy, Communities & Corporate Directorate,
Herefordshire Council
8 St Owens Street,
Hereford.
HR1 2PJ



The Coal
Authority



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Berry Hill
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NG18 4RG

Tel: 01623 637 119 (Planning Enquiries)

Email: planningconsultation@coal.gov.uk

Web: www.gov.uk/coalauthority

For the Attention of: Neighbourhood Planning and Strategic Planning Team
Herefordshire Council

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

20 December 2017

Dear Neighbourhood Planning and Strategic Planning Team

Bodenham Neighbourhood Development Plan - Draft

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: CPRE Herefordshire Admin <admin@cpreherefordshire.org.uk>
Sent: 23 November 2017 11:03
To: Neighbourhood Planning Team
Subject: RE: Bodenham Regulation 16 neighbourhood development plan consultation

Dear James

Thank you for your emails regarding the Bodenham and Hope under Dinmore Neighbourhood plans. I shall forward these to volunteers for comment.

Kind regards
Barbara

Barbara Bromhead-Wragg
CPRE Herefordshire Administrator
www.cpreherefordshire.org.uk

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From: Neighbourhood Planning Team [mailto:neighbourhoodplanning@herefordshire.gov.uk]
Sent: 23 November 2017 10:18
Subject: Bodenham Regulation 16 neighbourhood development plan consultation

Dear Consultee,

Bodenham 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://myaccount.herefordshire.gov.uk/bodenham>

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

The consultation runs from 23 November 2017 to 11 January 2018.

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

Herefordshire.gov.uk

James Latham
Technical Support Officer
Neighbourhood Planning and Strategic Planning teams
Herefordshire Council



Forward Planning
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CF30 0EH

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Bodenham Parish Council Neighbourhood Development Plan
FAO Herefordshire Council Neighbourhood Planning Team

Enquiries: Rhys Evans/Ryan Norman
0800 917 2652

10th January 2018

Sent via email

Dear Sir/Madam,

REGULATION 16 CONSULTATION ON BODENHAM PARISH COUNCIL NEIGHBOURHOOD DEVELOPMENT PLAN – JANUARY 2018

I refer to your email dated the 23rd November 2017 regarding the above consultation. Welsh Water appreciates the opportunity to respond and offers the following representation:

As you will be aware, Welsh Water were consulted and provided a consultation response at the Regulation 14 stage.

Despite our assurances at the Regulation 14 stage that there were no capacity concerns on the public sewerage network or at the wastewater treatment works (WwTW), we note that the Parish Council have maintained their concern. We can again confirm that there are currently no hydraulic capacity issues on the public sewerage network or WwTW.

As a point of clarity with regard to the comment on tankers under paragraph 1.14, as a matter of course across all UK water and sewerage companies, sewage sludge is regularly collected from smaller WwTW such as Bodenham WwTW and transported to larger WwTW for treatment.

We are however pleased to note that the Parish Council have taken on board our suggestion for a new policy (BNDP4.2) – whilst there are no further allocations proposed, the addition of this policy will give the assurance that if capacity problems with regard to the public sewerage network or WwTW do arise in the future, no new development should be allowed to connect until upgrades are undertaken.

We hope that the above information will assist you as you continue to progress the Neighbourhood Development 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 faithfully.

Ryan Norman
Forward Plans Officer
Developer Services

Herefordshire Council
Neighbourhood Planning
Plough Lane
Hereford
HR4 0LE

Our ref: SV/2010/103979/AP-
90/PO1-L01

Your ref:

Date: 02 January 2018

F.A.O: Mr. James Latham

Dear Sir

BODENHAM PARISH NEIGHBOURHOOD DEVELOPMENT PLAN

I refer to your email of the 23 November 2017 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 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 future 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.

We note reference to flooding within the Parish and the work of the Bodenham Flood Protection Group and welcome the inclusion of a specific Flood Risk Policy. Section 3.5 (Housing Delivery) confirms that there is to be no housing allocation within the NP and therefore we would not offer a bespoke comment at this time.

However, it should be noted that the Flood Map provides an indication of 'fluvial' flood risk only. You are advised to discuss matters relating to surface water (pluvial) flooding with your drainage team as the Lead Local Flood Authority (LLFA) with reference to the need for any surface water drainage infrastructure improvements (including maintenance of ordinary watercourses/culverts etc).

Yours faithfully

Mr. Graeme Irwin
Senior Planning Advisor
Direct dial: 02030 251624
Direct e-mail: graeme.irwin@environment-agency.gov.uk

Neighbourhood Planning
PO Box 230
Plough Lane
Hereford
HR4 0LE

By email only to: neighbourhoodplanning@herefordshire.gov.uk

Dear Sir/Madam,

This letter provides Gladman Developments Ltd (Gladman) representations in response to the submission version of the Bodenham Neighbourhood Plan (BNP) under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012. Gladman requests to be added to the Council's consultation database and to be kept informed on the progress of the emerging neighbourhood plan. This letter seeks to highlight the issues with the plan as currently presented and its relationship with national and local planning policy.

Legal Requirements

Before a neighbourhood plan can proceed to referendum it must be tested against a set of 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 BNP 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.*

National Planning Policy Framework and Planning Practice Guidance

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 and the role in which they play in delivering sustainable development to meet development needs.

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 applicable to neighbourhood plans.

The recent Planning Practice Guidance (PPG) updates make clear that neighbourhood plans should conform to national policy requirements and take account the latest and most up-to-date evidence of housing needs in order to assist the Council in delivering sustainable development, a neighbourhood plan basic condition.

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.

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 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.

Paragraph 184 of the Framework makes clear that local planning authorities will need to clearly set out their strategic policies to ensure that an up-to-date Local Plan is in place as quickly as possible. The Neighbourhood Plan should ensure that it is aligned with the strategic needs and priorities of the wider area and plan positively to support the delivery of sustainable growth opportunities.

Planning Practice Guidance

It is clear from the requirements of the Framework that neighbourhood plans should be prepared in conformity with the strategic requirements for the wider area as confirmed in an adopted development plan. The requirements of the Framework have now been supplemented by the publication of Planning Practice Guidance (PPG).

On 11th February 2016, the Secretary of State (SoS) published a series of updates to the neighbourhood planning chapter of the PPG. In summary, these update a number of component parts of the evidence base that are required to support an emerging neighbourhood plan.

On 19th May 2016, the Secretary of State published a further set of updates to the neighbourhood planning PPG. These updates provide further clarity on what measures a qualifying body should take to review the contents of a neighbourhood plan where the evidence base for the plan policy becomes less robust. As such it is considered that where a qualifying body intends to undertake a review of the neighbourhood plan, it should include a policy relating to this intention which includes a detailed explanation outlining the qualifying bodies anticipated timescales in this regard.

Further, the PPG makes clear that neighbourhood plans should not contain policies restricting housing development in settlements or preventing other settlements from being expanded. It is with that in mind that Gladman has reservations regarding the BNP's ability to meet basic condition (a) and (d) and this will be discussed in greater detail throughout this response.

Relationship to Local Plan

To meet the requirements of the Neighbourhood Plan Basic Conditions, neighbourhood plans should be prepared to conform to the strategic policy requirements set out in the adopted Development Plan. The adopted development plan the BNP needs to be in conformity with is the Herefordshire Local Plan Core Strategy 2011-2031. Policy SS2 of the

plan sets a target for minimum of 16,500 new homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. This policy sets out the broad distribution of the new dwellings in the County, including a minimum of 5,300 dwellings in rural settlements. Policy SS3 sets out the stepped minimum housing targets of the plan period. The Council will monitor the delivery rates to ensure housing need is met and where the figure is below that cumulative target has set out mechanisms that may be adopted in such an event:

- 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 utilizing evidence from the Strategic Housing Land Availability Assessment to identify additional housing land.

In light of the above, should a review or future Development Plan Documents be required, the BNP will need to ensure that it allows for a sufficient degree of flexibility and adaptability so that it can fully react to changes in the market. This degree of flexibility is required to ensure that the Plan is capable of enduring over its plan period and not ultimately superseded by s38(5) of the Planning and Compulsory Purchase Act 2004, which states that:

'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).

Policy BNDP 2: Settlement Boundaries

Gladman do not consider the use of settlement boundaries to be an effective response to future development proposals if it would act to preclude the delivery of otherwise sustainable development opportunities from coming forward.

We are concerned that the proposed approach would affect vast swathes of land beyond Bodenham and could have an adverse effect on future sustainable development being delivered in the area. Indeed, the PPG makes clear that 'all settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence.'¹

Policy BNDP 8: Protecting Landscape and Important Public Views

New development can often be located in areas without eroding the views considered to be important to the local community and can be appropriately designed to take into consideration the wider landscape features of a surrounding area to provide new vistas and views.

Opinions on landscape are highly subjective, therefore, without further evidence to demonstrate why these views are considered special will likely lead to inconsistencies in the decision-making process.

The Guidance states that "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".

Accordingly, Gladman consider that this matter should be investigated and based on appropriate evidence prior to the Plan being submitted for Examination.

¹ PPG Paragraph: 001 Reference ID: 50-001-20160519

In addition, Gladman consider that to be valued, a view would need to have some form of physical attribute. This policy must allow a decision maker to come to a view as to whether particular locations contains physical attributes that would 'take it out of the ordinary' rather than selecting views which may not have any landscape significance and are based solely on community support. An area's pleasant sense of openness to open countryside cannot on their own amount to a landscape which should be protected.

Policy BNDP 10: Protection and Enhancement of the Built Environment

Whilst Gladman recognise the importance of high quality design, planning policies should not be overly prescriptive and need flexibility in order for schemes to respond to sites specifics and the character of the local area. There will not be a 'one size fits all' solution in relation to design and sites should be considered on a site by site basis with consideration given to various design principles/objectives.

Conclusions

Gladman recognises 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 these must be consistent with national planning policy and the strategic requirements for the wider authority area. Through this consultation response, Gladman has sought to clarify the relation of the BNP as currently proposed with the requirements of national planning policy and the wider strategic policies for the wider area.

Gladman is concerned that the plan in its current form does not comply with basic conditions (a) and (d). The plan does not conform with national policy and guidance and in its current form does not contribute to the achievement of sustainable development. Gladman formally request to participate at the hearing session(s) should the Examiner decide it necessary to discuss these issues in a public forum.

Gladman hopes you have found these representations helpful and constructive. If you have any questions do not hesitate to contact me or one of the Gladman team.

Yours Faithfully,

Megan Pashley
m.pashley@gladman.co.uk
Gladman Developments Ltd.



Historic England

WEST MIDLANDS OFFICE

Mr T Micheson
Bodenham Parish Council

Direct Dial: 0121 625 6887

Our ref: PL00040326
13 December 2017

Dear Mr Micheson

BODENHAM NEIGHBOURHOOD PLAN - REGULATION 16 CONSULTATION

Thank you for the invitation to comment on the Submission Neighbourhood Plan and Historic England has no substantive comments to add to those conveyed in our earlier Regulation 14 consultation response. That is:

“Historic England is supportive of both the content of the document and the vision and objectives set out in it. The emphasis on the conservation of local distinctiveness and the protection of rural landscape character including important views is highly commendable”.

Overall the plan reads as a well-considered, concise and fit for purpose document which we consider takes a suitably proportionate approach to the historic environment of the Parish.

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



Historic England is subject to the Freedom of Information Act, 2000 (FOIA) and Environmental Information Regulations 2004 (EIR). All information held by the organisation will be accessible in response to an information request, unless one of the exemptions in the FOIA or EIR applies.

**REPRESENTATIONS TO
THE PUBLIC CONSULTATION
DRAFT REGULATION 16
NOVEMBER 2017**

**DRAFT
BODENHAM NEIGHBOURHOOD
DEVELOPMENT PLAN
2011-2031**

**LAND IMMEDIATELY NORTH OF THE C1121
MILLCROFT ROAD
BODENHAM MOOR
HEREFORDSHIRE
HR1 3LX**

ON BEHALF OF

Roger and Greg Chilman
c/o The Agent
John Amos & Co

Date: 11th January 2018

Prepared by

johnamos
& co

Lion Court, Broad Street
Leominster, Herefordshire, HR6 8LE
Tel: 01568 610007

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INTRODUCTION

John Amos & Co has been instructed to submit representations to the Regulation 16 Neighbourhood Development Plan Consultation Draft on behalf of our clients who own the above land. This representation is, in the main, concerned with housing and related policies.

We support the Bodenham Parish Council and its Steering Group in bringing forward a Neighbourhood Plan and are encouraged by the proactive nature of the process being undertaken. We commend the hard work undertaken to date.

My clients wish to make comments and representations on the emerging Regulation 16 Draft Neighbourhood Plan, and also propose that its land north of the C1121 Millcroft Road (see plan attached with site edged in red in **Appendix 1**) be allocated for housing and included within a revised settlement boundary in the Neighbourhood Plan in order to help meet the housing need and to assist in meeting the housing aspirations set out in the Neighbourhood Plan.

Consequently, my clients propose that the Draft Settlement Boundary for Bodenham Moor as indicated on Annexe G is amended so as to include their site.

Our comments are made in the context of the basic conditions that the Neighbourhood Plan must meet as set out in paragraph 8 (2) Schedule 4B of the Town and Country Planning Act 1990, as summarised in the National Planning Practice Guidance:-

- “having regard to national policies and advice contained in the guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan;
- the making of the Neighbourhood Plan contributes to the achievement of sustainable development;
- the making of the Neighbourhood Plan is in general conformity with the Strategic Policies contained in the Development plan for the area of Authority;
- the making of the Neighbourhood Plan supports sustainable development, environmental, economic and social;
- the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and
- prescribed conditions are met in relation to the Neighbourhood Plan and prescribed matters have been complied with in connection with the proposal for the Neighbourhood Plan”.

Relevant planning guidance requires the Neighbourhood Plan to support the Strategic Development needs set out in the Local Plan and plan positively to support local development (PPG 004).

Proportionate and robust evidence should support the choices made and the approach taken in the Neighbourhood Plan.

On housing supply, the Neighbourhood Plan policies should take account of the latest and up to date evidence of housing need.

Policies must be clear and unambiguous.

In relation to allocations of housing land, there must be evidence of an appraisal of options and an assessment of individual sites against clearly identified criteria.

In considering whether a Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan, the Local Planning Authority should consider the following:-

- Whether the Neighbourhood Plan policy 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 or development proposal and the strategic policy.
- Whether the draft Neighbourhood Plan policy or the development proposal provides an additional level of detail and/or a 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 and/or the evidence to justify that approach.

The Local Planning Authority have provided a number of guidance documents indicating how conformity with strategic policies is best secured. Reference is made to the Neighbourhood Planning Guidance, Note 20 "Guide to Settlement Boundaries" which states "The settlement boundary is used as a policy tool reflecting the area where a set of plan policies to be applied" and "The settlement boundary does not necessarily have to cover the full extent of the village nor be limited to its built form". The guidance goes on to state that the settlement boundaries "should be drawn to facilitate an appropriate level of proportional growth within the plan period. If land within the boundary is not formally allocated, there will be a requirement to demonstrate that there is enough available capacity within the boundary to enable development to take place".

Guidance Note 21 "Guide to Site Assessment and choosing Allocation Sites" states "It is important to note that the SHLAA offers a very broad assessment of the potential availability of land for housing and consequently, the data should only be used as a starting point – you ought to prepare a housing land study of your own and which looks at the deliverability of sites in greater detail.". The guidance goes on to say that "The most commonly used method of identifying potential housing land is undertaking a Call for Sites exercise".

Guidance Note 22 "Meeting Your Housing Requirements", the Local Authority Guidance, states "It should be borne in mind that the majority of the growth should be positively planned for by means of allocation or capacity within the settlement highlighted within Policy RA2".

The Core Strategy defines the strategic policies relevant to both Bodenham and Bodenham Moor at Policy RA2, both settlements being settlements under figure 4.14 – A Main Focus of Proportionate Housing Development. Policy RA2 requires Neighbourhood Development Plans to allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets, by indicating levels of suitable and available capacity.

Policy RA2 goes on to confirm that "Sustainable housing growth will be supported in or adjacent to those settlements identified in figures 4.14 and 4.15".

At paragraph 4.8.23, providing justification for Policy RA2, it is stated that "Where appropriate, settlement boundaries (or a reasonable alternative) for those settlements listed in Policy RA2 will be defined in either Neighbourhood Development Plans or the Rural Area Sites Allocation DPD".

Policy RA1 of the Core Strategy indicates that the Rural HMA of Bromyard requires indicative housing growth target of 15%.

At paragraph 4.8.16, it is stated that "Residential development will be located within or adjacent to the main built up area(s) of the settlement". At paragraph 4.8.17, it is stated that "A new dwelling should make a positive contribution to the rural landscape by being built to a high standard, incorporating appropriate materials and landscaping".

The same paragraph goes on to state "All residential development proposals will need to consider the capacity of the drainage network in the area and the impact of future development on water quality in accordance with Policy SD4".

Policy RA2 emphasises as follows, "The minimum growth target in each rural housing market area will be used to inform the level of housing development to be delivered in the various settlements".

At paragraph 4.8.21 of Policy RA1, it states that Neighbourhood Development Plans "Will be the principle mechanism by which new rural housing will be allocated". It further states "The proportional housing growth target within Policy RA1 will provide the basis for the minimum level of new housing that will be accommodated in each Neighbourhood Development Plan. The target represents a level of growth for parishes, as a percentage, that is proportionate to existing HMA characteristics".

The Local Planning Authority has provided further guidance as to how general conformity with the Core Strategy is to be achieved (Guidance Note 31). The Guidance Note indicates that it is important that the Neighbourhood Development Plans fit with the emerging strategic policies of the Core Strategy, ensuring that they pull in the same direction. The Guidance Note goes on to require Neighbourhood Development Plans to be clear on how they fit with the strategic policies in the Core Strategy and be able to clearly explain the rationale for any differences. Neighbourhood Development Plans will need to be based on local evidence, the strategic policies in the Core Strategy and the outcome of public participation. Any percentage housing targets within the Local Plan Core Strategy should be seen as indicative and not the sole measure to determine general conformity.

The Guidance Note goes on to say that the housing policies and proposals in Neighbourhood Development Plans will need to be minded to the strategic policies in the Core Strategy and local evidence including local needs surveys, strategic housing land reviews and environmental capacity. Further, the Guidance says that the Neighbourhood Planning is not a tool to stop development and/or undermine or object to strategic policies and proposals in the Core Strategy; they are about shaping the development of the local area in a positive manner. The Guidance Note goes on to say that Neighbourhood Planning offers the opportunity to promote more housing and economic development than is set out in the Core Strategy.

CONSULTATION STATEMENT - NOVEMBER 2017

The statement confirms that the foundations of the plan lie in two surveys carried out to secure the views of the local residents on a wide range of issues. The first survey was conducted in October 2010 during the development of the Parish Plan. On advice, this survey was considered inadequate and a second survey was launched and carried out between the 21st September to 12th October 2014 with questionnaires distributed to local residents. This survey appears to be also carried out under pressure caused from Bovis' intention to develop Shookers Field. Data Orchard C.I.C, an Independent Consultancy, assisted in producing a summaries and conclusions document on this latest survey which then forms the basis of the policies set out in the draft plan. After lengthy delays, a Regulation 14 Consultation draft Local Plan was launched in latter part of 2016.

The Steering Group's Summary and Conclusions Document in relation to this important later survey confirms that 58% responding with completed questionnaires were either retired or semi-retired, it being noted that there was a lack of input from younger age groups. It should be noted at Conclusion 3 from the survey that the Neighbourhood Plan should seek to

ensure, inter alia, that no development should be permitted in the period to 2031 over and above the 15% increase in housing set out in the Herefordshire Council's emerging Core Strategy.

Conclusion 5 confirms that the survey results indicated that Bodenham Moor's former settlement boundary should be reinstated and extended to incorporate the field opposite Englands Gate Inn.

Conclusion 14 states that the Neighbourhood Plan should give priority to protecting, maintaining and enhancing the Parish's watercourses and drainage systems and in particular, replacing those shown not to be fit for purpose such as the culverts carrying Millcroft brook under the C1121 at its junction with Ketch Lane.

Finally, in relation to Bodenham Moor, housing developments should be limited in size to 3 to 5 houses on any one site.

In general conclusion, the analysed survey forming the basis of the current plan relates to a predominant view from semi and retired people that, contrary to the Core Strategy policy, the Neighbourhood Plan should deliver no development over and above the 15% increase mentioned in Policy RA1 and that only small sites of between 3 to 5 dwellings should be considered appropriate for Bodenham Moor. The informal consultations conducted between November 2012 and October 2016 appeared to repeat the views that there was no need for any major new housing development in the Parish and that the Parish Councillors should object to Herefordshire Council on this score. Note in particular is made of the comments received and summarised on the 2nd March 2014, Open Day at Seward James Centre, "Housing Growth – no more housing needed in the Parish (5), UK Population already too great with immigrants and environment suffering (1), Bodenham not suitable – difficulty of travel to and from the village (2), Development must be sustainable – not large influx like 1980's (1), Phased development preferred (2), Small developments preferred (5), Give work to local builders (1), "Brownfield" – site should be used first (1)". This comment was noted for consideration in further development of the emerging Neighbourhood Plan by the Steering Group and Parish Council.

On the 18th March 2014 at the Parish Hall, the Steering Group was asked to challenge Herefordshire Council on the 15% housing requirement imposed in the Core Strategy, and it was explained that this had already been done without success.

It is to be noted that within the Regulation 14 Consultation, the Neighbourhood Planning Team at Herefordshire Council largely confirmed that the Regulation 14 draft Consultative Plan Policies were in general conformity with Core Strategy Policies RA1 and RA2.

HOUSING LAND – CONSIDERATION OF OPTIONS AND REASONED ASSESSMENT DOCUMENT

This constitutes the prime evidence base for the definition of the settlement boundary for Bodenham Moor as well as an examination of potential land options for housing. The review places its main reliance on sites analysed within the 2009 and 2015 SHLAA exercise as well as an assessment of historic windfalls.

Detailed analysis is given to the sites identified with a classification of either land with high suitability or land with medium suitability. It seems that all other site options for small development were not considered. Much focus appeared to have been in relation to the Bovis planning application for the land south of Chapel Lane, subsequently refused. Of note, the Parish favoured site reference numbers HLAA/296/002 and site 0/BOD/004. These are sites in the immediate vicinity of the land our clients now propose. These locations were deemed acceptable, inter alia, on the basis of proximity to extensive village services to include bus stop, access to the Parish amenities such as the Parish hall, GP surgery, post office/shop, garage/shop, hairdressers and chapel, children's' play area etc.

Furthermore, connection to services would present no problem as the sites were near the local telephone exchange, allowing ready connection to fast Broadband. Additionally, for access to foul sewerage, there is access to the nearby sewerage pumping unit off Millcroft Road and onward to the main treatment plant in Ketch Lane. Emphasis is given to the fact that the schemes lie in Flood Zone 1, with no flooding issues affecting the sites. An advantage is seen in relation to road safety in that proximity to the A417 is seen as an advantage reducing impacts on the local road network (this latter point being of relevance particularly to the larger scheme opposite the Englands Gate Inn, now being developed by K W Bell Homes).

We attach at **Appendix 2** the relevant Planning Permissions for the schemes mentioned which have now be incorporated within the draft Settlement Boundary.

The report refers at Item no.8 to a large area of land, within which our clients' site comprises a small area fronting Millcroft Road. The assessment is given with reference HLAA/142/001. The assessment for the larger area makes the point that the western half is land liable to flood. However, the report says that the site incorporates reference P1177 which is in the southeast corner and is considered, subject to the impact upon the setting of the adjacent Listed buildings, to have some potential. The additional Steering Group's comment states "Development of its south eastern edge would be well-positioned for pedestrian access to the small range of services in Bodenham Moor". The Steering Group clearly assesses the larger site as unacceptable in terms of its impact on the local landscape and its impact regarding vehicular access to and from such a large site. They do make the point that the eastern third of the site is in Flood Zone 1.

REFUSAL OF PLANNING PERMISSION – LAND TO THE SOUTH OF CHAPEL LANE – 49 DWELLINGS REFERENCE: 150437

Whilst the Bovis application referred to above was refused by a Decision dated the 28th October 2015, the Refusal was against Officer's recommendation. In recommending the application for approval, the Officer group made the point that the minimum housing target is not a ceiling. They further make the point that the minimum requirement for housing in the Parish does not equate to a moratorium on the grant of further planning permissions. The points to be taken from the application are that it clearly evidences significant additional demand for housing in the village, going beyond the minimum housing requirement, and that the development management group of the Council were prepared to support a significant expansion of the village to accommodate new demand. We attach a copy of the Refusal, excerpts of the Officer's report and the Minutes dealing with the application at **Appendix 3**.

NEIGHBOURHOOD PLAN AND POLICIES

Preparing the Plan

At pages 6 and 7, the outcomes of the respective planning applications at Englands Gate Inn and Shuker's Field (Bovis) are said to "have formed the basis of the Bodenham Moor settlement boundary now embodied in this NDP".

Delivering New Housing

At page 11, it is stated at 3.2 that a minimum number of 72 new dwellings is required during the planned period 2011-2031. It is submitted by our clients that a rounding up of the 15% expansion requirement would lead you to conclude that 73 houses are required as a minimum number. Point 3.3 admits that existing Planning Permissions which remain unimplemented and dwellings already built since 2011 total some 70 as at the end of October 2017, falling short of the minimum requirement.

The deficit of 2-3 houses is then proposed to be made up entirely of windfall (clause 3.4).

At page 12, it is asserted that the consent at Englands Gate Inn together with a continuation of windfall development through the remainder of the planned period, as well as a flexible anticipated use of Policy RA5 (reuse of rural buildings) gives rise to a comfortable expectation that the minimum will be exceeded and that the NDP has not, therefore, identified a housing site allocation.

Policy B NDP 1: Delivering New Housing

The policy proposes to meet the specified minimum of 72 new dwellings in the Parish through existing completions and commitments since 2011 and future windfall development between 2017 and 2031.

The justification identifies the number of 72 by applying a 15% growth to the 485 number of dwellings in the Parish. At paragraph 3.3, it is admitted that implemented development since 2011 and development yet to be implemented, when taken into account, leads to a conclusion that 70 homes will come forward under these criteria as at end of October 2017. This falls short of the minimum housing requirement.

An estimated windfall allowance is then relied upon to exceed minimum housing growth requirements. Justification for reliance on the windfall requirement is, in part, provided on the basis that there will be a more flexible policy in the Core Strategy towards reuse of rural buildings. In turn, this leads to the conclusion that the NDP need not identify further housing site allocations.

Justification for this restrictive approach to meeting the minimum housing requirement is given at paragraph 3.6 and 6.4, a fear of local infrastructure being overwhelmed. In particular, sewerage treatment.

Policy B NDP 2: Settlement Boundaries

This policy seeks to confine new housing proposals to within the settlement boundaries specified at annexes G and H for Bodenham Moor and Bodenham, further restricting development to small infill sites which then must comply with requirements 1.2 to 1.6 in the policy.

The justification for this approach again relates to the fact that recent developments and planning consents more or less meet the minimum housing requirement. The claim is made that the definition of a settlement boundary has been carried out in accordance with Herefordshire Council's Neighbourhood Planning Guidance Note 20, to include the objective that the boundary has been drawn "to facilitate an appropriate level of proportional growth within the planned period".

Policy B NDP 3: Mix, Type and Tenure of New Housing Development

The justification for this policy refers back to the Herefordshire Local Housing Market Assessment 2013, although no reference has been made to the Herefordshire Council Older Peoples' Pathway Housing document adopted in 2015. Notwithstanding that only small infill sites are permissible within the proposed new settlement boundary, Policy B NDP 3 calls for affordable housing to be incorporated within all development proposals regardless of the current small schemes exemption within national policy and the more generous exemption adopted by Herefordshire Council.

Furthermore, the Policy directs affordable housing to be principally provided within the proposed new settlement boundaries. Only where this is not practicable would consideration be given to exception sites located on the edge of the settlement boundaries.

Policy B NDP 4: Flood Risk and Drainage

In relation to flood prevention, this policy requires comprehensive details of not just how the development proposal will itself be protected from flooding during its lifetime, taking into account climate change, but also that it will not increase flood risk elsewhere. The policy goes further and requires, where possible, that development proposals will reduce flood risk elsewhere.

The policy requires detailed surface water management and sustainable drainage system analysis leading to restricted greenfield run-off and brownfield run-off requirements. As to foul water management and Bodenham Moor, the policy requires evidence to be supplied from Welsh Water as to the sufficient capacity of the public foul sewerage infrastructure to receive and treat foul water from the proposed development.

The justifications bring into question the capacity of local water courses and surface water drainage systems to cope with new development, in particular highlighting the need for the replacement of the Ketch Lane culverts as a high priority. Again, the issue of capacity of the Welsh Water foul sewerage system is brought into question.

Policy B NDP 8: Protecting Landscape and Important Public Views

Inter alia, the policy requires proposals to serve to consolidate the established landscape character, attributing importance to public views defined on the map and table at annexe I and requiring proposals to respect the open countryside setting of the two main settlements.

Policy B NDP 9: Landscape Design Principles

This policy contains a specification for the landscape design principles that will be expected from new development proposals, to include taking account of local topography, scale, the objective of seamless and merging with existing landscape, not breaking the skyline and protecting the River Wye / SSSI and its catchment for the impacts of development.

The justification refers to the evidence base, in particular the landscape character assessment 2009 Herefordshire Council exercise, the preservation of a clearly defined "urban" edge and the definition of the character of the landscape setting of the settlements as delivered by the settlement boundaries.

Policy B NDP 10: Protection and Enhancement of the Built Environment

This policy contains 9 proposals to include for the protection of Listed building assets, archaeological features, the non-designated heritage assets, the imposition of guidance in Building For Life 12, the use of materials of local distinctiveness provide suitable vehicular access to the Highway, off-street parking and safe pedestrian and cycle access to local facilities and schemes that do not include street lighting.

Policy B NDP 11: Tranquillity and Light Pollution (Dark Skies)

This policy contains a presumption against proposals that detrimentally affect the tranquillity of the area, including through the generation of noise which creates a nuisance to neighbours or through lighting. The policy includes the rebating of light spillage.

Annexe F – Housing Growth in the Planned Period – Completions and Commitments from 2011 to date (Table 1)

Page 5 of Annexe F concludes that completions and commitments from 2011 to date total 70 dwellings. Of this number, 12 dwellings are said to be "not yet started".

Of the 70, 5 dwellings said to be completed are subject to confirmation in Herefordshire Council's 2018 5 Year Housing Supply statement.

2 dwellings are said to arise from Lawful Development Certificates. 1 dwelling arises from the conversion of a redundant barn to a granny annexe. 1 dwelling is included, being a proposed replacement dwelling. Also, windfalls are detailed to include proposed agricultural workers' dwellings.

9 dwellings have derived from Open Countryside Development.

MATTERS OF CONCERN

1. The housing policies and settlement boundary approach within the NDP represents a highly restrictive response by the Parish to encouragement by the Council to be positive and proactive. The only adjustments made to the settlement boundary are in reaction to the grant of Planning Permissions, principally the K W Bell scheme and the scheme at the Englands Gate pub.
2. These representations are made in the context that the Council cannot demonstrate a five year housing land supply (4.54 years). Reference is made to the Ministerial Statement issued on 12 December 2016 on neighbourhood planning and housing land supply. Neighbourhood plans which do not allocate sites for housing will be deemed 'out of date' under paragraph 49 of the National Planning Policy Framework.
3. It is evident that the Parish Council were in disagreement with the obligation to provide for the 15% expansion. Begrudgingly, the Parish have treated the 15% as an absolute ceiling in terms of proactive housing allocation. These percentage targets should be seen as indicative and not the sole measure to determine general conformity in the Core Strategy. NDPs offer the opportunity to promote more housing than set out in the Core Strategy.
4. The settlement boundary has been drawn tightly for Bodenham Moor, accompanied by a highly restrictive infilling policy (which itself is unlikely to deliver meaningful new market housing given that the Parish encourages future affordable housing provision to be delivered through infilling) so as to become a tool to stop development.
5. The restrictive approach is encouraged by key surveys, the responses of which are from an older demographic within the local population and lacking input from younger age groups.
6. The restrictive approach has been also driven by a fear of the local sewer and land drainage infrastructure being overloaded with potential threat to the environment. The particular concern is with foul sewer infrastructure in Bodenham Moor. Mr Ryan Norman's response on behalf of Welsh Water (in relation to the foul sewerage of Bodenham Moor) gives the Parish assurance that existing completions and commitments have been allowed for in system capacity and that the projected windfall of 3.5 dwellings per annum is accommodated within the public sewerage network or the waste water treatment works. This latter point on windfall capacity is significant. For the remaining plan period at the time of his remarks (15 years) he confirms that there is adequate capacity for 52/53 additional houses over and above completions and commitments. See comments below on windfall generally.

If capacity issues were to arise in relation to future development, if it requires access to the public sewerage network, powers and procedures are available to require developers to contribute to network upgrades. Core Strategy Policy S4 requires all residential development proposals to consider the capacity of the drainage network and impacts on water quality.

7. The 15% target should have been calculated to include a rounding up which translates into a minimum (Policy RA2 Core Strategy) housing requirement of 73 houses for the planned period. On the Parish's own calculations, completions and commitments fall short of the minimum target. Excluding the inclusion of the replacement dwelling (and allowing for the rounding up) the deficit against completions and commitments is 4 dwellings. The deficit reduction and expectation of future delivery is wholly dependent on windfall development, largely delivered through an alleged flexible approach to Core Strategy Policy RA5 (reuse of rural buildings).

8. The consideration of options for housing land allocations has been developed using mainly the SHLAA evidence. The Parish has not conducted its own housing land study, looking at the delivery of sites in greater detail as required by the guidance. The most commonly used method of identifying potential housing land, a Call for Sites exercise, has not been undertaken. This would have identified smaller suitable sites which have been overlooked.
9. The highly restrictive approach towards new housing provision has been taken notwithstanding clear evidence that market developers envisage demand for substantial increases of housing in Bodenham Moor over the planned period going well beyond the minimum housing target.
10. The completion and commitment numbers are made up and assisted by the inclusion of open countryside development involving certificates of lawful use for unauthorised development, an agricultural dwelling consent and a replacement housing consent. Additionally, on a visual survey, it appears that no substantive works of conversion have commenced for site numbers 9 and 14 of Annex F (totalling 8 dwelling commitments), the National Planning Policy Framework confirms that "Planning Permission is not a pre-requisite for a site being deliverable in terms of the five year supply". There is lack of robust up-to-date evidence to support deliverability.
11. The approach taken to windfall is inconsistent and without justification. At Regulation 14 stage, the Parish took the view (excluding the 40 houses on KW Bell's scheme) that 57 dwellings having been constructed or given consent over the past 15 years, equating to over 3.5 'windfalls' per annum. The Parish took the view that it was reasonable to expect this trend to continue. And yet, 12 months later (Regulation 16) on marginally adjusted figures (and without justification), the Parish adopt a 'conservative' rate of one 'windfall' per annum, reducing projected windfalls from 53 or so additional houses to 14. If the Parish had adopted the Regulation 14 method, this figure would be revised to $3.4 \times 14 = 48$ additional windfalls.

This leads to the concern that, rather than make allocations in sustainable locations in or adjacent to the key settlements, the Parish place reliance on open countryside windfalls in less sustainable locations (particularly having regard to restrictive infilling criteria – see above).

LAND IMMEDIATELY NORTH OF C1121 MILLCROFT ROAD, BODENHAM MOOR, HEREFORDSHIRE, HR1 3LX

Please refer to the plan at **Appendix 1** indicating the site edged red. The site comprises some 0.5 hectares (1.3 acres) of agricultural field north of Millcroft Road immediately west of the Englands Gate Inn lying adjacent to the settlement of Bodenham Moor in Bromyard housing market area.

The site can be found at grid reference: SO 542512 in postcode HR1 3LX and a set of photographs are attached at **Appendix 4**.

Preliminary investigation indicates that a foul public sewer intersects the eastern side of the plot from north to south. An examination of online data reveals no public rights of way within the boundaries of the plot. The plot stands within an area designated as Nitrate Vulnerable Zone for surface water and ground water. The site lies in Flood Zone 1 (low probability flooding).

The site lies well outside the Bodenham Conservation Area. Listed assets can be found immediately east of the site being the Englands Gate Inn and its outbuildings and stables, Listed Grade II.

The site lies outside SSSI's, SAC, local wildlife sites, local nature reserves and zones of safeguarding mineral reserves. The site does not affect intended local greenspaces.

See above for the description of the assessment of the larger area, of which this site forms part, within the SHLAA and the improved context of this smaller area.

The site is proposed for up to 10 dwellings.

We attach a report by the client's landscape Consultants at **Appendix 5**.

The Consultant confirms that the site is tucked into the northwest corner of the village and the topography and surrounding development means that views from the south and east are restricted to those available from immediately adjacent to the site. There are no medium or long distance views from the main part of the village or from further afield in these directions.

The Consultant confirms that the middle distance views towards the site from local footpaths and roads are from the north and west. These views are currently dominated by the 1970/1980's houses and bungalows along the south side of Millcroft Road. The style of these buildings are suburban in character and does not reflect the traditional local vernacular. These properties will be replaced within many of the views by the new development. Provided the style, colours and materials for the new houses are carefully considered then there should be a positive effect on these particulars views.

The Consultant confirms that the rear boundary treatment for the new development will also be carefully considered with regard to views from the north and west. Planting of new native species field hedge with native hedgerow trees will help enhance the views and also provide additional wildlife habitats. The replacement of the missing stretch of roadside hedge to the west of the site is also proposed as part of the development and this again will provide additional habitat and connectivity. The potential of using the "leftover" corner of the arable field for a community orchard linking between the Englands Gate new housing and the proposed development site on Millcroft Road has also been recognised and is proposed as part of the scheme.

This will have the added bonus of creating a more suitable setting for the group of Listed buildings at the Englands Gate Inn site. It will provide a community resource as well as additional wildlife habitat. It also reflects the historic landscape character of Bodenham Moor; helping to mitigate the loss of hedgerows and smaller fields that has occurred over time.

The proposed Englands Gate housing site and the proposed development on Millcroft Road are more often than not seen together in views from the north and west. They will potentially read as one, particularly if building styles are coordinated. These two developments, together with new housing currently being built at the end of Millcroft Road, will help to create a more of a nucleated character to Bodenham Moor, based around the old village roads, rather than the combination of linear development and suburban style expansion that has developed over recent decades. For visitors to the village and those coming into Bodenham Moor via Millcroft Road, the new housing will create a length of two sided village street and help counteract the current, rather suburban character. The existing roadside hedge is to be replanted behind a new pavement and the generous front gardens will also give opportunities for further planting and small garden trees.

The proposed allocation of this site will not prejudice Important Public Views Nos. 2 and 4 referred to at Appendix 1 of the Neighbourhood Development Plan.

In conclusion, our client requests that the Council return the draft Neighbourhood Development Plan back to the Parish Council and that the Parish Council be asked to allocate our client's land for housing to meet the concerns mentioned above and revise the settlement boundary accordingly. Otherwise, please forward our client's representations and concerns to the appointed examiner/inspector.

On behalf of our client, could we be notified of the Council's decision and Regulation 19 of the Neighbourhood Planning (General) Regulations 2012?

Signed:



John Amos & Co
Lion Court
Broad Street
Leominster HR6 8LE

Dated: 11th January 2018

APPENDIX 1
Plan of the Land

FLOOD ZONE DATA TAKEN FROM
GOVERNMENT WEBSITE



FLOOD ZONE 2

APPROX LOCATION OF
EXISTING FOUL DRAIN
150MM Ø VITRIFIED CLAY
& 3M EXCLUSION ZONE



LOCATION PLAN

SITE AREA - 5195 Sq. m



DATE	MAY 17	DRAWN BY	CE
SCALE @ A3	1:1250	CHECKED BY	DB
DO NOT SCALE FROM THIS DRAWING		REVISIONS	A - JAN 19 - FLOOD ZONE DATA UPDATED - CE
DRAWING NO.	1055-01A		



R & G CHILMAN
LAND ADJACENT TO MILLCROFT ROAD
BODENHAM HEREFORDSHIRE HR1 3LX
LOCATION PLAN

APPENDIX 2
Planning Permissions

OUTLINE PLANNING PERMISSION

Applicant:
Mrs McNeil
Englands Gate Inn
Bodenham
Hereford
HR1 3HU

Agent:
Mr D F Baume
Hook Mason Limited
41 Widemarsh Street
Hereford
Herefordshire
HR4 9EA

Date of Application: 16 June 2015

Application No: 151675

Grid Ref: 354294:251285

Proposed development:

SITE: Land adjacent to Englands Gate Inn, Bodenham, Herefordshire
DESCRIPTION: Proposed residential development of up to five dwellings with associated vehicle access

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts that OUTLINE PLANNING PERMISSION has been GRANTED for the development described above in accordance with the application and plans submitted to the authority subject to the following conditions:

- 1 Application for approval of the reserved matters shall be made to the local planning authority before the expiration of two years from the date of this permission.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

- 2 The development hereby permitted shall be begun either before the expiration of two years from the date of this permission, or before the expiration of one year from the date of the approval of the last reserved matters to be approved, whichever is the later.

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

- 3 Approval of the details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.

Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with policy SD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

- 4 The development shall be carried out strictly in accordance with the approved plans (drawing nos. 6245-1-9a and 6245-1-10a), except where otherwise stipulated by conditions attached to this permission.

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 5 None of the existing trees or hedgerows on the site (other than those specifically shown to be removed on the approved drawings) shall be removed, destroyed or felled without the prior approval in writing of the Local Planning Authority.

Reason: To safeguard the amenity of the area and to ensure that the development conforms with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 6 In this condition 'retained tree/hedgerow' means an existing tree/hedgerow that is to be retained in accordance with the approved plans and particulars.

No development, including demolition works shall be commenced on site or site huts, machinery or materials brought onto the site, before adequate measures have been taken to prevent damage to those trees/hedgerows that are to be retained. Measures to protect those trees/hedgerows must include:

a) Root Protection Areas for each hedgerow/tree/group of trees must be defined in accordance with BS3998:2010 – Tree Work - Recommendations, shown on the site layout drawing and approved by the Local Planning Authority.

b) Temporary protective fencing, of a type and form agreed in writing with the Local Planning Authority must be erected around each hedgerow, tree or group of trees. The fencing must be at least 1.25 metres high and erected to encompass the whole of the Root Protection Areas for each hedgerow/tree/group of trees.

c) No excavations, site works or trenching shall take place, no soil, waste or deleterious materials shall be deposited and no site huts, vehicles, machinery, fuel, construction materials or equipment shall be sited within the Root Protection Areas for any hedgerow/tree/group of trees without the prior written consent of the Local Planning Authority.

d) No burning of any materials shall take place within 10 metres of the furthest extent of any hedgerow or the crown spread of any tree/group of trees to be retained.

e) There shall be no alteration of soil levels within the Root Protection Areas of any hedgerow/tree/group of trees to be retained.

Reason: To safeguard the amenity of the area and to ensure that the development conforms with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. The commencement of development in advance of these measures may cause irreparable damage to features of acknowledged amenity value

- 7 No works in relation to any boundary treatments required by this condition shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position, type, design and materials of any boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 8 With the exception of any site clearance and groundwork (excluding any works to retained features), no further development shall commence on site until a landscape design has been submitted to and approved in writing by the Local Planning Authority. The details submitted should include:

Soft landscaping

- a) A plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, species and canopy spread, together with an indication of which are to be retained and which are to be removed.
- b) A plan(s) at a scale of 1:200 or 1:500 showing the layout of proposed tree, hedge and shrub planting and grass areas.
- c) A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and grass establishment.

Hard landscaping

- a) Existing and proposed finished levels or contours.
- b) The position, design and materials of all site enclosure (e.g. fences, walls).
- c) Car parking layout and other vehicular and pedestrian areas.
- d) Hard surfacing materials.
- e) Minor structures (e.g. play equipment, street furniture, lighting, refuse areas, signs etc.).
- f) Location of existing and proposed functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating routes, manholes, supports etc.).
- g) Any retained historic features and proposals for restoration.

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 9 The soft landscaping scheme approved under condition 8 shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. The hard landscaping shall be completed prior to the first occupation of the development hereby permitted.

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 10 Development shall not begin until parking for site operatives and visitors has been provided within the application site in accordance with details to be submitted to and approved by the local planning authority and such provision shall be retained and kept available during construction of the development.

Reason: To prevent indiscriminate parking, with immediate effect, in the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 11 The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 12 The recommendations set out in the ecologist's report from Worsfold and Bowen dated March 2015 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme integrated with plan should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies SS6, LD2 and LD3 of Herefordshire Local Plan – Core Strategy.

To comply with Herefordshire Council's Policies LD2 and LD3 in relation to Nature Conservation and Biodiversity and to meet the requirements of the National Planning Policy Framework and the NERC Act 2006.

- 13 No development approved by this permission shall be commenced until a scheme for the provision of a surface water attenuation system has been approved in writing by the local planning authority and subsequently implemented.

Reason: To prevent the increased risk of flooding and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 14 Prior to the commencement of the development details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of any of the buildings hereby permitted.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 15 Prior to the first occupation of any of the residential development hereby permitted written evidence / certification demonstrating that water conservation and efficiency measures to achieve the 'Housing – Optional Technical Standards – Water efficiency standards' (i.e. currently a maximum of 110 litres per person per day) for water consumption as a minimum have been installed / implemented shall be submitted to the Local Planning Authority for their written approval. The development shall not be first occupied until the Local Planning Authority have confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation. Thereafter those water conservation and efficiency measures shall be maintained for the lifetime of the development.

Reason: To ensure water conservation and efficiency measures are secured, in accordance with Policy SD3 (6) of the Herefordshire Local Plan Core Strategy 2011-2031.

Informative:

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Planning Services
PO Box 230
Hereford
HR1 2ZB

Date: 2 February 2016


DEVELOPMENT MANAGER

YOUR ATTENTION IS DRAWN TO THE NOTES OVERLEAF

Please note: This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. In particular consent may be required under the Building Regulations.

NOTES

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within 6 months of the date of this notice, using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Right to Challenge the Decision of the High Court

Currently there are no third party rights of appeal through the planning system against a decision of a Local Planning Authority. Therefore, if you have concerns about a planning application and permission is granted, you cannot appeal that decision. Any challenge under current legislation would have to be made outside the planning system through a process called Judicial Review (JR).

The decision may be challenged by making an application for judicial review to the High Court. The time limits for bringing such challenges are very strict, and applications need to be made as soon as possible after the issue of the decision notice. So, if you think you may have grounds to challenge a decision by Judicial Review you are advised to seek professional advice as soon as possible.

These notes are provided for guidance only and apply to challenges under the legislation specified. If you require further advice on 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). For further information on judicial review please go to <http://www.justice.gov.uk>

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Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

APPROVAL OF RESERVED MATTERS

Applicant:

Bell Homes
Whimsey Industrial Estate
Steam Mills Road
Cinderford
Glos
GL14 3JA

Agent:

Date of Application: 16 April 2015

Application No: 151055

Grid Ref: 354420:251205

Proposed development:

SITE: Land opposite, England's Gate Inn, The Moor, Bodenham, Herefordshire, HR1 3HU
DESCRIPTION: Reserved Matters for construction of 40 new dwellings with associated infrastructure

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the above Acts that APPROVAL has been GRANTED in respect of the details referred to above for the purpose of the conditions imposed on outline planning permission reference 141712/O and subject to these further conditions:

- 1 The development hereby approved shall be carried out strictly in accordance with the plans as listed.

SITE LAYOUTS

- Bodenham_Site_Layout_B (Proposed Site Layout)
- Bod_Site_Elevations_A (Proposed Street Elevations)

HOUSE TYPES AND GARAGES

- SH1B and SH2B Floor Plans & Elevations (Plots 1 - 6) – Revision A
- Barnwell Floor Plans and Elevations (Plots 7 & 8) - Revision A
- SH2&3B Floor Plans and Elevations (Plots 9 and 10 - Plots 11 & 12 handed)
- Bewdley (Detached) Floor Plans and Elevations (Plots 13 and 14)
- Cotheridge Floor Plans & Elevations (Plot 16 - Plot 15 handed)
- Ampthill Floor Plans and Elevations (Plot 17)
- Ashperton Floor Plans and Elevations (Plot 31 - Plots 18 and 34 handed)
- Bream Floor Plans and Elevations (Plot 19 - Plot 40 handed)
- Berrington Floor Plans and Elevations (Plots 21 and 22 - Plot 20 handed)
- Jaywick Floor Plans and Elevations (Plot 24 - Plot 23 handed)
- Farnborough Floor Plans and Elevations (Plots 25 and 26)
- Bewdley (Semi) Floor Plans and Elevations (Plots 27, 28, 29, 30, 32 and 33)
- SH3B Floor Plans & Elevations (Plots 35 - 38)
- Bedford Floor Plans and Elevations (Plot 39)
- GARAGE-PLNG-01 (Garage and Car Port Floor Plans & Elevations)

DRAINAGE

- B623/02 (Drainage Strategy)
- B623/03A (Slab Levels)
- B623/04A (Long Sections)
- B623/05A (Off-Site Highway Works)
- B623/06A (Adoptable Drainage Details)
- B623/07A (Adoptable Construction Details)

OTHER

- 024-101 (Indicative Soft Landscape Proposals)
- Bodenham_Site_H&S (Health and Safety Drawing)
- PB/BT/0115 TPP (Tree Protection Plan)
- CYCLESHEED-WKG-01 (Cycle Shed Drawings)
- 4123-14NOV14-01 (Topographical Survey - Part 1)
- 4123-14NOV14-02 (Topographical Survey - Part 2)
- 4123-14NOV14-03 (Topographical Survey - Part 3)
- Layout 2 (Site Sections)
- WALL_DET_01 (Screen Wall Details)
- LOCATION PLAN

Reason: To ensure the development is carried out in accordance with the amended plans and to comply with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 2 Before work commences in respect of any of the features identified in this condition, architectural details of windows, doors and their openings shall be submitted to the local planning authority. The work shall subsequently only be carried out in accordance with details which have been approved in writing by the local planning authority beforehand.

Reason: To ensure that the work is carried out in accordance with the details that are appropriate to the safeguarding of the special architectural or historical interest of the Grade II listed complex at England's Gate so as to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 3 The bonding, mortar and joint thickness for all 1.8m high screen walls as identified on the approved drawing Bodenham_Site_Layout_B (Proposed Site Layout) and the external elevations of plots 4 to 8 inclusive, shall be in accordance with details that shall first be submitted to and approved in writing by the local planning authority. The walls shall be constructed in accordance with the approved details.

Reason: To ensure a satisfactory appearance relative to the architectural and historic interest of the Grade II listed buildings opposite so as to comply with the Herefordshire Local Plan - Core Strategy Policy LD4.

Informatives:

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 2 Development must not commence until all pre-commencement conditions attached to the outline planning permission 141712/O dated 9 October 2014 have been discharged in writing by the local planning authority.
- 3 The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000.

The attention of the applicant is also drawn to the provisions of the Conservation of Habitats and Species Regulations 2010. In particular, European protected animal species and their breeding sites or resting places are protected under Regulation 40. It is an offence for anyone to deliberately capture, injure or kill any such animal. It is also an offence to damage or destroy a breeding or resting place of such an animal.

Planning Services
PO Box 230
Hereford
HR1 2ZB



Date: 26 October 2015

DEVELOPMENT MANAGER

YOUR ATTENTION IS DRAWN TO THE NOTES BELOW

Please note: This permission refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw, order or regulation. In particular consent may be required under the Building Regulations.

The applicant is advised that additional Council Tax payments may be sought in the event that the Valuation Office, who routinely monitor decision notices, consider any part of the development hereby permitted to be self-contained. This assessment is particularly likely to be the case in respect of flats, basement conversions, granny annexes, studio rooms and log cabins and/or where the additional accommodation contains its own kitchen, bathroom and bedroom. Further information can be found on the Council's website at <https://www.herefordshire.gov.uk/search?q=annexes>

NOTES

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within 6 months of the date of this notice, using a form which you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Right to Challenge the Decision of the High Court

Currently there are no third party rights of appeal through the planning system against a decision of a Local Planning Authority. Therefore, if you have concerns about a planning application and permission is granted, you cannot appeal that decision. Any challenge under current legislation would have to be made outside the planning system through a process called Judicial Review (JR).

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- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

APPENDIX 3
Refusal of Planning Permission and Minutes

REFUSAL OF PLANNING PERMISSION

Applicant:

Mrs Fiona Milden
Bovis Homes Limited
Cleeve Hall
Bishops Cleeve
Cheltenham
GL52 8GD

Agent:

Date of Application: 13 February 2015

Application No:
150437

Grid Ref:354534:250420

Proposed development:

SITE: Land to the South of Chapel Lane, Bodenham Moor, Herefordshire,
DESCRIPTION: Proposed 49 dwellings, including affordable dwellings, associated parking and landscaping.

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL hereby gives notice in pursuance of the provisions of the above Acts that PLANNING PERMISSION has been REFUSED for the carrying out of the development described above for the following reasons:

- 1 The erection of 49 dwellings on this green-field site would not reflect the size, role or function of Bodenham Moor and would be prejudicial to its landscape setting and distinctive, historic linear settlement pattern. Nor would the scheme result in the delivery of schemes that generate the size, type and range of housing that is required in this specific settlement or the wider Bromyard Rural Housing Market Area.

The Local Planning Authority therefore considers the scheme is contrary to Core Strategy policies SS6, RA2, LD1 and SD1 and is thus not representative of sustainable development.

- 2 The proposal is for the erection of 49 dwellings in the context that the settlement has already been recipient of significant growth over the plan period, including a scheme for forty dwellings at the northern end of the village.

The Council contends that further large-scale, unplanned growth on green-field land without proportionate increases in local services or employment would be unnecessary, would not promote a healthy, inclusive community and would undermine the quality of life and community cohesion. This is particularly significant in the context of on-going work on the Neighbourhood Development Plan, which would be rendered irrelevant insofar as housing delivery in the village is concerned were the proposal approved. This would be contrary to the objectives of localism as embodied within the National Planning Policy Framework core planning principles, the first of which states that "planning should be genuinely plan led, empowering local people to shape their surroundings."

For the foregoing reasons the proposal is considered contrary to the pursuit of sustainable development, which is the golden thread running through both plan-making and decision-taking and thus contrary to paragraphs 17 and 58 of the National Planning Policy Framework and Core Strategy SD1.

Planning Services
PO Box 230,
Hereford,
HR1 2ZB



Date: 28 October 2015

DEVELOPMENT MANAGER

YOUR ATTENTION IS DRAWN TO THE NOTES BELOW

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MEETING:	PLANNING COMMITTEE
DATE:	28 OCTOBER 2015
TITLE OF REPORT:	150437 - PROPOSED 49 DWELLINGS, INCLUDING AFFORDABLE DWELLINGS, ASSOCIATED PARKING AND LANDSCAPING AT LAND TO THE SOUTH OF CHAPEL LANE, BODENHAM MOOR, HEREFORDSHIRE For: Mrs Milden per Mrs Fiona Milden, Cleeve Hall, Bishops Cleeve, Cheltenham, Gloucestershire GL52 8GD
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150437&search=
Reason Application submitted to Committee – Change of Policy	

Date Received: 13 February 2015

Ward: Hampton

Grid Ref: 354534,250420

Expiry Date: 15 May 2015

Local Member: Councillor BC Baker

1. Site Description and Proposal

- 1.1 The application seeks planning permission for the erection of 49 dwellings, including 35% affordable, associated parking and landscaping on land to the south of Chapel Lane and east of the C1125 main village road at Bodenham Moor, Herefordshire.
- 1.2 The C1125 is the main road through Bodenham Moor and is a single carriageway, two-way road with a 30mph speed limit along the entire western site boundary. It continues north for some 760m from the Chapel Lane (C1124) junction before meeting the A417. The A417 to the north connects with the A49 to the west near Hope-under-Dinmore and the A438 to the east near Ledbury.
- 1.3 The application site is an arable field extending to just in excess of 3ha. It is bounded by the C1125 for the entirety of its western boundary and Chapel Lane to the north. To the south the boundary is defined by the Moor Brook, with the grounds of the Grade II listed Brook House beyond. To the east there is a large commercial orchard. The site is generally flat, with a slight ridge in the middle and levels descending gently to north and south. It is enclosed on three sides by hedgerow, which in the case of boundary with the C1125 is set back behind a relatively wide verge. The application site is also, in the main, above the level of this carriageway. Off-site to the south-west is the Welsh Water pumping station. There are no freestanding trees within the site. Some Field Maples are found within the hedgerow in the north-west corner.
- 1.4 The detached dwelling Olanstan stands to the immediate north-east, making an incursion into what is otherwise a rectangular site. Further residential development is found to the west of the application site on the opposite side of the C1125. This comprises a mixture of traditional and modern development, as does the linear development on Chapel Lane to the north, which includes timber framed listed buildings in the form of Broom Cottage and The Haven, detached

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

dwelling from the mid C20th and extending further eastwards, several large detached modern properties.

- 1.5 The application proposes a single point of vehicular access from the main village road at approximately the mid-point of the western boundary where the speed limit is 30mph.
- 1.6 There is a bus stop opposite the junction with Orchard Close; a modern cul-de-sac a short distance to the north-west of the site. Heading northwards along the main road there are no footways either side of carriageway until north of Baches Bargains.
- 1.7 Bodenham Moor was defined in the Unitary Development Plan as a main village and is now designated as a village where proportionate growth will be sought over the lifetime of the Core Strategy to 2031. As part of the evidence base to the Core Strategy the SHLAA (2009) concluded the site as being appropriate for residential development with low/minor constraints. It has this in common with the site opposite England's Gate Public House, which already has outline planning permission for 40 dwellings.
- 1.8 The Parish Council has designated a Neighbourhood Plan Area and consultation has been ongoing in relation to formulation of a Neighbourhood Plan, but as yet this is not sufficiently far advanced to attract weight for the purpose of decision taking.
- 1.9 The site is within flood zone 1, but there is evidence of surface water flooding on Chapel Lane, which in the past has caused flooding of properties, leading to the formation of the Bodenham Flood Protection Group in 2007. The impact of the proposal on surface water drainage remains an area of key concern locally.
- 1.10 The application is fully detailed and involves the erection of 49 dwellings, all of which would be two-storey. 35% of the dwellings would be affordable units and there is extensive public open space proposed, which would include the provision of a locally equipped area of play 'LEAP'. This public open space is found at the northern end of the site, which acts to buffer the development from historic properties on Chapel Lane and in the southern part of the site, adjoining the brook, where the SUDs attenuation is proposed.
- 1.11 The scheme is of comparatively low density at 16 dwellings/hectare gross. All dwellings are two-storey, the affordable housing comprising a mix of 1, 2, 3 and 4 bed units. The open market dwellings are 3, 4 and 5 bed units. The point of vehicular access is at roughly the mid-point of the western boundary on the C1125. The estate road enters the site with dwellings arranged on either side, but the maintenance of a view through towards open countryside. Internal roads then spur north and south respectively to serve the site, with private drives extending from these. The boundary to the east is maintained as part of the public open space to ensure long-term maintenance and retention. At the northern and southern extremes dwellings are orientated to overlook the areas of public open space. Brick is the predominant facing material, with limited use of render on certain buildings.
- 1.12 The application is supported by a range of technical studies and supporting material, including:-
 - Planning Statement Design and Access Statement
 - Flood Risk Assessment
 - Ecology Appraisal
 - Landscape and Visual Impact Assessment
 - Transport Assessment
 - Archaeology and Heritage Assessment
 - Statement of Community Involvement

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

- 1.13 A noise and odour assessment has also been prepared to consider the potential impact of local farming activities at Eastfields Farm in particular, located a short distance to the south-west.
- 1.14 The Council has adopted a Screening Opinion confirming it does not consider the scheme to represent development falling within Schedule 2 of the Environmental Impact Assessment Regulations 2011.

2. Policies

2.1 National Planning Policy Framework 2012. In particular chapters:

Introduction	-	Achieving Sustainable Development
Chapter 4	-	Promoting Sustainable Communities
Chapter 6	-	Delivering a Wide Choice of High Quality Homes
Chapter 7	-	Requiring Good Design
Chapter 8	-	Promoting Healthy Communities
Chapter 11	-	Conserving and Enhancing the Natural Environment
Chapter 12	-	Conserving and Enhancing the Historic Environment

2.2 National Planning Practice Guidance 2014

2.3 Herefordshire Local Plan - Draft Core Strategy

SS1	-	Presumption in favour of 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
H1	-	Affordable housing – Thresholds and targets
H3	-	Ensuring an appropriate range and mix of housing
OS1	-	Requirement for open space, sports and recreation facilities
OS2	-	Meeting open space, sports and recreation needs
MT1	-	Traffic management, highway safety and promoting active travel
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity
LD3	-	Green infrastructure
LD4	-	Historic environment and heritage assets
SD1	-	Sustainable design and energy efficiency
SD3	-	Sustainable water management and water resources
SD4	-	Waste water treatment and river water quality
ID1	-	Infrastructure delivery

2.4 Neighbourhood Planning

Bodenham Parish Council have designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council is preparing a Neighbourhood Development Plan for that area, but at the moment the Plan is not sufficiently far advanced to attract weight for the purpose of determining planning applications.

2.7 The Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/core-strategy/adopted-core-strategy>

3. Planning History

Off site

- 3.1 141712/O – Outline application with all matters reserved for residential development (up to 40 dwellings) on land opposite England's Gate PH. Approved with conditions 9th October 2014.
- 3.2 151055/RM – Reserved Matters submission pursuant to 3.1 above. As yet undetermined.

4. Consultation Summary

Statutory Consultees

- 4.1 Welsh Water: No objection subject to conditions

We would request that if you are minded to grant Planning Consent for the above development that the **Conditions and Advisory Notes** provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

SEWERAGE

- Only foul water from the development site shall be allowed discharge to the public sewerage system and this discharge shall be made between manhole reference number SO54504801 and SO54504803 as indicated on the extract of the Sewerage Network Plan attached to this decision notice.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

- No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

- 4.2 Natural England: Objection based on the Welsh Water holding objection that existed at that time. This is now under review following Welsh Water's revised no objection subject to the imposition of conditions (as above).
- 4.3 Environment Agency: No objection

The site is wholly within Flood Zone 1, the low risk Zone. As such standing advice applies and we would not expect to be formally consulted. Whilst development may be appropriate in Flood Zone 1, the National Planning Policy Framework states that a Flood Risk Assessment (FRA) is required for 'development proposals on sites comprising one hectare or above' where there is the potential to increase flood risk elsewhere through the addition of hard surfaces and the effect of the new development on surface water run-off. I note that a FRA and Drainage Strategy have been submitted with the application and that comments have been provided by the River Lugg IDB. As the Lead Local Flood Authority (LLFA) it would fall to Herefordshire

Council, in discussion with your Land Drainage team, to assess the suitability and robustness of the proposed surface water drainage scheme and to be satisfied that there will be no increased flood risk to third parties post development.

Internal Council Advice

- 4.4 Transportation Manager: Has no objection subject to the imposition of conditions.
- 4.5 Land Drainage Consultant: No objection subject to conditions

Overview of the Proposal

The Applicant proposes the construction of 49 dwellings and associated parking and landscaping on a green-field site. An access to the Moor is also proposed as part of the development. The site area is stated to measure 3.02 hectares (ha) on the submitted Application Form. The site drains to Moor Brook, located close to the southern boundary of the site. Moor Brook flows in a north-westerly direction to the River Lugg and is a principal, "viewed" watercourse within the control of the River Lugg Internal Drainage Board.

Fluvial Flood Risk

Review of the Environment Agency's Flood Map for Planning (Figure 1) indicates that the site is located within the low risk Flood Zone 1. This zone comprises land assessed as having a less than 1 in 1000 annual probability of flooding (<0.1%) from rivers. As the site is greater than 1 ha, a Flood Risk Assessment (FRA) is required in accordance with National Planning Policy Framework (NPPF) and its supporting Planning Practice Guidance.

The submitted FRA states the elevation of the site is higher than the mapped flood plain of the Moor Brook and therefore not at risk of fluvial flooding. The EA Flood Map for Planning confirms the site is outside the fluvial flood extents. However, as the development is located in close proximity to the fluvial flood extents, the Applicant should demonstrate that the site is not at risk of fluvial flooding when the potential effects of climate change are taken into consideration.

Surface Water Flood Risk

The site is identified to be at very low risk of surface water flooding. However, surface water flooding may restrict access to the site during flood events as the EA Surface Water Flood Maps indicates the junction of Chapel Lane and the Moor, to the north of the proposed access, and the Moor to the south are at high risk of surface water flooding. The FRA states that "such flooding would not prevent access to the site by pedestrians or passenger cars from the Moor." However the FRA does not provide any details of the estimated depth or velocity of flooding in these areas and there is anecdotal evidence that these roads have been impassable in the past due to flooding.

The applicant should demonstrate that the depth and velocity of surface water flooding on the roads adjacent to the site will not restrict access to the site during flood events.

Other Considerations and Sources of Flood Risk

The FRA confirms the site is at low risk of flooding from groundwater, reservoirs, canals and sewers.

Surface Water Drainage

In accordance with the National Standards for Sustainable Drainage and Policy DR4 of the Unitary Development Plan, the drainage strategy should incorporate the use of SUDS where possible. The surface water drainage strategy should be designed to mimic the existing drainage of the site. Infiltration measures are to be used unless it is demonstrated that infiltration is not feasible due to the underlying soil conditions.

If drainage of the site cannot be achieved solely through infiltration, the preferred options are (in order of preference): (i) a controlled discharge to a local watercourse, or (ii) a controlled discharge into the public sewer network (depending on availability and capacity). The rate and volume of discharge should be restricted to the pre-development Greenfield values.

The proposal

The submitted FRA outlines the proposed surface water drainage strategy for the development. Infiltration testing undertaken at the site indicates that the site is not suitable for infiltration techniques, therefore the development will be served by a new below ground drainage network discharging to the Moor Brook to the south.

Discharge to the brook will be limited to 1.5 litres per second per hectare with the runoff being attenuated in a pond along the southern boundary of the site. A new ditch is proposed along the eastern boundary of the development to divert surface water runoff from the orchard to the east through the attenuation pond. The pond will have an overflow to allow water to flow overland to the Moor Brook in the event of the capacity of the pond being exceeded. Permeable paving is proposed for most of the access roads in the development, however the attenuation storage volume calculations assume no infiltration is achieved through the permeable paving and all areas contribute to the drainage network.

The proposed surface water management strategy is in accordance with the National Standards for Sustainable Drainage and guidance in the NPPF. The submitted strategy also adequately demonstrates that there will be no increased risk of flooding as a result of the development between the 1 in 1 year event and up to the 1 in 100 year event allowing for the potential effects of climate change.

Overall Comment

We have no objections to the proposed development on flood risk and drainage grounds. However, we recommend the following information is requested prior to granting planning approval:

- Confirmation that the site is not at risk of fluvial flooding when the effects of climate change are incorporated into the fluvial flood extents.
- Further details of the access and egress arrangements for the development including details of the depth and velocity of surface water flooding on the Moor to confirm access to the site will not be restricted during a flood event.

4.6 Conservation Manager (Landscape): No objection

I can confirm that I am satisfied with the landscape information provided:

1. Landscape Proposals Plans, Drawing No 15077.101 Rev – and Drawing No 15077.102 Rev – both dated 21.08.15
2. Hard Landscape Treatment Plan, Drawing No 15077.103 Rev – Dated 27.08.15
3. Landscape Strategy Drawing, Drawing No 15077.104 Rev – Dated 27.08.15 and
4. Landscape Management Plan Statement of Intent, Dated 24.08.15

4.7 Conservation Manager (Historic Buildings): No objection

Whilst there is no Bodenham Moor conservation area there are several listed buildings in the vicinity of the site. I am largely in agreement with the conclusions of the Archaeological and Heritage Assessment carried out by EDP in that, from a built environment perspective, the relevant sensitive receptors are the four Grade II listed buildings to the north, west and south of the proposal site. Other listed buildings in the 1km radius study area are not considered to be affected by development on the site.

On a minor point the number of listed buildings within the study area is 11 not 10 - the barn at Ash Grove is listed separately to Ash Grove itself and the other buildings identified add up to 10.

The scheme layout shows that the listed buildings to the north will be looking onto public open space and therefore the change in the wider setting will not have an adverse effect. It is also clear that sufficient space would exist between the scheme and Brook House to the south so that the separate nature of the listed building and its garden has been respected.

Though Moor Farm House will have its outlook to the east altered by the development it is considered that its position on the opposite side of the village road already gives the two sites a degree of separation. In addition the hedges and topography of the area do not allow a strong visual link between the two sites and therefore the impact of development on the setting of the listed building would be reduced.

Overall it is considered that the proposal complies with Core Strategy heritage policy LD4 and the NPPF chapter 12 and no objections are raised.

4.8 Conservation Manager (Ecology): Qualified comment

Subject to the imposition of planning conditions there are no objections in relation to protected species.

Concerns remains in relation to the capacity of the foul public sewer and the impact on the water quality of the River Lugg SAC:

"...given that this is a failing reach of the SAC with regard to phosphate levels, it would not be acceptable for a non-mains solution to be proposed even as an interim measure. I note that Natural England has not yet objected but until this issue is resolved I would currently have to compile an HRA screening report for Natural England's attention with a finding of Likely Significant Effect upon the R. Wye SAC."

4.9 Minerals and Waste Officer: No objection

On balance I'm satisfied with the conclusions within the 'Minerals Resource Assessment' dated 21st November 2014 in that given the existing constraints which surround the site and its size, together with there not being an identified need within the County for sand and gravel, the physical sterilisation of the resource on the site is not significant in both a local and national context. Consideration has been given to the proximity of the site to the existing settlement of Bodenham and that it does not have direct access to a main highway. The prior extraction of the resource prior to the proposed development is also not considered to be economically or environmentally viable given the constraints identified. As Minerals and Wates Officer for the Council I'm satisfied with the information provided and can conclude that there is no objection to the application with regards to National policy contained with in the NPPF and NPPG.

4.10 Environmental Health Manager (Noise): No objection

4.11 Environmental Health Manager (Odour): No objection

I have had opportunity to consider the odour assessment update dated 28/8/15 submitted to address concerns that I raised in my consultation response of the 22/6/15.

I can confirm that I was the officer responsible for the consultation responses to the applications referred to by the Parish Council, and expressed concerns for similar reasons when this application was first brought to my attention. However I would take this opportunity to make these further observations:

- Whilst the predicted wind direction where wind is blowing towards the proposed development at Fairview is less frequent than for the site presently under consideration it is considerably closer to the slurry lagoon which was the main source of the odour about which I had concerns.
- The defence of 'Best Practicable Means' is dependant on both technical and financial elements in that the technology to abate the nuisance has to be available and that it is affordable to the business in question. The availability of a remedy will change with time and developments in technology etc.
- I would refer you to the section 4.14 of the updated odour assessment which confirms that the proposal for a slurry separator at Eastfields Farm, having the benefit of a planning permission (application P/141014/F) has been implemented. It was claimed that this would reduce the odour from the slurry management operation by removing a large amount of the solids from the slurry leaving solid manure which had a reduced odour level and a less malodorous liquor. The proposed works also included improvements that would result in reduced odour emissions caused by the transfer of slurry from the livestock buildings with slurry being emptied below surface to prevent splashing. The use of slurry separation systems was uncommon at the time of the Fairview application. I note that the current DEFFRA Code of Good Agricultural Practice recognises that the use of mechanical separation is beyond 'Good Agricultural Practice but may be necessary in certain circumstances.
- I would agree with the Parish Council's view that the lack of recorded complaints does not necessarily mean that there are no ongoing problems however they are a good indication and I would reiterate my view as stated in my consultation response dated the 13/10/15, that based on the information available to me, it would be difficult to sustain refusal on grounds of odour.

4.12 Conservation Manager (Archaeology): No objection subject to conditions

There is some archaeological interest to the site relating to a buried ring ditch feature of likely Bronze Age date, present in the central part of the site. It is very probable that this feature represents the largely ploughed out remains of a former barrow or burial mound of that date.

Having regard to its intrinsic nature and the particular condition it is in (demonstrated by the field evaluation undertaken previously), the feature does represent an archaeological issue, although a localised issue that is not an over-riding one. Because the feature is an isolated find of moderate rather than a high level of archaeological significance, any harm to it as a result of this development can be appropriately mitigated, *either* by design or by record.

Given that the applicants have not explicitly pursued the first option, I would regard it as entirely appropriate that the second (i.e. the archaeological excavation of the feature and its near environs) is pursued.

Therefore, in accordance with Para 141 of The NPPF, I have no objections to this housing proposal, subject to the imposition of standard archaeological programme of work condition in that regard.

4.13 Parks and Countryside Manager: No objection

Developments of 49 houses are required to provide play provision for both younger and older children. The applicant has made provision for both on and off-site play. In accordance with CS Policy the requirements for a development of 49 dwellings at 2.3 persons (total 112) are:

POS (0.4 ha per 1000 population) = 400sq m

Play area provision (0.8 ha per 1000 population) = 800sq m of which 300sq m should be formal play and 500sq m should be informal play using Fields in Trust standards.

On-site POS is shown at the northern part of the site and is accessible. It is a large area of public open space, which could incorporate a community orchard, wildflower meadow and a play area if required. The location for this is good as it would be overlooked by housing. The proposed development is some distance away from the existing play area and would involve negotiating a busy main road which for younger children is not suitable. Provision on site for this age group may therefore be preferable and this is understood to be the Parish Council's position. The applicants have confirmed that on-site provision in the form of a LEAP.

SUDS: There is an area in the southern part of the site, which primarily includes an attenuation pond but which the applicant has suggested could also provide informal open space. With good design SUDS can successfully incorporate POS to provide areas which are not only good for wildlife but also provide opportunities for informal recreation and more natural play. It is noted that it is proposed to incorporate shelved banks and margins for native marginal planting and maintain water all year in order to provide wildlife enhancements. If the area is also to be publically accessible, the final design will therefore need to consider health and safety issues of standing water.

The SUDS areas will need to be designed in accordance with national SUDS guidance and will require a detailed ecological/site management plan and annual work plan. The Council doesn't as yet have a SuDS strategy and advises developers to use CIRA guidance but with reference to DEFRA's draft of the revised SuDS guidance (currently being finalised) and to reference other useful SUDS and wildlife guidance from the Wildfowl & Wetland/RSPB available from the susdrain website.

Future Maintenance / Adoption: POS/Play: Given the location it is unlikely that Herefordshire Council would adopt any on site POS, therefore the applicant needs to consider other suitable management and maintenance arrangements in line with the Council's policies. This could include the parish council with a 15-year commuted sum plus appropriate replacement costs; by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as a Trust set up for the new community. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

Future Maintenance/Adoption: SUDS: With the changing legal issues/revising national guidance around SuDS following recent Government consultations, at this time we are unable to provide a definitive answer on adoption and maintenance of any SuDS areas. Any adoption or maintenance agreements and associated commuted sums/management charges with any eligible body are subject to the powers, acts and national guidance that is live and relevant at the time of adoption.

4.14 Housing Development Officer: Qualified comment

The applicant has been in negotiations with Housing Partnerships and has met the mix, tenure and standards that are required for the affordable housing. However, I am disappointed that the applicant has failed to integrate the affordable housing into the development.

As advised affordable housing should be tenure neutral and well integrated within the market housing. This is to promote social inclusion and sustainability. I do not believe that the positioning of the affordable housing meets this requirement and would ask the applicant to review its positioning in order for me to fully support this application.

4.15 Schools Capital and Investment Manager: No objection subject to s.106 contributions to meet capacity issues at Bodenham Primary School, where three years were at or over capacity as of the Autumn Census 2014.

5. Representations

- 5.1 Bodenham Parish Council: Objects strongly to the application. The detailed comments are summarised below, (but attached in full at Appendix A).

Summary of comments:-

Background (Section 1)

This relates the position at the time of response i.e. that the minimum growth target for Bodenham was 40 and that this need was capable of being met through alternative, preferable sites without the need for development of the application site.

Housing Land Supply in Herefordshire (Section 2)

The lack of housing land supply in Herefordshire should not lead to excessive development in its villages. There are parallels between this site and the Home Farm, Belmont appeal, which was dismissed irrespective of the lack of housing land supply.

Location of Future Housing Development in Bodenham Moor (Section 3)

The Parish Council started considering potential housing sites as part of the NDP process long before Bovis initiated their proposals. This was conducted independently of the Bovis proposal and the then outline application opposite England's Gate – both on SHLAA minor constraints sites. A survey was commenced in September 2014 to engage local opinion on the matter of housing growth. The results confirmed an overwhelming support for the site opposite England's Gate, which received 237 letters of support as opposed to 25 objections. Thus the parish and its residents have taken a view on the appropriateness of development on the Bovis site and given the constraints have concluded the land opposite England's Gate to be the preferable.

Bodenham Neighbourhood Plan (Section 4)

Secretary of State decisions have confirmed the weight that may be given to emerging Neighbourhood Plans. It is the intention of the NDP Steering Group to redraw the settlement boundary as it exists with the exception of an extension to encompass the England's Gate site. This would facilitate the growth required and exclude the current application site.

Sustainability (Section 5)

This section of the Parish Council comments refers to the percentage growth that the village (as opposed to Parish) would be forced to accept if permission were granted. With England's Gate the village would grow by between 33-37% at an early stage in the lifetime of the CS. This would not represent gradual growth and would also be prejudicial to the emerging Neighbourhood Development Plan and the NPPF core principle which states that planning should be *'genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting a positive vision for the future of the area.'*

Proposed Housing Mix (Section 6)

The Housing Mix for the open market units is heavily weighted to 4 and 5 bed dwellings. This is contrary to CS policies. The Parish Survey demonstrated that the vast majority of respondents cited a preference for 2 and 3-bed dwellings. There are no 2-bed open market units on this proposal, but 24 4 and 5-bed units.

Proposed Housing Design (Section 7)

In the Council's view the apparent intention to inflict rows of virtually identical red brick 'boxes' – there appear to be only four basic external designs among 49 dwellings - on an area bounded by a rich variety of house designs, not to mention no less than four Grade II listed buildings, betrays a lack of imagination and empathy which all the application's stress on 'detailing', 'active frontage', 'considered building line' and varied 'streetscape' does nothing to mitigate. Far from improving the Village, such a development would actually make it worse by imposing a veritable 'blot on the local landscape'. Indeed, Bovis Homes themselves seem to recognise this

by their apparent wish to hide their development away from view behind hedging (See our comments under 'landscape' below).

Landscape (Section 8)

It is considered that the proposed site is an important open green space which makes a major contribution to the distinctive spatial character, form and pattern of the Bodenham Moor settlement. It is important to the rural character of Bodenham Moor and provides relief within an otherwise built up frontage, while also acting as a buffer between incompatible uses, as set out in Section 14 below.

Contrary to the impression given by the Landscape and Visual Impact Statement supporting the application, this open area allows important views out of the settlement and is an amenity of high value for all residents, but more particularly the residents of Chapel Lane and the road along The Moor (C1125). It is contended that, notwithstanding measures being proposed to mitigate the impact of the proposed development, it will adversely affect the public and visual amenity of existing residents and consent should be withheld in accordance with UDP Policy DR2 (saved under Core Strategy Policy SD1) and Core Strategy Policies LD1 – Landscape and Townscape and LD3 – Green Infrastructure.

The whole effect seems to be to prevent integration with the rest of the Village – the creation of a kind of hedged-in enclave on its outskirts and one that, as already mentioned, is not in keeping with the open character of the remainder of Bodenham Moor.

Historic Environment and Heritage Assets (Section 9)

It is considered that the development of a housing estate of the scale envisaged in such close proximity will, despite the mitigation measures proposed, have an adverse impact on the setting of these listed buildings and warrants refusal.

Access and Highway Safety (Section 10)

Road safety has long been seen by local residents as, together with mitigation of flood risk, one of their highest priorities. This is evidenced both by the responses to a survey carried out in October 2010 in support of the Parish Plan and by the recent survey supporting the Neighbourhood Plan. Since November 2010 the Parish Council has therefore operated a speed indicator device (SID) in an attempt to 'educate' drivers to obey the speed limits on the main roads (C1125 and C1121) through Bodenham Moor and the Bodenham Conservation Area.

Although only classified as a 'C' road, the C1125 West of Shuker's Field is a main thoroughfare between the A417 and the East of Hereford *via* Sutton St. Nicholas and carries a great deal of traffic. Furthermore, although governed by a 30mph speed limit, despite the presence of pedestrians walking in the road because there is no pavement, and despite the existence of a narrow bridge about 100m from the access point proposed by Bovis Homes, vehicle speeds along this stretch of road are consistently high. This is borne out by the applicant's Transport Statement (13) which notes (without drawing the obvious road safety conclusions) that "*The [ATC] survey results showed that the 7-day average 85th Percentile speeds were recorded as 37.9mph northbound and 38.1mph southbound*". SID data show the situation rather more starkly. Speeds in excess of 50mph are common; nearly 60% of drivers approaching from the South exceed the speed limit and 15% (85th percentile) do so at 38mph or more. Speeds recorded for vehicles travelling south are even higher; in fact, the highest recorded speed at this location is 84mph.

The Transport Statement also overlooks the fact that the proposed access to the Bovis Homes site is almost exactly midway between two of the three stretches of road in Bodenham Moor most prone to flooding. Even in moderately mild winters surface water flooding occurs to the north of the access point, with water from Chapel Lane spilling across the C1125 into Orchard Close; to its south surface water floods northwards along the C1125 from the higher ground south of Bodenham Moor and floods the roadway in the area of Eastfields Farm. While suitable

vehicles may be able to negotiate such hazards safely in most circumstances, pedestrians may find themselves having to wade through flood water to reach the proposed access point, or to reach the proposed pathway to Chapel Lane.

Transport (Section 11)

As also already pointed out, the access to Bovis Homes' proposed site lies between two chokepoints on the C1125. About 100m to the south there is a narrow bridge with poor sightlines across which two vehicles cannot cross in opposite directions at the same time except at very low speed; in practice the C1125 is a single track road at this point. To the north the road narrows outside the Post Office, the sightlines are very poor, pedestrians have to walk on the carriageway because it is too narrow to accept a pavement, and the situation is made worse throughout most working days by cars parked on both sides of the road; here, too, the C1125 is, in effect, a single track road. Having ignored the problems likely to be created on the C1125, the Transport goes on to overlook those likely to develop in Chapel Lane (C1114), which it envisages as a significant route to and from the A417 for traffic leaving or returning to the proposed Bovis Homes site. Chapel Lane is a narrow, winding, single track road with occasional passing places. It already carries a lot of local domestic and agricultural traffic, but more importantly its use by very large HGVs has long been the subject of complaints to the Parish Council. Of necessity some of these have to access the grain store at Pool Head, but the real problem is the number of HGVs (some no doubt misguided by satellite navigation) which use the Lane as a short cut between the A417 and C1125. The real concern, therefore, is not only, as the Transport Statement says, queuing at the Chapel Lane junctions, but delays likely to be caused at peak times by vehicles meeting along the road. In addition, it should be pointed out that the Transport Statement makes no reference to the dangers presented by Chapel Lane's junction with the A417. The hazards of emerging onto the A417 at this junction, where the visibility both to the left (North-West) and to the right (South-East) is very limited, is one of the road safety issues most often raised by local residents.

Flood Risk (Section 12)

The latest Environment Agency map showing areas of Bodenham at risk of flooding from surface water clearly identifies the area around the Chapel Lane C1114 / C1125 (Bodenham to Sutton road) junction as being at medium to high risk. That such flooding occurs even in relatively mild weather conditions is confirmed by much photographic evidence. It is believed that, despite any mitigation measures suggested by the developer, the proposed Bovis Homes development could exacerbate the surface run-off problem, partly by shifting it from Chapel Lane to the area south of the proposed site. The proposal would thus be in conflict with UDP Policy DR7 on Flood Risk (saved under Core Strategy Policy SS6) and DR3 on Movement (saved under Core Strategy Policy SD1).

Although approximately 62% of the site naturally drains to the north, the FRA proposes that surface water from the developed site would drain entirely to the south into Moor Brook. It is argued that this will reduce surface water flooding of Chapel Lane.

Section 1.1. We note that in the final sentence of Section 1.1 it is claimed that the Flood Risk Assessment (FRA) Report provides sufficient information to confirm the satisfactory drainage and flood risk mitigation of the development as proposed, and that no planning conditions regarding the details of drainage or flooding for approval by the lead local flood authority (LPA), *i.e.* Herefordshire Council, should be required. However, we believe that securing acceptable design by Conditions is crucially important in order that the development is safe from flood risk for its lifetime, does not increase flood risk elsewhere, and where possible reduces flood risk. Should the Council be minded to give consent to the application, we would argue that any such consent must be accompanied by pre-commencement conditions requiring details of the proposed scheme to be submitted in writing for the approval by the Council, as LPA, in consultation with the River Lugg Internal Drainage Board (IDB).

Section 1.3. The FRA Report refers to the Technical Guidance to the NPPF as current policy relevant to this application. In fact the Technical Guidance was replaced by the Planning Practice Guidance in March 2014. It therefore carries no weight. It is therefore of concern that the flood risk assessment has been undertaken without cognisance of extant national planning policy.

Sections 4.5 and 4.6. Both these sections refer to the foul water pumping station located to the south of the site having insufficient capacity. Section 4.6 suggests that Welsh Water (WW) "*might need to address capacity issues associated with its local foul pumping station*". Appendix 11 of the FRA presents an excerpt from a Utilities Assessment undertaken by Peter Brett Associates. Paragraph 6.1.7 states that a formal response from Welsh Water regarding network capacity had not been obtained at the time the Report was issued, although the Report acknowledges an existing constraint at the foul water pumping station to the south-west of the site. The Report goes on to say that remedial works (also known as infrastructure reinforcement) to the pumping station and rising main (*i.e.* the pumped foul sewer that exits the pumping station and travels up the road to the west of the site) could be undertaken to provide the capacity to receive flows from the development "*although this is to be confirmed by WW*". Attempting to obtain full planning consent while this level of uncertainty remains is, in our view, totally unacceptable.

Section 5.1.

Whilst the peak rate may be limited to greenfield runoff, the development would result in an increase in runoff volume, *i.e.* runoff would continue to discharge off the site for a longer period than would otherwise be the case. This would impact on the receiving watercourses and the associated land drainage assets operated and maintained by the IDB, increasing the risk of failure and hence the risk of off-site flooding.

The proposed peak surface water discharge rate from the developed site to Moor Brook is stated to be 2 l/s. However, paragraph 17 of the Environment Agency Report "Preliminary Rainfall Runoff Management for Developments" (Report ref: SC030219) states that: "*A practicable minimum limit on the discharge rate from a flow attenuation device is often a compromise between attenuating to a satisfactorily low flow rate while keeping the risk of blockage to an acceptable level. This limit is set at 5 litres per second, using an appropriate vortex or other flow control device*". As such, the proposed outfall conflicts with current design guidelines and there would be a significant risk of the drainage pipe from the retention pond becoming blocked, causing localised flooding of the site and/or adjacent land. Whilst this problem could be overcome by only restricting peak outflows to 5 l/s as per the Environment Agency guidance, this would represent a significant increase in peak runoff from the site, and would increase the risk of off-site flooding. Once again, this non-compliance with Environment Agency drainage guidelines demonstrates a flaw in the drainage strategy presented in the FRA Report. 14

Section 5.3. This Section states that foul water from the development would be conveyed by a new gravity foul sewer to the existing foul sewer near the local sewage pumping station. No mention is made of the fact that the pumping station and associated rising main has insufficient capacity - just that "*Welsh Water has a legal responsibility ... to provide any necessary improvements to the sewerage network to enable developments*". For Bovis Homes to seek simply to wash their hands of the inconvenience, health risks and disruption they would be creating for existing residents of the village is completely unacceptable.

Section 8 (2, 3 and 4). All three of these recommendations demonstrate the importance of the Council, as LPA, securing drainage by Condition, if indeed the Council is minded to grant planning permission.

Section 10. The FRA Report incorrectly states that “*neither flood risk nor drainage constrains the grant of planning consent for this development as proposed*”. On the contrary there are a number of crucial constraints:

The surface water drainage scheme proposes that all surface runoff from the site will drain to the south and directly into Moor Brook. This approach does not mimic the existing natural drainage regime for the site, and whilst it may help reduce flooding of Chapel Lane, it would be expected to increase off-site flooding elsewhere, especially to the Grade II listed Brook House and to the area of Eastfields Farm, both of which are already very prone to flooding. As such, the drainage scheme is not considered to be satisfactory. At the same time the FRA Report claims that surface water would be prevented from draining into Chapel Lane towards the North by the construction of an East-West bund. However, as can be seen from the maps at Appendix 9 of the Report, this bund is a long way from the site’s northern boundary. In fact, it roughly delineates the southern edge of a substantial northern portion of the site which has always drained into Chapel Lane and under Bovis Homes’ proposed scheme would simply continue to do so. In short, the Bovis Homes scheme appears likely to do little to mitigate the flood risk to Chapel Lane and, from there, to Orchard Close and thus there is likely to be little, if any, betterment.

As the FRA Report acknowledges, the existing Welsh Water sewerage infrastructure has insufficient capacity to convey foul water from the proposed development. Indeed the pumping station to the south-west of the site has already flooded due to insufficient capacity. The FRA Report fails to demonstrate that foul water from the development can be suitably drained and as such, the foul water drainage strategy presented in the Report must be regarded as fundamentally flawed. Policy SD (4) states that development may be phased or delayed until further capacity is available. This alone is considered to be sufficient grounds for permission not to be granted.

Increasing the flow of foul water to the already overloaded Welsh Water foul pumping station located to the south-west of the proposed development is not sustainable.

If the Council, as LPA, is minded to grant planning permission, then the design of the drainage system, for both surface water and foul water, must be accompanied by appropriate pre-commencement planning conditions, requiring full details of the drainage systems to be submitted in writing for the approval of the Council in consultation with the IDB.

The proposed development does not reduce flood risk or provide similar betterment to enhance the local flood risk regime, as required by Policy SD3 (3). Although it may be possible that the development may reduce flood risk to Chapel Lane, this cannot be regarded as betterment because there will be a corresponding increase in flood risk elsewhere due to the nature of the proposed drainage.

The FRA Report does not provide any information on how the surface water drainage system serving the development would be maintained for its lifetime. Given the surface water flooding issues in the proximity of the site, this is an important omission. The appropriate arrangements would need to be secured at minimum by Condition (and presumably by a Section 106 agreement).

Sewerage Infrastructure (Section 13)

The Parish Council’s original comments are updated following further submission from the applicants. See below.

Proximity to Intensive Livestock Unit (Section 14)

The Parish Council’s original comments in relation to the intensive livestock unit are updated following further submission from the applicants. See below.

Ecology (Section 15)

The River Lugg enjoys strong protection under European Law as part of the River Wye Special Area of Conservation (SAC). We note that the Nutrient Management Plan being developed by the Environment Agency in conjunction with Herefordshire Council is trying to address the ongoing issue of excessive phosphate levels. It is understood that there remain a number of major outstanding concerns. It is clear that any consent for the subject development by Bovis Homes involving the disposal of treated effluent from the site *via* the Welsh Water treatment plant in Ketch Lane, Bodenham (C1113) and thence into the River Lugg would merely serve to exacerbate this ongoing phosphate exceedance problem. We strongly urge that this aspect is fully explored when the application is considered. Health and safety issues associated with standing water in the attenuation pond must also be addressed.

Minerals Safeguarding (Section 16)

The entire site lies within an area defined as a Minerals Safeguarding Area (MSA), as embodied in Core Strategy Policy M1 (formerly UDP Policy M5 –Safeguarding Minerals Resources). This states that *“within and adjacent to MSAs, development which would sterilise any known minerals resource will not be permitted, unless it can be demonstrated that the non-minerals related development is of sufficient weight and overall benefit to override the need to protect the minerals resources”*.

Despite the claim in the Peter Brett Associates “Mineral Resources Statement” that the ‘potential resource has been compromised by existing residential development to the north and west’ it is thought that the existence a single house (Olanstan) adjacent to the site would not constrain possible future exploitation. However, it is contended that the housing development proposed by Bovis Homes would conflict with planning policy M1 – Mineral Safeguarding Areas (page 180 of the Core Strategy).

While it may be accepted that the existence of “Olanstan” adjacent to the site could be regarded by any future mineral extraction body as an ‘inconvenience’, reference to the Core Strategy Policies Map clearly shows the fairly widespread existence of minerals in this area, a fact recently highlighted by the Principal Planning Officer – Minerals and Wastes in the context of planning application (141352 Gritt Farm) relating to a proposal for a new dwelling just to the north-east of the subject site.

17. Summary

17.1 Bodenham Parish Council believes that Bovis Homes’ application to build 49 houses on the land South of Chapel Lane is:

- Opportunistic and seeking to exploit a temporary, technical loophole in planning regulations for purely commercial gain with no thought for the adverse effect on the lives or amenity of existing – or, indeed, its own proposed future – residents.
- Contrary to the central tenets of both the NPPF and Herefordshire Council’s emerging Core Strategy in that it does not meet their essential criteria of sustainability.
- Contrary to specific policies set out in Herefordshire Council’s emerging Core Strategy.
- Unnecessary to meet the proportionate 15% increase in housing required by the emerging Core Strategy which, with the proposed development of the field opposite England’s Gate added to ‘windfall’ developments since 2011, Bodenham Moor will have exceeded.
- Contrary to the carefully considered and clearly expressed wishes of the local community as evidenced by the recent survey and set out in Bodenham’s emerging Neighbourhood Plan.

- Calculated to destroy an important and valued open space in the village and in the process to damage irreparably the whole rural character of Bodenham Moor.
- Unsupported by any requirement for the quantity, size or type of dwellings proposed.
- Given other housing development already planned, completely unsustainable within a village of the size and rural setting of Bodenham Moor.
- Inadmissible because it would require incompatible land use by the juxtaposition of residential dwellings with an intensive dairy unit, especially one which already creates a significant, continuing odour and fly nuisance and which is destined to increase still further in size.
- Likely to increase the already worryingly high risk of surface water flooding in the vicinity.
- Unacceptable because of inadequate access to and from the site and because of the adverse impact it would have on road safety, which is already a matter of serious local concern.
- Unacceptable because of its adverse impact on the local infrastructure, and specifically on the already overloaded sewerage and foul water drainage systems.
- The Parish Council urges most strongly that consent for the application be refused.

Subsequent comments in relation to foul waste and odour, updating sections 13 and 14 above are set out below.

Foul Drainage

Bovis have also submitted revised foul drainage paper which seeks to address the earlier Welsh Water objection to the effect that the proposed development would overload the local public sewage infrastructure. It appears that the Welsh Water objection has now been withdrawn. However the modifications proposed which would involve installing a new pipeline to carry sewage to a point on the C1125 near the village green and children's playground would then appear to be merely connected to the existing manhole that eventually carries sewage products to the plant located in the Millcroft Road cul-de-sac which already has capacity problems necessitating frequent visits from WW to clear blockages. It would seem that this is purely a device to remove the focus from deficient plant alongside Moor Brook and increase the as yet unresolved inadequacies of the Millcroft Road plant.

Odour Nuisance

Odour dispersal is largely dependent on wind patterns and speeds. Entram Ltd Consultants have based their dispersal modelling on wind speed and direction taken from data obtained from the nearest meteorological station at Hereford (Credenhill) located some 7mls. away. (Para. 5.1 states "*A 5-year average windrose (2010to 2014) for the Met Office observing station at Hereford is displayed...*") They have concluded from this data that the wind would only blow from Eastfields Farm towards the Bovis site for 14.7% of the year (Para. 5.4.).

In fact, the local topography, distorts wind speed and direction in the vicinity of Eastfields Farm and the Bovis site. The latest report takes no account of the fact that both the farm and proposed development site are located on relatively low lying land that is bounded by a prominent extended ridgeline that runs from the SE to the SW. This elevated ridgeline distorts the normal prevailing wind patterns creating local atmospheric turbulence and thus invalidates the meteorological wind pattern assumptions which form the whole basis of the revised analysis.

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

It is contended that this failure to take full account of local conditions must throw doubt upon the claims in paras. 1 to 3 that:-

"the source odour potential may be regarded as 'medium' to 'small' and "It follows that the likely magnitude of odour effect at the development site is negligible".

History of Nuisance

It is stated at para, 5.7 that *"The Local Authority Environmental Health Department has confirmed there have been no recorded complaints of odour in relation to the existing farming activities in the area"*.

We would draw attention to the minutes of the Planning Committee meeting held on 18 December 2002 to consider application NC2002/3141/O for a new dwelling in the grounds of Fairview which states :-

"The Area Environmental Health Officer reported on local concerns that had been expressed about smells emanating from the livestock units, and that there was a limit to what could be achieved because the applicants had the defence of using the best practicable means to abate nuisance".

The application was refused consent.

In dismissing an appeal against refusal Planning Inspector Robert Luck in his Decision ref APP/W1850/A/03/1110001 commented:-

"The evidence is that the slurry lagoon gives rise to serious problems of infestation by flies, especially during the warmest months and to a certain extent offensive smells. This is clearly supported by the Council's Environmental Health Officer, who said that no more can reasonably be done to abate the nuisance at source. I conclude that there is an unacceptable risk to the living conditions of future residents of the proposed dwelling would be harmed by unreasonable levels of nuisance in these respects".

Again, in commenting on an earlier withdrawn application NC2002/1186/O., Mr A Trezins, Area Manager (North) Environmental Health wrote on 21 May 2002 *"I wish to express concern about the close proximity of a slurry lagoon to this proposal which is likely to give rise to complaints of smell and fly nuisance. The close proximity of the farming activity in general is likely to have an adverse impact on the amenity of future residents of this dwelling."*

A further application to erect a dwelling adjacent to Eastfields Farm submitted in 2006 was refused it being stated in the Decision Notice DCNC2006/3140 dated 29 Sept.2006 :-

"A new dwelling on this site will be within close proximity of an existing slurry lagoon and also existing livestock units on the adjacent agricultural land to the north which can result in the residential amenities, of the future occupants of the proposed dwelling, being adversely affected by reason of offensive smells and infestation by flies."

Copies of letters of complaint about odour and fly nuisance from two Bodenham residents are held. However past statements, quoted above, by the Environmental Health Officer to the effect that no reasonable steps can be taken to abate the nuisance emanating from Eastfields Farm has doubtless led to other residents to conclude that it would be pointless to complain. It is known that residents have also been deterred from formally complaining due to the legitimate fear that this may have an adverse effect on house values. However, the fact that there is a limited documented history of complaint by individuals should not be taken to imply that there is no, or limited nuisance. This is a very real ongoing issue which is why the Parish Council has raised such strong objection to the Bovis Homes proposal.

5.2 River Lugg Internal Drainage Board: Qualified comment

The application informs us of the intention to dispose of surface water via Sustainable Urban Drainage System. I would like to inform you of the Board's standard requirements in respect of surface water disposal, and ask that they be taken into consideration when the application is assessed.

Requirements:

- 1 A permanent 9 metre plant access strip is required alongside the Moor Brook within the development site, for watercourse maintenance purposes. The written consent of the board must be obtained for any structure or tree planting within 9m of any Board controlled watercourse measured from the top of the bank or on the landward side of any embankment.
- 2 Any works must not compromise the stability of the bank or create a gradient of more than 1:20 towards the watercourse.

Any increase in hard standing or impermeable areas will increase the amount of surface water run off from the site unless managed properly. The application states that the surface water run-off will be directed to SuDS; therefore I would like to inform you of the Board's standard requirements in respect of surface water disposal, and ask that they be taken into consideration when the application is assessed.

Requirements:

- 1 Rates for storm water runoff discharged from the site to replicate or achieve a reduction from the 'greenfield' response of the site over a range of storm probabilities, accompanied by the required On-site Storage designed for the 1 in 100 year storm event.
- 2 For the range of annual flow rate probabilities, up to and including the 1% annual probability (1 in 100 year storm event) the developed rate of run-off discharged from the site into an ordinary watercourse shall be no greater than the undeveloped rate of run-off for the same event.
- 3 The potential effect of future climate change shall be taken into account by increasing the rainfall depth by 10% for computing storage volumes.
- 4 All in compliance with The Institute of Hydrology Report 124 (IoH 124) - Flood estimation for small catchments (1994)
- 5 All to the satisfaction of the Engineer to the Board
- 6 No additional surface water run-off to adjacent watercourse (Moor Brook) or any outfall structure is permitted without written Land Drainage Consent, which would have to be obtained from the Board under the terms of the Land Drainage Act 1991 and the Flood and Water Management Act 2010.

5.3 Bodenham Flood Protection Group: Objection. The comments express severe concern at the efficacy of the proposed surface water drainage system and the ability of the foul sewerage system to cope with additional loading. The comments defer, however, to section 12 of the Parish Council comments insofar as surface water drainage is concerned and this section of the Parish Council objection is reported in full above and again at Appendix A.

5.4 Campaign to Protect Rural England (Herefordshire Branch): Qualified Comment

Concern is expressed in relation to the Council's assessment of the impact of the development in relation to water quality within the River Wye (Lugg) SAC.

5.5 There have been 235 letters of objection. The content is summarised as follows:-

Bell Homes have already had outline planning consent for 40 houses in Bodenham Moor (P141712/0). This is the site preferred by local residents as shown in the emerging

Bodenham Neighbourhood Plan and demonstrated by the responses to the recent neighbourhood plan survey.

The site on which Bovis Homes wish to construct 49 houses has been rejected in the neighbourhood planning process for a number of reasons, including:

- The likelihood of increasing the risk of surface water flooding to neighbouring properties in Chapel Lane, Orchard Close and/or the area of Eastfields Farm.
- The adverse effect on the setting of four Grade II listed buildings adjacent to the site.
- The adverse effect on the amenity of residents in nearby properties, especially by affecting their enjoyment of the existing rural landscape.
- The adverse effect on Bodenham Moor residents generally by destroying one of the few important open spaces in the village.
- The placing of a major additional burden on already overloaded sewerage and foul water systems.
- The proximity to an intensive dairy unit with its associated odour and fly nuisances.
- Increased traffic placing even greater pressure on narrow local roads about which there are already serious road safety concerns.

The Bovis Homes application does not adequately address these (and other) issues. Any more houses in the village, other than the 40 already planned by Bell Homes, would place an immediate and totally unsustainable burden on the village infrastructure (GP Surgery, School, etc). While accepting that Bodenham Moor must accommodate its fair share of new housing, it is unreasonable for it to accept more. Such an increase would alter the whole character of the village and change it from a rural settlement into a town.

The wishes of local people, clearly expressed in the Neighbourhood Plan and the recent survey, should be respected.

5.6 There have been 12 letters of support. The content is summarised as follows:-

- The application is in a preferable location to the England's Gate site. It is more central to the village and will have less of an impact on the approach to the village.
- The application appears well conceived relative to other applications and takes a sensitive approach to design and landscaping.
- The proposal will result in the delivery of affordable housing which will address the current dearth and allow those youngsters with a local connection to stay in the village as opposed to having to move away.
- Access into the site would be safer than England's Gate as it is not in such close proximity to the A417 or on a bend. Traffic calming will be easier in this location.
- A growth in the local population will underpin local services including the shop, school and bus services.

5.7 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

Planning Policy

6.1 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

- 6.2 In this instance the Development Plan for the area is the Herefordshire Local Plan - Core Strategy (CS). As might be expected with a proposal of this nature a range of CS policies, referred to at section 2.3, are relevant. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms that proposals that accord with the policies of the CS (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.
- 6.3 As per the NPPF, the delivery of sustainable housing development to meet objectively assessed needs is a central theme of the CS. Policy SS2 'Delivering new homes' confirms that Hereford, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable *"where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community."*
- 6.4 Equally it is clear that failure to maintain a robust NPPF compliant supply of housing land will render the housing supply policies of the CS and by extension adopted NDPs out-of-date. Policy SS3 'Ensuring sufficient housing land delivery' thus imposes requirements on the Council in the event that completions fall below the trajectory set out in Appendix 4.
- 6.5 Bodenham is identified as one of the 119 figure 4.14 rural settlements within the Bromyard Housing Market Area (HMA). These settlements are to be the main focus of proportionate housing development in the rural areas. The strategy set out at CS Policy RA1 is to ascribe an indicative housing growth target for the settlements listed within each rural HMA. Within the Bromyard rural HMA the indicative minimum housing growth is 15%. The position as at 1 April 2014 for Bodenham parish is set out in the table below. This expresses a minimum housing requirement to 2031 of 67, but does not take account of the 40 dwellings approved in outline opposite England's Gate PH. Taking this into account the residual minimum requirement is 27 dwellings. The fact that housing requirements relate to the parish as opposed to the settlement accounts for the disparity with the Parish Council figures expressed in their objection.

Parish/Group	Settlements in fig 4.20 and 4.21	Number of households in parish	% growth in Local Plan Core Strategy	Number of new houses required to 2031	Housing Completions 2011 – 2014	Housing commitments as at 1 April 2014	Total housing remaining
Bodenham	Bodenham; Bodenham Moor	481	15	72	0	5	67

- 6.6 The preamble to RA2 – Housing in settlements outside Hereford and the market towns states: *"Within these [figure 4.14] settlements carefully considered development which is proportionate to the size of the community and its needs will be permitted."* The proactive approach to neighbourhood planning in Herefordshire is also noted and that when adopted, Neighbourhood Development Plans (NDPs) will be the principal mechanism by which new rural housing will be identified, allocated and managed.
- 6.7 However, and particularly until NDPs are adopted, RA2 is positively expressed insofar as housing proposals will be permitted where the four criteria of the policy are met. Moreover, the Inspector's Main Modification 038 confirms that in the period leading up to the definition of appropriate settlement boundaries i.e. until such time as NDPs define a settlement boundary,

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

the Council “will assess any applications for residential developments in Figure 4.14 and 4.15 against their relationship to the main built up form of the settlement.” Thus with the NDP not yet sufficiently advanced to attract weight for decision-taking, policy RA2 is key to assessment of planning applications that deliver housing in the rural settlements.

- 6.8 Policy RA2 states that housing proposals will be permitted where the following criteria are met:
- *Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified in fig 4.15 proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement; and/or result in development that contributes to or is essential to the social well-being of the settlement concerned.*
 - *Their locations make the best and full use of suitable brownfield sites wherever possible.*
 - *They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting.*
 - *They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in the particular settlement, reflecting local demand.*
- 6.9 Criteria 1 and 3 are, in your officers' opinion indivisible, with the 'gateway' test being that the application site must be within or adjacent to the main built up part of the settlement. In this instance the site is considered to relate well to the built up part of the village. It is enclosed by residential development to the west and north, which extends eastwards beyond the northern extent of the site, with extensive commercial orchards to the east. The Grade II listed Brook House lies to the south. The application site is relatively well contained visually by the existing hedgerows and landform, which in turn limits the extent to which the development would be seen.
- 6.10 The response to existing development locally has been to devise a layout and design that retains and enhances existing boundary planting, with significant landscaped buffer to north and south incorporating extensive public open space. This has the effect of protecting the living conditions at adjoining properties and preserving the setting of listed buildings that adjoin to north, west and south, as discussed in detail within the heritage chapter below. In this respect the application has drawn no objection from the landscape or historic building officers and is considered to respond positively to the surrounding environment and landscape setting. The scheme is thus considered to respond positively to criteria 1 and 3 in that it will represent a high quality and sustainably designed layout that is appropriate to its context.
- 6.11 The site is not previously developed or brownfield land, but the policy does not exist to prevent consideration of appropriate greenfield sites capable of accommodating sustainable development. Moreover the NDP is not sufficiently advanced to attract weight for decision taking.
- 6.12 Whilst there are a comparatively high proportion of four and five bed dwellings among the open market units, with no 2-bed dwellings, the affordable housing comprises an acceptable mix of 1, 2, 3 and 4-bed dwellings and is supported; albeit the Housing Officer would like to see greater dispersal of the affordable housing across the site.
- 6.13 Whilst recognising the scheme would result in the minimum target for housing growth within the parish being exceeded, the Inspector's report and relevant appeal decisions confirm that this should not act as a ceiling to residential development where it would accord with the Development Plan. Thus, when assessed against the criteria of RA2, and in the absence of an adopted NDP and/or compelling evidence to support an argument that the scheme would represent disproportionate growth causing overriding harm, officers consider the proposal to accord with the requirements of RA2.

Further information on the subject of this report is available from Mr Edward Thomas on 01 432 260479

Impact on designated heritage assets, biodiversity and landscape

- 6.14 Policies relating to landscape, biodiversity and heritage assets underpin the assessment taken in relation to Policy RA2.
- 6.15 Policy LD1 'Landscape and townscape' requires, *inter alia*, that development should demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas. Schemes should also incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings, with the maintenance and extension of tree cover where important to amenity...through new planting to support green infrastructure.
- 6.16 In this case the site has been categorised by the Council's SHLAA as having low/minor constraints. It represents, in the Council's assessment, land of lesser environmental sensitivity that is appropriate for development and it can be assumed that this has influenced site selection. Notwithstanding the SHLAA, the detailed layout takes care to respond sensitively to the strong boundary features by conserving and enhancing them where possible and maintaining a large landscaped buffer against heritage assets adjoining. Significant additional tree planting is proposed, on a site that has, boundary planting aside, no landscape features. Off-site trees are safeguarded by the decision to locate development away from site boundaries outside Root Protection Areas. The scheme is also accompanied by a landscape management strategy and this will be governed by condition. Against its current agricultural use the scheme is considered to represent an opportunity to enhance bio-diversity. Officers consider the scheme complies with Policy LD1 in every respect.
- 6.17 Policy LD2 'Biodiversity and geodiversity' requires the conservation, restoration and enhancement of the county's biodiversity and geodiversity assets. Development considered likely to harm sites and species of European importance will not be permitted. This links back to NPPF paragraph 118 – a restrictive policy. In this case the ability to connect foul drainage to the mains sewer has overcome any doubt that the scheme might pose a threat to the conservation objectives of the River Wye SAC/SSSI and its tributaries. As above, through significant native species landscaping, the proposal offers the opportunity to enhance bio-diversity and Green Infrastructure as per the requirements of Policy LD3.
- 6.18 Policy LD4 'Historic Environment and Heritage Assets', requires, *inter alia*, that development affecting heritage assets and the wider historic environment should preserve or where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design. In this case the Conservation Manager (Historic Buildings) is satisfied that the proposal is appropriate to the wider setting of the historic environment. Although it is inevitable that development on a greenfield site will impact the landscape setting of the village and the associated setting of the designated heritage assets locally, the scheme is designed in a manner that renders the impact acceptable and less than substantial harm will result. This renders the scheme acceptable with regard to Policy LD4 and the NPPF.

Surface Water and Land Drainage Run-off

- 6.19 Surface water flooding has, in the relatively recent past, caused inundation of a significant number of properties within the vicinity of the application site, particularly to the north-west at Orchard Close. Following the 2007 floods, parishioners established the Bodenham Flood Protection Group (BFPG). The BFPG has been very active in ensuring proper maintenance of land drainage features and in securing, via Environment Agency funding, flood prevention measures for those houses affected by flood events. That the issue is a significant cause for concern is clear.

6.20 It is a key consideration of CS Policy SS7 that development should minimise the risk of flooding and making use of sustainable drainage methods. This takes account of NPPF requirements as expressed at paragraph 100-104. Policy SD3 'Sustainable water management and water resources' states as follows:-

"Measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk; to avoid an adverse impact on water quantity; to protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation. This will be achieved by ensuring that:

1. development proposals are located in accordance with the Sequential Test and Exception Tests (where appropriate) and have regard to the Strategic Flood Risk Assessment (SFRA) 2009 for Herefordshire;

2. development is designed to be safe taking into account the lifetime of the development, and the need to adapt to climate change by setting appropriate floor levels, providing safe pedestrian and vehicular access, where appropriate, implementing a flood evacuation management plan and avoiding areas identified as being subject to Rapid Inundation from a breach of a Flood Defence;

3. where flooding is identified as an issue, new development should reduce flood risk through the inclusion of flood storage compensation measures, or provide similar betterment to enhance the local flood risk regime;

4. development will not result in the loss of open watercourse, and culverts should be opened up where possible to improve drainage and flood flows. Proposals involving the creation of new culverts (unless essential to the provision of access) will not be permitted;

5. development includes appropriate sustainable drainage systems (SuDS) to manage surface water appropriate to the hydrological setting of the site. Development should not result in an increase in runoff and should aim to achieve a reduction in the existing runoff rate and volumes, where possible;

6. water conservation and efficiency measures are included in all new developments, specifically:

- residential development should achieve Housing - Optional Technical Standards - Water efficiency standards. At the time of adoption the published water efficiency standards were 110 litres/person/day ; or*
- non-residential developments in excess of 1,000 sq.m gross floorspace to achieve the equivalent of BREEAM 3 credits for water consumption as a minimum;*

7. the separation of foul and surface water on new developments is maximised;

8. development proposals do not lead to deterioration of EU Water Framework Directive water body status;

9. development should not cause an unacceptable risk to the availability or quality of water resources; and

10. in particular, proposals do not adversely affect water quality, either directly through unacceptable pollution of surface water or groundwater, or indirectly through overloading of Wastewater Treatment Works.

Development proposals should help to conserve and enhance watercourses and riverside habitats, where necessary through management and mitigation measures for the improvement and/or enhancement of water quality and habitat of the aquatic environment. Proposals which are specifically aimed at the sustainable management of the water environment will in particular be encouraged, including where they are required to support business needs such as for agriculture. Innovative measures such as water harvesting, winter water storage and active land use management will also be supported. In all instances it should be demonstrated that there will be no significant adverse landscape, biodiversity or visual impact."

- 6.21 Policy SD4 'Waste water treatment and river water quality' requires that development should not undermine the achievement of water quality targets for rivers within the county, in particular through the treatment of wastewater. In the first instance developments should seek to connect to the existing mains wastewater infrastructure network. Where this option would result in nutrient levels exceeding conservation objectives targets, in particular additional phosphate loading within a SAC designated river, then proposals will need to fully mitigate the adverse effects of waste water discharges into rivers caused by the development.
- 6.22 In accordance with NPPF and CS requirements the application is accompanied by a site specific Flood Risk Assessment (FRA). This identifies that the site is wholly within Flood Zone 1 and thus has the lowest annual probability of flooding. The applicant's FRA also identifies that the risk from surface water flooding, which enters the northern part of the site at the field gate on Chapel Lane. As above, the strategy is to improve the surface water flooding on Chapel Lane by routing all surface water in a southerly direction to the Moor Brook via the attenuation pond. In addition, overland flow entering a blind watercourse next to Brook House will be diverted to the attenuation pond, the outfall being 'throttled' to a run-off that mimics the greenfield run-off rate.
- 6.23 The surface water flooding on Chapel Lane into Orchard Close, including the junction with the C1125, and on approach to the bridge over the Moor Brook on approach to the site from the south. The source of this overland flow is surrounding higher ground allied to perceived deficiencies with the capacity of the storm water drainage on Chapel Lane and the design and maintenance of other land drains locally. In addition to the inundation of property, including Brook House, recent flood events have surcharged The Moor foul sewerage pumping station, which has resulted in effluent entering the watercourse. The concerns in relation to this scheme are, in broad terms, as follows:
- The development with its hard surfaced areas (roofs and roads), will lead to greater and faster surface water run-off which will exacerbate the existing surface water drainage issue;
 - The proposed bund is situated too far south to ensure that surface water drainage will be conveyed to the south and does nothing to mimic natural drainage;
 - Conveying all surface water drainage to the Moor Brook might be expected to exacerbate surface water flooding to the south of the site at Brook House and land at Eastfields Farm. This will increase the risk to the foul pumping station;
 - The intention to reduce outfall from the attenuation to 1.5l/sec might mimic existing run-off rates, but is lower than EA guidance suggests as necessary or desirable (5l/sec) to prevent blockages;
 - Who is responsible for management and maintenance of the system?
- 6.24 Officers agree with the Parish Council's comments in section 12 of their response at 5.1 that pre-commencement planning conditions should be imposed to govern the detailed design of both foul and surface water drainage. Welsh Water will need to agree formal adoption of the drainage infrastructure via S104 of the Water Industry Act and such a planning condition does not, therefore, present an unreasonable request of a developer. The recommendation is presented on this basis. Such conditions will also ensure further consultation as necessary with the River Lugg Internal Drainage Board and address the Parish Council/BFPG concerns in relation to the position of the on-site bund and discharge rates.
- 6.25 Furthermore, whilst Welsh Water *did* object originally in relation to the capacity of the Moor Brook pumping station, this objection has now been withdrawn on the basis that a point of connection further to the north and thus bypassing the Moor Brook pumping station is considered acceptable. A further technical note from the applicants has confirmed that in order to drain effluent to this connection point the site will have to be equipped with its own pumping station with rising main also constructed so as to enable communication with the existing mains. Although officers are conscious of Parish Council concerns in relation to the ability of the

northern pumping station at Millcroft to accept additional flows, Welsh Water has no objection, which undermines the ability of the Council to object in this regard.

6.26 Moreover, diverting the foul flows to the Millcroft pumping station will enable the Council to adopt a Habitats Screening Assessment report that concludes no likely significant effects on the integrity of the River Wye SAC/SSSI, thus overcoming the Natural England objection which is lodged on this basis and ensuring compliance with CS Policies SD3 and SD4. Updated responses are expected from the Council's Ecologist and Natural England in due course. The recommendation nonetheless reflects the outstanding objections.

6.27 In response to the two outstanding items set out in the Land Drainage Consultant's response the applicants have responded as follows:

1. Confirmation that the site is not at risk of fluvial flooding when the effects of climate change are incorporated into the fluvial flood extents.

The site is approximately 3.5m above the brook and much higher than the road. As part of the consideration of fluvial flood risk the impact of climate change on flood levels was not considered to be significant. The Environment Agency outlines guidance for planners, which recommends contingency allowances to account for net sea level rises. This represents an increase of 4.0mm between 1990 and 2025, 8.5mm between 2025-2055 and 12mm between 2055-2085. Whilst this may be significant on other sites and in other parts of the Country, this is not a factor which is going to affect this site, upon completion or in its occupation. The FRA demonstrates that the site is not at risk from fluvial flooding and there is no worsening outflow as a result of the development. The development is therefore compliant with national policy.

2. Further details of the access and egress arrangements for the development including details of the depth and velocity of surface water flooding on the Moor to confirm access to the site will not be restricted during a flood event.

The lowest level at the junction of Chapel Lane with the main road is 63.51, and the lowest level on Chapel Lane is 63.34. Orchard Close has levels which are lower than the main road. This shows that the maximum depth of water can only be 170mm on Chapel Lane, with any excess water, flowing away from Chapel Lane. Given the maximum depth of the water, velocity is not considered to be an issue which will cause issues of accessibility. It is the view of the flood and drainage engineers that even if there is road flooding at The Brook, safe access and egress can be achieved to the north, which will not prevent vehicular access to the new development.

6.28 In conclusion on this issue, officers are aware of the very genuine and longstanding concerns in relation to the potential for the scheme to exacerbate surface water flooding. There is very clear evidence of recent flood events causing damage to property and distress to those affected. Without the continued maintenance and monitoring of the volunteer members of the BFPG, there is every potential that such events would have happened since.

6.29 Nonetheless, the scheme must be considered on its merits and in the absence of objection from the River Lugg IDB, Environment Agency and Land Drainage consultant and with the reasonable imposition of planning conditions (as requested by the Parish Council and Welsh Water), officers consider whilst there are legitimate grounds for concern based on past experience and local knowledge, these do not equate to a defensible basis for refusal. Subject to satisfactory schemes coming forward in response to planning conditions, officers are content that the scheme would accord with NPPF and NPPG guidance and CS policy.

Traffic Impacts

6.30 Concerns have been expressed in relation to trip generation and the ability of the network to cope with additional demand. Likewise concern is expressed in relation to the intention to form

the vehicular access with the C1125, where measured speeds confirm poor observance of the 30mph speed limit. Core Strategy Policy MT1 'Traffic management, highway safety and promoting active travel' deals with highway matters.

- 6.31 Policy MT1 requires that development proposals should demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. Development should also promote and, where possible, incorporate integrated transport connections and supporting infrastructure (depending on the nature and location of the site), including access to services by means other than private motorised transport and encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities.
- 6.32 Development should also ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services and protect existing local and long distance footways, cycleways and bridleways unless an alternative route of at least equal utility value can be used, and facilitate improvements to existing or provide new connections to these routes, especially where such schemes have been identified in the Local Transport Plan and/or Infrastructure Delivery Plan. In designing schemes regard should be had to the Council's Highways Development Design Guide and cycle and vehicle parking standards as prescribed in the Local Transport Plan - having regard to the location of the site and need to promote sustainable travel choices.
- 6.33 Where traffic management measures are introduced they should be designed in a way which respects the character of the surrounding area including its landscape character. Where appropriate, the principle of shared spaces will be encouraged.
- 6.34 In response to the proposed point of access the Traffic Manager has no objection. Whilst accepting measured speeds indicate poor observance of the speed limit extending through the village, the visibility splays are acceptable in relation to measured speeds. Moreover, the Traffic Manager is content there is no quantifiable evidence to suggest that the highway network is not capable of safely accommodating the traffic generated.
- 6.35 In terms of the promotion of sustainable travel, the scheme promotes a network of internal footways and shared spaces, with pedestrian access exiting out to a dropped crossing over the Chapel Lane junction linking to the bus stop just to the north. Deficiencies with the pavement network locally are noted, with an absence of footway either side of the C1125 heading north until the other side of Bache's Bargains. However, this is due to limited carriageway width and proposal to potentially narrow the carriageway to facilitate the provision of a footway have not been encouraged by the Council's highway managers. It is because of this that the scheme accommodates an on-site LEAP.
- 6.36 Insofar as is possible and practicable the scheme is considered to accord with the relevant requirements of Policy MT1.

Odour

- 6.37 The application site is a short distance to the north-east of Eastfields Farm; an intensive dairy unit. Concerns have been expressed in relation to the potential odour nuisance arising from the intensive livestock operations and whether the application site is appropriate for residential development as a consequence. There is some conjecture as to whether the farm has been the source of complaints in relation to odour and associated issues such as fly infestation. What is

beyond dispute, however, is that planning applications for dwellings located immediately adjacent the farm have been refused for odour/nuisance related reasons in the past.

- 6.38 In response to this issue the applicants have commissioned an odour assessment, which has been updated in the light of local objections and EHO input. The updated report forms the basis of the Environmental Health Officer's comments report at section 4.11 above. The officer concludes a refusal on this issue would be unlikely to succeed if tested at appeal.

Other Matters

- 6.39 Policy SD1 'Sustainable design and energy efficiency' requires that development proposals should create safe, sustainable, well integrated environments for all members of the community.
- 6.40 *"In conjunction with this, all development proposals should incorporate the following requirements:*
- *ensure that proposals make efficient use of land - taking into account the local context and site characteristics,*
 - *new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. while making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design;*
 - *safeguard residential amenity for existing and proposed residents;*
 - *ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination, land instability or cause ground water pollution;*
 - *where contaminated land is present, undertake appropriate remediation where it can be demonstrated that this will be effective; ensure that distinctive features of existing buildings and their setting are safeguarded and where appropriate, restored;*
 - *utilise physical sustainability measures that include, in particular, orientation of buildings, the provision of water conservation measures, storage for bicycles and waste including provision for recycling, and enabling renewable energy and energy conservation infrastructure; where possible, on-site renewable energy generation should also be incorporated;*
 - *create safe and accessible environments, and that minimise opportunities for crime and anti-social behaviour by incorporating Secured by Design principles, and consider the incorporation of fire safety measures, particularly;*
 - *ensuring designs can be easily adapted and accommodate new technologies to meet changing needs throughout the lifetime of the development; and*
 - *utilise sustainable construction methods which minimise the use of non-renewable resources and maximise the use of recycled and sustainably sourced materials;*

All planning applications including material changes of use, will be expected to demonstrate how the above design and energy efficiency considerations have been factored into the proposal from the outset."

- 6.41 In this instance the scheme has, in gross terms, a relatively low density of 16 dwellings/ha, but this incorporates the significant areas of public open space. Relative to the local setting, which includes a number of listed buildings, the scheme is considered to represent an appropriate density. Already addressed is the fact that the scheme would safeguard residential amenity for existing and proposed residents. Dwellings are well spaced on site, with generous private gardens. Although criticised by the Parish Council for being insular, the retention of hedgerow features will ensure an acceptable relationship to existing dwellings and is in accordance with landscape character and green infrastructure policy requirements. The site is not contaminated and would not be prone to noise, light or air contamination, land instability or be likely to cause groundwater pollution. In terms of water usage a condition is required in order that compliance with SD3 can be achieved.

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

- 6.42 Policy SD1 requires that proposals should be designed in a way which accounts for local characteristics and maintains local distinctiveness. As detailed above, and set out in the applicant's Design and Access Statement, the proposed development has accounted for the local architectural vernacular and layout, illustrated through the evolution of the site and the creation of character areas. The design of the scheme has been sympathetic to existing development in the village and is considered to be compliant with this emerging policy.
- 6.43 Otherwise, the developer will be obliged to respond to the standards of energy efficiency as laid out in Part L of the Building Regulations. These Regulations have brought about significant changes to the energy efficiency of new buildings and continue to be updated in line with new building methods and technologies. The development will accord with the Regulations, ensuring that standards of energy efficiency in the development mirror the national standards and can be updated should the Government publish revised Regulations during the construction period. Overall, the proposal is considered to comply with Policy SD1.

Ecology

- 6.44 The Conservation Manager (Ecology) has no objection in relation to protected species. A planning condition is recommended requiring the formulation and submission of a construction and environmental management plan to protect the Moor Brook watercourse from potential pollution during the construction phase. Likewise tree and hedgerow protection measures will be subject of a condition. On this basis the Landscape Officer and Historic Buildings officers have no objection.

Public Open Space

- 6.45 The Parks and Countryside Officer supports the on-site provision of a Locally Equipped Area of Play 'LEAP' and the scheme promotes large areas of publicly accessible open space, which exceed the policy requirement.
- 6.46 Due to the proximity to existing dwellings an hours of working condition is recommended to safeguard amenity.

Housing Requirements in the Rural Settlements and the NDP Process

- 6.47 The Parish Council comments were written at a point in time when the rural area housing requirements had been assessed as a proportion of the number of dwellings located within the relevant settlement boundaries. However, it has since been clarified that the minimum growth target is expressed as a percentage of the number of houses within the parish as a whole, which had the effect of increasing the CS requirement within Bodenham parish from 40 to 67. This explains the apparent contradiction between the position expressed in the Parish Council's response on this point and the table set out at 6.6 above.
- 6.48 It is thus no longer the case that the England's Gate permission fulfils the minimum requirement for growth in the parish. This, allied to the fact that the NDP is not progressed to Regulation 16, and the previously expressed view that the minimum target is not a ceiling, are factors that must be taken into account when determining the application. In addition to the fact that the site is available and deliverable now, these are significant material considerations weighing in favour of approval.

S106 Agreement

- 6.49 The Draft Heads of Terms are appended to this report. Contributions are made towards educational infrastructure at the local primary school, sustainable transport infrastructure and waste and recycling. The provision of affordable housing is also incorporated, with local

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

connection clauses included. The sustainable transport contribution identifies off-site highway improvements within the vicinity of the application site, expenditure of which will be discussed in liaison with the Parish Council.

7. Summary and Conclusions

- 7.1 The delivery of 49 dwellings, including 35% affordable, and community open space would contribute towards fulfilment of the economic and social roles of sustainable development. The site was also assessed as having low/minor constraints in the SHLAA and this is borne out by the respective responses of the landscape, historic buildings and ecology officers; none of whom raise objection to the proposals.
- 7.2 Although exceeding the minimum requirement for housing in the parish, this does not equate to a moratorium on the grant of further planning permissions and it is clear that the CS policies relevant to the supply of housing are positively worded such that unless material considerations indicate otherwise, planning permission should be granted where development is considered sustainable. This is particularly the case in the absence of Neighbourhood Development Plans.
- 7.3 In this instance, and as discussed in detail above, the scheme is considered to respond well to the landscape setting of the village, whilst preserving the setting of adjacent listed buildings.
- 7.4 Concerns expressed in relation to foul and surface water drainage have been very carefully assessed, but in the absence of objection from Welsh Water and/or the River Lugg IDB and with the imposition of planning conditions these issues are not, in your officer's opinion, sustainable grounds for refusal.
- 7.5 The scheme is considered to represent sustainable development that accords with the Development Plan and is recommended for approval accordingly. Members are advised that the Secretary of State is considering whether or not to exercise his call in powers in respect of this application. The recommendation is amended to reflect this.

RECOMMENDATION

Subject to:

- **The Secretary of State confirming he will not exercise his call in powers in respect of this application;**
- **Removal of the Natural England objection; &**

Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any other further conditions considered necessary:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with approved plans**
- 3. C01 Samples of external materials**
- 4. H03 Visibility splays**
- 5. H06 Vehicular access construction**

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

6. H09 Driveway gradient
7. H11 Parking - estate development (more than one house)
8. H17 Junction improvement/off site works
9. H18 On site roads - submission of details
10. H19 On site roads - phasing
11. H20 Road completion in 2 years
12. H21 Wheel washing
13. H27 Parking for site operatives
14. H29 Secure covered cycle parking provision
15. The recommendations set out in the ecologist's report from Ecology Solutions dated October 2015 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, a full working method statement for the protected species present together with a habitat enhancement plan integrated with the landscape proposals should be submitted to, and be approved in writing by, the local planning authority, and the work shall be implemented as approved.

Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the NPPF and Policy LD3 of the Herefordshire Local Plan – Core Strategy.

16. Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 shall be submitted to and approved in writing by the local planning authority and implemented as approved.

Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy.

17. Prior to commencement of the development, a Tree Protection Plan to include hedgerow protection following “BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations” should be compiled based upon this survey should be submitted to, and be approved in writing by, the local planning authority, and the scheme shall be implemented as approved.

Reason: To ensure that landscape features are protected so as to comply with Core Strategy Policies LD1, LD2 and LD3.

19. G04 Protection of trees/hedgerows that are to be retained
20. G10 Landscaping scheme
21. G11 Landscaping scheme - implementation
22. G14 Landscape management plan

23. **G19 Details of play equipment**
24. **I16 Restriction of hours during construction**
25. **Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise and vibration arising from the construction process. Specific measures to safeguard the integrity of the adjacent Moor Brook should be highlighted. The Plan shall be implemented as approved.**

Reasons: To ensure that all species and sites are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the NPPF and Policy LD3 of the Core Strategy.

26. **Only foul water from the development site shall be allowed discharge to the public sewerage system and this discharge shall be made between manhole reference number SO54504801 and SO54504803 as indicated on the extract of the Sewerage Network Plan attached to this decision notice.**

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

27. **No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.**

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

28. **I51 Details of slab levels**
29. **C47 Site investigation - archaeology**

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2. HN04 Private apparatus within highway**
- 3. HN05 Works within the highway**

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

- 4. **HN08 Section 38 Agreement & Drainage details**
- 5. **N11C General**
- 6. **S106**

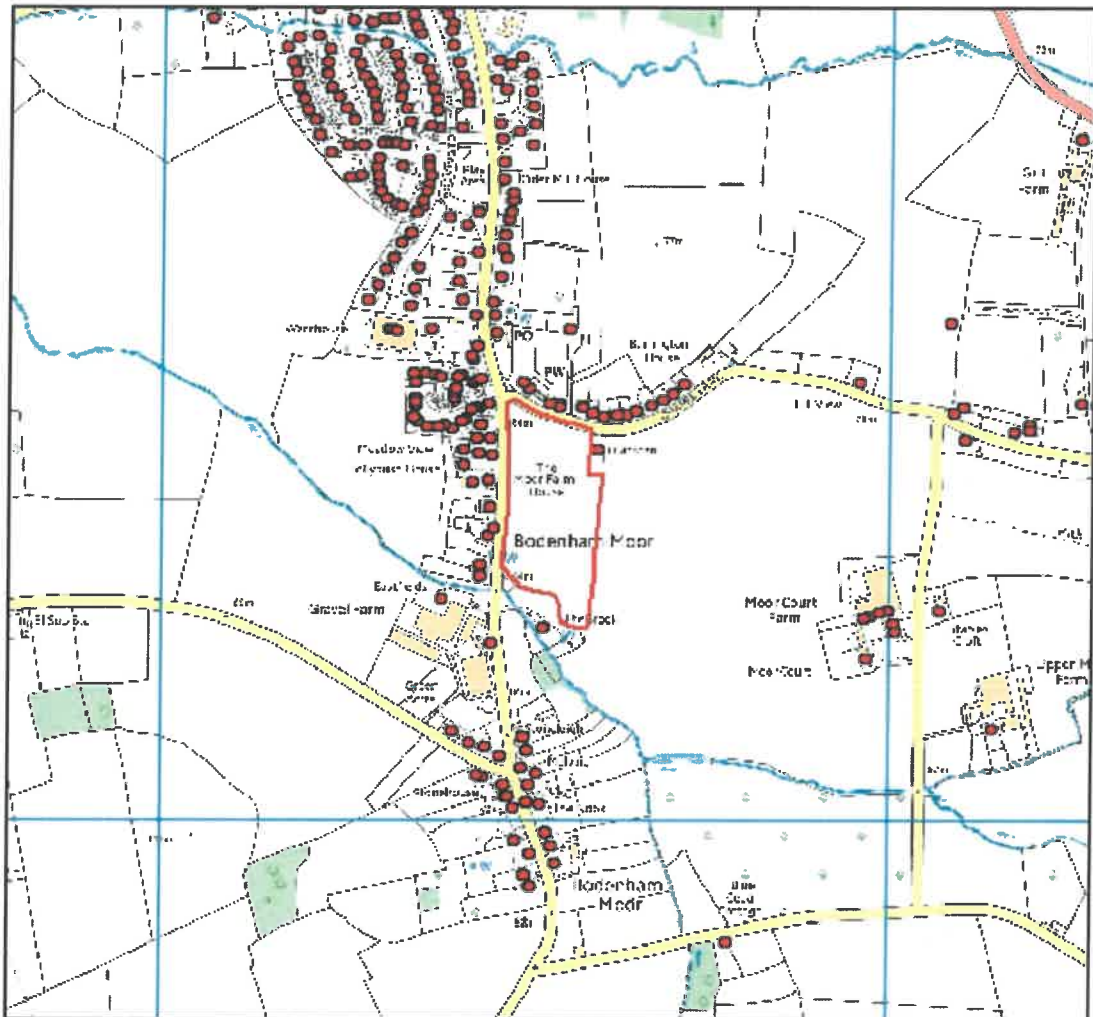
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: 150437

SITE ADDRESS : LAND TO THE SOUTH OF CHAPEL LANE, BODENHAM MOOR, HEREFORDSHIRE

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Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

DRAFT HEADS OF TERMS

Proposed Planning Obligation Agreement Section 106 Town and Country Planning Act 1990

Application Reference No – 150437

Site address:

Land to the south of Chapel Lane, Bodenham Moor, Herefordshire

Planning application for:

Proposed residential development of 49 dwellings, including affordable housing, associated parking and landscaping

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1st April 2008, and Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended). All contributions in respect of the residential development are assessed against general market units only except for item 3 which applies to all new dwellings.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):

£1,084.00 (index linked) for a 2 bedroom open market dwelling

£1,899.00 (index linked) for a 3 bedroom open market dwelling

£3,111.00 (index linked) for a 4+ bedroom open market dwelling

to provide enhanced educational infrastructure at enhanced educational infrastructure at St Michaels Bodenham Primary School, and shall be paid in accordance with a phasing programme to be agreed in writing with Herefordshire Council.

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):

£1720.00 (index linked) for a 2 bedroom open market dwelling

£2,580.00 (index linked) for a 3 bedroom open market dwelling

£3,440.00 (index linked) for a 4+ bedroom open market dwelling

to provide a sustainable transport infrastructure to serve the development, and shall be paid in accordance with a phasing programme to be agreed in writing with Herefordshire Council, and may be pooled with other contributions if appropriate.

The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:

- Improvements to the pedestrian facilities in Bodenham
- Improvements to the cycling facilities in Bodenham
- Improvements to the bus passenger facilities in Bodenham
- Improvements to the public right of way network in Bodenham within the vicinity of the development

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £80 (index linked) per dwelling. The contribution will be used to provide 1x waste and 1x recycling bin for each dwelling. The sum shall be paid in accordance with a phasing programme to be agreed in writing with Herefordshire Council
4. The developer covenants with Herefordshire Council to provide 0.24 hectares of on-site green infrastructure comprising;

0.095 (950m²) of Children's play is required (@ 0.8ha per 1000 pop) of which

0.03ha (300m²) should be formal play (@ 0.25ha per 1000 pop Fields in Trust guidance)

The on-site green infrastructure shall be made available on or before the occupation of the 1st open market dwellinghouse.

Note: There is an existing play area which is within acceptable distances from the proposed development but difficult to access due to lack of footways. The existing facility only caters for infants and juniors and given accessibility issues the Parish Council has confirmed the preference for on-site play provision.

5. The maintenance of the on-site green infrastructure will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council and/or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

NOTE: Any attenuation basin and/or SUDS which may be transferred to the Council will require a commuted sum calculated in accordance with the Council's tariffs over a 60 year period

6. The developer covenants with Herefordshire Council that 35% (17 on basis of a gross development of up to 49 units) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.
7. All the affordable housing units shall be completed and made available for occupation in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
8. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-:
 - 8.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
 - 8.2. satisfy the requirements of paragraphs 9 & 10 of this schedule
9. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence

to a person or persons one of whom has :-

- 9.1. a local connection with the parish of Bodenham
 - 9.2. in the event of there being no person with a local connection to Bodenham any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 9.1 above.
10. For the purposes of sub-paragraph 9.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - 10.1. is or in the past was normally resident there; or
 - 10.2. is employed there; or
 - 10.3. has a family association there; or
 - 10.4. a proven need to give support to or receive support from family members; or
 - 10.5. because of special circumstances;
 11. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3 and 4 above, for the purposes specified in the agreement within 10 years of the date of the final payment being made, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
 12. The sums referred to in paragraphs 1, 2, 3 and 4 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
 13. If the developer wishes to negotiate staged and/or phased trigger points upon which one or more of the covenants referred to above shall be payable/delivered, then the developer shall pay a contribution towards Herefordshire Council's cost of monitoring and enforcing the Section 106 Agreement. Depending on the complexity of the deferred payment/delivery schedule the contribution will be no more than 2% of the total sum detailed in this Heads of Terms. The contribution shall be paid on or before the commencement of the development.
 14. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

Peter Clasby
Planning Obligations Manager

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APPENDIX 4
Photographs

**APPENDIX 4
Photographs**



APPENDIX 5
Landscape Consultant's Report

Land adjacent to Millcroft Road - Bodenham Moor Preliminary Landscape and Visual Appraisal



Contents

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6.0 Visual Appraisal	6
7.0 Landscape Proposals & Mitigation	10
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1.0 Introduction & Location

1.1 Reckless Orchard was commissioned in December 2017 to carry out a preliminary landscape and visual appraisal of a proposed housing development within the village of Bodenham Moor, north of Hereford; and to advise the project team on matters relating to landscape and visual impact.

1.2 The scope and methodology of the assessment was based on the 'Guidelines for Landscape and Visual Impact Assessment – Third Edition' published by The Landscape Institute and Institute of Environmental Management & Assessment in 2013.

1.3 The key criteria assessed within this report can be summarised as follows:

(i). *Landscape character:* effects on the landscape or townscape which may arise where the character of areas with a particular scenic quality or merit are impacted on by the development.

(ii). *Landscape features:* impacts on landscape features such as hedgerows, trees or landform which may arise where features are lost or substantially modified as a result of the development.

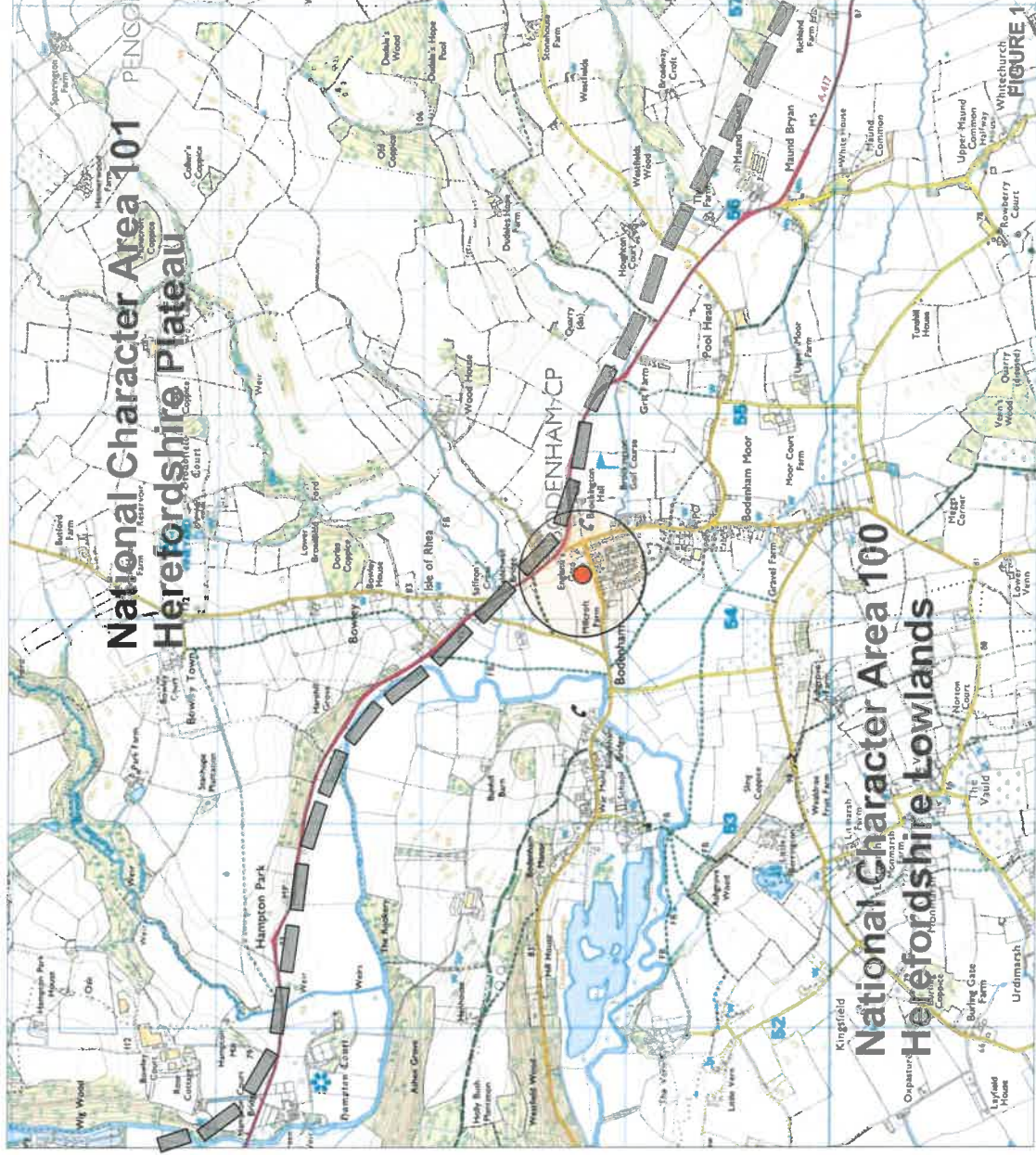
(iii). *Visual amenity:* effects on visual amenity which may arise where features intrude into or obstruct the views of people, or where there is some other qualitative change to the view seen.

1.4 The landscape and visual appraisal was carried out through a desk study of relevant documents and by field study work undertaken on January 3rd 2018. The purpose of the site visit was to establish:

- The content and quality of the site's existing landscape features.
- The character of the site and its immediate environs.
- The site's visual relationship with its surroundings.
- The contribution of the site to the wider landscape.
- The people most likely to be affected by changing views resulting from development of the site.

This initial assessment document has been produced in order to inform the client's representation to the Parish Council regarding the amendment of the Settlement Boundary line.

1.5 The site is located off of Millicroft Road on the north-western side of the village of Bodenham Moor at GR SO 542 512. Bodenham Moor lies close to the boundary between the Herefordshire Lowlands and Herefordshire Plateau National Landscape Character Areas.

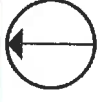


2.0 Site Context

- 2.1 The site is located off of Millcroft Road on the north-western edge of the village of Bodenham Moor. Bodenham Moor and the nearby village of Bodenham are situated in the valley of the River Lugg. On the west bank of the river the ground rises to Dimmore Hill at 179m AOD. On the eastern side of the river, and further south, the land rises to 120m AOD at the Vauld and to 255m AOD on Hegdon Hill to the north east. Further to the north and west the landscape becomes more wooded, including the parkland landscape of Hampton Court estate.
- 2.2 The surrounding countryside around Bodenham Moor is rural, comprising a mix of landuses from large-scale arable fields to small orchards. The fields are often defined by mature hedgerows with occasional hedgerow trees. A ribbon of trees defines the banks of the River Lugg and wide ditches, some with walled banks, provides a distinctive character along some roads. The built character of the village is a mixture of styles: black and white half-timbered houses, old brick and stone cottages and farmhouses, with a substantial area of 1970s and 1980s houses and bungalows. A new housing development is currently being constructed at the northern end of the village.
- 2.3 The proposed development site lies to the north of Millcroft Road close to the recently consented residential site at England's Gate. To the east of the site lies a group of Grade 11 listed buildings, originating from the 17th Century and consisting of the England's Gate Inn (1082052), its converted stable building (1179646) and an outbuilding (1082053). Between this group and the proposed site there is a remnant field hedge and the route of a new footpath and cycleway proposed as part of the England's Gate application.
- 2.4 To the north and west of the proposed development site the landuse is arable and the site forms the corner of an expansive arable field. This field has been formed over the years from a number of smaller fields as shown on the 1886 OS extract attached. This historic map illustrates the many orchards that once characterised the area: a very few of which still remain on the outskirts of the village.
- 2.5 To the south of the site, and on the opposite side of Millcroft Road, lie a number of detached and semi-detached residential properties with architecture characteristic of the 1970s and 1980s. These form the northern edge of a large area of suburban-character development, with building styles at odds with the traditional local vernacular.
- 2.6 PRoWs with potential views of the site lie to the west.



FIGURE 2



3.0 Existing Site

- 3.1 The proposed development site is currently part of an expansive arable field and has no existing landscape feature of particular note within it. The southern boundary is defined by a dense and flailed field hedge. The eastern boundary is formed from a remnant field hedgeline with occasional bushes and one tree.
- 3.2 The site is essentially level and lies at approximately 65.00m AOD. The ground rises slightly towards the northeast where it meets the proposed site of the England's Gate development on the brow of the rise.
- 3.3 The Landscape Character Assessment, Supplementary Planning Guidance 2004 (update 2009), produced by Herefordshire County Council, identifies the site as being on the edge of the 'Principal Settled Farmlands' character area. Immediately to the west the report identifies the character as 'Riverside Meadows'.



View along Millcroft Road looking west. Arrow above indicates viewpoint location



Extract from 1886 OS map

FIGURE 3

4.0 Development Proposals Plan - nts

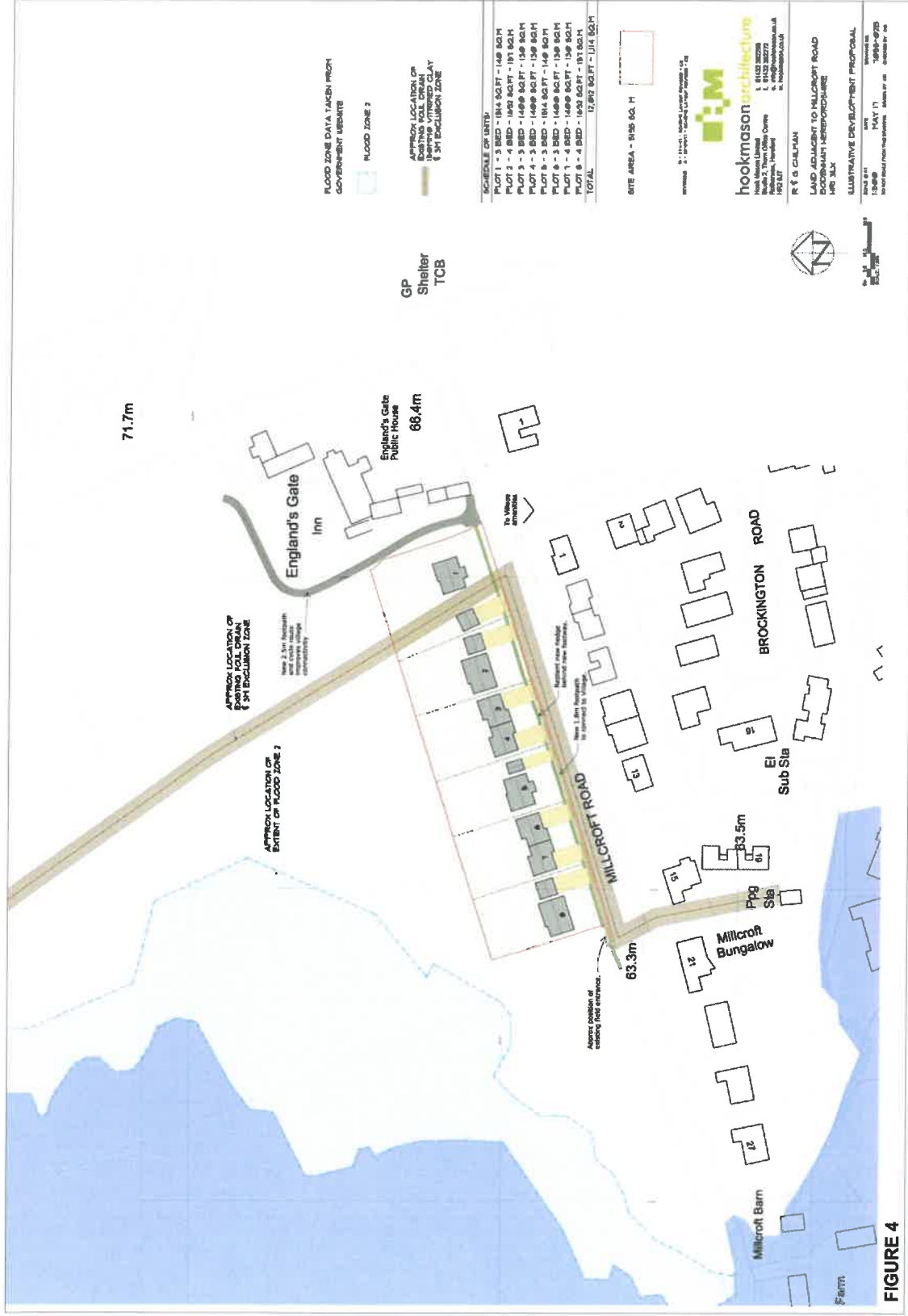


FIGURE 4

5.0 Topography & Viewpoints

- 5.1 The situation of the proposed development site, together with its slightly westerly aspect, results in the potential longer distance views of the site being predominantly from a northerly and westerly direction
- 5.2 The proposed development site is located on the north-western side of the village and is screened from longer distance views from the east and south by the lie of the land and the built fabric of the village. There will be views of the proposed development from the properties on the south side of Millcroft Road and from the rear of the England's Gate group of listed buildings. Likewise the development will be clearly visible for users of the adjacent Millcroft Road
- 5.3 Apart from views into the proposed development site from its immediate surroundings, any longer distance views towards the site are limited to the fields, footpaths and roads to the north and west of the site and the distant higher ground to the northwest.
- 5.4 Figure 5 highlights key views towards the site and identifies eight sample viewpoints which are illustrated and analysed on the following pages



FIGURE 5

6.0 Visual Appraisal

Viewpoint A

- 6.1 View from Public Right of Way BM10 footbridge.

A panoramic view eastwards towards the higher ground in the distance. The foreground is characterised by the unusual walled ditch and estate railings and dominated by the wide arable expanses of the fields. In the middle distance the houses along the A417, the England's Gate group and the houses along Millocroft Road are visible. Further to the south an orchard partially screens the more suburban area of Bodenham Moor.

- 6.2 The properties of the proposed development will be visible from this viewpoint although they will be seen almost end-on as the linear alignment of the layout follows the road frontage. The development will be seen in association with the proposed new housing at England's Gate. Although visible within the view, the proposed development will read as part of the village and provided suitable materials and colours are chosen, will not have a significant effect on the view.

- 6.3 Distance from viewpoint to site boundary - 0.475 km

Viewpoint B

- 6.4 View from Public Right of Way BM12.

Running from Millocroft Road southwards, this footpath provides extensive and panoramic views towards the higher ground of the 'Herefordshire Plateau'. The orchard in the near-distance gives echoes of the traditional landuse of the area. The remnant hedge only partially screens the suburban outskirts of the village

- 6.5 Glimpsed views of the proposed development would be visible through the orchard in winter, but would be barely noticeable when the leaves were on the trees. The proposed development will have a minimal effect on views from this location.

- 6.6 Distance from viewpoint to site boundary - 0.396 km

England's Gate proposal

Approximate linear extent of proposed development



VIEWPOINT A

Approximate linear extent of proposed development



VIEWPOINT B

6.0 Visual Appraisal

Viewpoint C

6.7 View from Public Right of Way BM10.

PRoW BM10 crosses the riverside arable and pasture fields as it links Millcroft Road with the A417. The nearby River Lugg provides the immediate visual interest but looking eastwards the view is expansive, the horizon punctuated by occasional hedgerow ash trees. The houses along the A417 are evident in the middle distance, as are the houses and bungalows along Millcroft Road. The building group at England's Gate and the site of the England's Gate housing are visible on their slight rise in the ground.

6.8 The proposed development will also be visible from this location. The view will be of the rear of the properties and their rear gardens. Provided the style, colours and materials of the new houses are carefully considered then there may be a positive effect on this particular view. The rear boundary treatment should also be carefully considered and the planting of a new native species field hedge with hedgerow trees would help enhance the view.

6.9 Distance from viewpoint to site boundary - 0.460 km.

Viewpoint D

6.10 View from Public Right of Way BM18

PRoW BM18 is the closest public right of way to the site, other than the road and pavements of Millcroft Road itself and its adjoining streets. This particular view is dominated by the foreground arable field and the houses and former bungalows along Millcroft Road. The bungalows and white facades of a number of the properties are particularly prominent. The listed buildings of England's Gate and the adjacent site for new housing are again visible as is the village hall and houses along the A417

6.11 The rears of the proposed new houses will be visible across the field and from this location will read as part of the England's Gate development. The comments regarding the design and landscape of the new houses noted at 6.8 above are even more pertinent to this viewpoint.

6.12 Distance from viewpoint to site boundary - 0.290 km.



VIEWPOINT C



VIEWPOINT D

6.0 Visual Appraisal

Viewpoint E

6.13 View from A417.

Approaching Bodenham Moor from the north on the A417, the road passes between old orchards with views of the higher ground to the south visible through the trees. The bungalows and white facades of the properties along Millcroft Road are also prominent in the middle distance.

6.14 The proposed development will also be visible. The line of new houses will replace the existing 1970s / 80s houses within the view. Provided the style, colours and materials of the new houses are carefully considered then there may be a positive effect on this particular view. The rear boundary treatment should also be carefully considered and the planting of a new native species field hedge with hedgerow trees would help enhance the view. Here the development will again be seen in association with the England's Gate housing site.

6.15 Distance from viewpoint to site boundary - 0.310 km.

Viewpoint F

6.16 View from Public Right of Way BM18

This view is taken from close to the northern end of BM18, near the A417. The change in the local topography that marks the boundary between landscape character areas can clearly be seen. The edge of the more undulating ground to the left of the picture meets the flat 'river meadow' topography to the right. The bungalows and white facades dominate the middle distance with the higher ground to the south visible beyond.

6.17 From this location the proposed new houses will again replace the existing ones in the view and the comments at 6.14 above are again pertinent. The houses on the England's Gate site will be fairly prominent from this location.

6.18 Distance from viewpoint to site boundary - 0.230 km.



VIEWPOINT E



VIEWPOINT F

6.0 Visual Appraisal

Viewpoint G

6.19 View from Millcroft Road looking east.

The view along Millcroft Road looking east is characterised by the houses and driveways along its southern side and by the wider view north-eastwards across the fields. The England's Gate group of listed buildings is evident through the bushes in the middle distance, as is the site of the future England's Gate housing development. A number of Lombardy poplars, with their narrow, vertical shape punctuate the skyline. The large gap in the field hedge and the unmanaged nature of some of the hedges and the England's Gate orchard in the middle distance are detrimental to the quality of the view.

6.20 The proposed development will screen the existing glimpsed views of the England's Gate listed buildings and will be prominent within this view. Suitably and sensitively designed houses and front curtilages could help provide more of a village character to the approach, which currently almost feels like the edge of a suburban estate. The England's Gate development will be visible beyond.

6.21 Distance from viewpoint to site boundary - 0.095 km.

Viewpoint H

6.22 View from Millcroft Road looking west

Views out from Millcroft Road looking west and northwest are dominated by the attractive wooded hills which rise up in the middle-distance, beyond the River Lugg, and carry on into the far distance. The foreground is taken up by the roadside hedge and beyond that the flat expanse of arable fields. This view is of some quality.

6.23 The proposed new houses will obviously alter this view: for road users, the residents of 1 - 15 Millcroft Road and, more obliquely, the properties further west on Millcroft Road. The proposal is to provide a pavement along the existing verge and replace the existing hedge with one further back. The drives of the new houses will punctuate the line of this new hedge but generous front gardens will provide opportunities for additional planting.

6.24 Distance from viewpoint to site boundary - 0.01 km.

England's Gate proposal

Approximate linear extent of proposed development



VIEWPOINT G

Approximate linear extent of proposed development



VIEWPOINT H

7.0 Landscape Proposals & Mitigation - nts

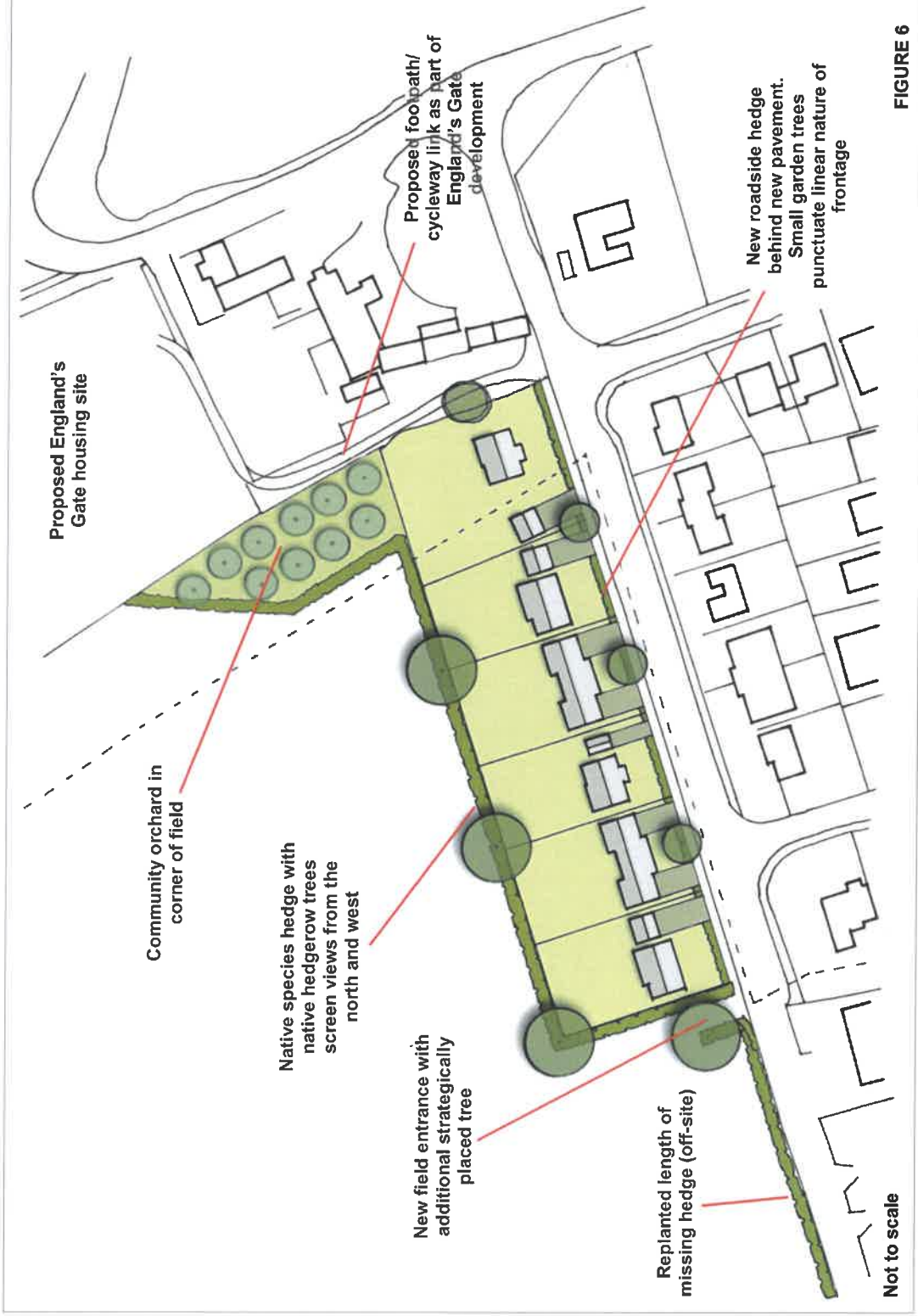


FIGURE 6

7.1 The proposed landscape mitigation is illustrated on Figure 6 opposite. The key features include:

- A new native species field hedge around the northern and western boundaries of the site.
- New native species hedgerow trees.
- The infilling of a length of lost roadside hedge to the west of the site.
- The planting of a replacement roadside hedge at the back of the proposed new pavement along the frontage of the development.
- The planting of a new communal orchard linking the site with the England's Gate housing site.

7.2 All of these proposals are designed to help integrate the new houses into their setting. They have the added benefit of providing an overall increase in wildlife habitats, with additional hedgerows, native trees and a new orchard.

7.3 It is proposed that the orchard should be planted with local, heritage varieties of apple, thereby helping to safeguard the continued wealth of apple varieties found across the area.

8.0 Conclusion

- 8.1 There are no landscape designations associated with the site. The site has no significant landscape features within it. The only landscape feature of any note at all is the roadside hedge which borders Millcroft Road. This is a mixed native species field hedge that is kept trimmed. There is a section of this hedge, further west than the site, that has either died or been removed.
- 8.2 Much of the housing and buildings in Bodenham Moor is of relatively recent age and this is particularly typified by the large areas of suburban-type houses and bungalows to the south of the proposed development site.
- 8.3 Views of and into the site are possible from the immediate surroundings of Millcroft Road, together with public rights of way and roads to the north and west. Longer distance views towards Bodenham Moor will be possible from the higher ground to the west.
- 8.4 The middle-distance views towards the site from local footpaths and roads are currently characterised by the bungalows and 1970s/1980s style housing along the south side of Millcroft Road. These properties will be replaced within the views by the new development.
- 8.5 Provided the style, colours and materials of the new houses are carefully considered then there may be a positive effect on these particular views. The rear boundary treatment will also be carefully considered and the planting of a new native species field hedge with hedgerow trees will help enhance the views. The possibility of using the 'left -over' corner of the arable field for a community orchard; linking between the England's Gate new housing and the proposed development site on Millcroft Road has been explored and is included as part of the development proposal. The overall effect of the landscape mitigation proposals will be to increase the variety and quality of landscape features and wildlife habitat across the site.
- 8.6 The England's Gate site and the proposed development site on Millcroft Road are more often than not seen together in views from the north and west. They will potentially read as one, particularly if building styles are coordinated. These two developments, together with the new housing currently being built at the end of Millcroft Road, will help to create more of a nucleated character to Bodenham Moor, based around the old village roads; rather than the combination of linear development and suburban style expansion that has developed over the recent decades.
- 8.7 Views north and northwest from the eastern end of Millcroft Road, towards the wooded higher ground beyond the River Lugg are expansive and attractive. The character of these views will inevitably change for the residents opposite and for users of Millcroft Road. The replacement hedge to the frontages of the new properties, together with substantial front gardens with garden trees, will help to settle the new houses into their village location.
- 8.8 Further west along Millcroft Road the views out will only be obliquely affected. For visitors to the village and those coming into Bodenham Moor via Millcroft Road, the new housing will create a two-sided village street and help counteract the current, rather suburban character.
- 8.9 In conclusion, this report has found that the proposed development will not adversely impact upon views towards the village or when approaching the village along Millcroft Road. In fact the reverse should be the case with the quality of views being improved. Views out from the eastern end of Millcroft Road towards the north and northwest will be affected. The nature of these views will change from panoramic views towards the local woods and hills to much closer views of front gardens and new cottages. Although this will affect the immediate residents it will not compromise the overall character of the village setting. In addition, the relevant 'Important Public Views' from viewpoints numbers 2 and 4, as identified at Annex 1 of the Neighbourhood Development Plan, will not be adversely affected.
- 8.10 The proposed landscape mitigation will increase the amount and quality of landscape features and wildlife habitat at the site. On balance, this report believes that the proposed new housing, with the landscape mitigation as proposed, will be a suitable addition to Bodenham Moor village.

Reckless Orchard

The Studio
The Old Ship
Llandogo
Monmouth
NP25 4TD

01594 530460

contact@recklessorchard.com
www.recklessorchard.com

Latham, James

From: Howells, Mathew
Sent: 11 January 2018 10:52
To: Neighbourhood Planning Team
Subject: RE: Bodenham Regulation 16 neighbourhood development plan consultation

Good morning,

There are no observations to be made from Transportation to this NDP.

Kind regards
Mat

From: Neighbourhood Planning Team
Sent: 23 November 2017 10:18
Subject: Bodenham Regulation 16 neighbourhood development plan consultation

Dear Consultee,

Bodenham 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://myaccount.herefordshire.gov.uk/bodenham>

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

The consultation runs from 23 November 2017 to 11 January 2018.

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

Herefordshire.gov.uk

James Latham
Technical Support Officer
Neighbourhood Planning and Strategic Planning teams
Herefordshire Council
Plough Lane
Hereford
HR4 0LE

Tel: 01432 383617
Email: jlatham@herefordshire.gov.uk
neighbourhoodplanning@herefordshire.gov.uk (for Neighbourhood Planning enquiries)
ldf@herefordshire.gov.uk (for Strategic Planning enquiries)

Any opinion expressed in this e-mail or any attached files are those of the individual and not necessarily those of Herefordshire Council.

Neighbourhood Planning and Strategic Planning teams
Herefordshire Council
Plough Lane
Hereford
HR4 0LE

Hannah Lorna Bevins
Consultant Town Planner

Tel: 01926 439127
n.grid@amecfw.com

Sent by email to:
neighbourhoodplanning@herefordshire.gov.uk

23 November 2017

Dear Sir / Madam

**Bodenham Neighbourhood Plan Consultation
SUBMISSION ON BEHALF OF NATIONAL GRID**

National Grid has appointed Amec Foster Wheeler to review and respond to development plan consultations on its behalf. We are instructed by our client to submit the following representation with regards to the above Neighbourhood Plan consultation.

About National Grid

National Grid owns and operates the high voltage electricity transmission system in England and Wales and operate the Scottish high voltage transmission system. National Grid also owns and operates the gas transmission system. In the UK, gas leaves the transmission system and enters the distribution networks at high pressure. It is then transported through a number of reducing pressure tiers until it is finally delivered to our customers. National Grid own four of the UK's gas distribution networks and transport gas to 11 million homes, schools and businesses through 81,000 miles of gas pipelines within North West, East of England, West Midlands and North London.

To help ensure the continued safe operation of existing sites and equipment and to facilitate future infrastructure investment, National Grid wishes to be involved in the preparation, alteration and review of plans and strategies which may affect our assets.

Specific Comments

An assessment has been carried out with respect to National Grid's electricity and gas transmission apparatus which includes high voltage electricity assets and high pressure gas pipelines, and also National Grid Gas Distribution's Intermediate and High Pressure apparatus.

National Grid has identified that it has no record of such apparatus within the Neighbourhood Plan area.

Key resources / contacts

National Grid has provided information in relation to electricity and transmission assets via the following internet link:

<http://www2.nationalgrid.com/uk/services/land-and-development/planning-authority/shape-files/>

The electricity distribution operator in Herefordshire County Council is Western Power Distribution. Information regarding the transmission and distribution network can be found at: www.energynetworks.org.uk

Please remember to consult National Grid on any Neighbourhood Plan Documents or site-specific proposals that could affect our infrastructure. We would be grateful if you could add our details shown below to your consultation database:

Hannah Lorna Bevins
Consultant Town Planner

n.grid@amecfw.com

Spencer Jefferies
Development Liaison Officer, National Grid

box.landandacquisitions@nationalgrid.com

Amec Foster Wheeler E&I UK
Gables House
Kenilworth Road
Leamington Spa
Warwickshire
CV32 6JX

National Grid House
Warwick Technology Park
Gallows Hill
Warwick
CV34 6DA

I hope the above information is useful. If you require any further information please do not hesitate to contact me.

Yours faithfully

[via email]

Hannah Lorna Bevins
Consultant Town Planner

cc. Spencer Jefferies, National Grid

Latham, James

From: Amos, Tom (NE) <Thomas.Amos@naturalengland.org.uk>
Sent: 28 November 2017 16:21
To: Latham, James
Subject: Bodenham Regulation 16 neighbourhood development plan consultation - Natural England response

Dear Mr Latham,

Bodenham Neighbourhood Development Plan, Regulation 16 consultation.

Thank you for your consultation on the above dated 23/11/2017.

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.

Natural England is a statutory consultee in neighbourhood planning and must be consulted on draft neighbourhood development plans by the Parish/Town Councils or Neighbourhood Forums where they consider our interests would be affected by the proposals made.

Having considered the Regulation 16 submission for the Bodenham NDP, Natural England has no further comment to make at this stage.

Yours sincerely,

Tom Amos
Sustainable Development
West Midlands Team
Natural England,
County Hall, Spetchley Road,
Worcester, WR5 2NP
Tel: 02080260961

Follow the South Mercia team on Twitter - [@NESouthMercia](#)

www.gov.uk/natural-england

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

Natural England offers two chargeable services – The Discretionary Advice Service (DAS) provides pre-application, pre-determination and post-consent advice on proposals to developers and consultants as well as pre-licensing species advice and pre-assent and consent advice. The Pre-submission Screening Service (PSS) provides advice for protected species mitigation licence applications.

These services help applicants take appropriate account of environmental considerations at an early stage of project development, reduce uncertainty, reduce the risk of delay and added cost at a later stage, whilst securing good results for the natural environment.

From: Neighbourhood Planning Team [<mailto:neighbourhoodplanning@herefordshire.gov.uk>]

Sent: 23 November 2017 10:18

Subject: Bodenham Regulation 16 neighbourhood development plan consultation

Dear Consultee,

Bodenham 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://myaccount.herefordshire.gov.uk/bodenham>

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

The consultation runs from 23 November 2017 to 11 January 2018.

Latham, James

From: Morgan Barbara <Barbara.Morgan@networkrail.co.uk>
Sent: 09 January 2018 09:29
To: Neighbourhood Planning Team
Subject: Bodenham Regulation 16 neighbourhood development plan consultation

Dear Sir/Madam

Network Rail has been consulted on the Regulation 16 Neighbourhood Development Plan (ND) Bodenham Neighbourhood Plan. Thank you for providing us with this opportunity to comment on this Planning Policy document.

Network Rail is a statutory undertaker responsible for maintaining and operating the country's railway infrastructure and associated estate. Network Rail owns, operates, maintains and develops the main rail network. This includes the railway tracks, stations, signalling systems, bridges, tunnels, level crossings and viaducts. The preparation of development plan policy is important in relation to the protection and enhancement of Network Rail's infrastructure. In this regard, please find our comments below.

Network Rail would draw the council's attention to the following (which applies to England only):

**The Town and Country Planning (Development Management Procedure) (England) Order 2015
Publicity for applications for planning permission within 10 metres of relevant railway land**

16.—(1) This article applies where the development to which the application relates is situated within 10 metres of relevant railway land.

(2) The local planning authority must, except where paragraph (3) applies, publicise an application for planning permission by serving requisite notice on any infrastructure manager of relevant railway land.

(3) Where an infrastructure manager has instructed the local planning authority in writing that they do not require notification in relation to a particular description of development, type of building operation or in relation to specified sites or geographical areas ("the instruction"), the local planning authority is not required to notify that infrastructure manager.

(4) The infrastructure manager may withdraw the instruction at any time by notifying the local planning authority in writing.

(5) In paragraph (2) "requisite notice" means a notice in the appropriate form as set out in Schedule 3 or in a form substantially to the same effect.

Any development that has the potential to impact on Network Rail's land, assets and operational railway infrastructure, Herefordshire Council, Bodenham Parish Council and potential developers should be aware of and consider Network Rail's standard guidelines and requirements when developing sites located adjacent or in close proximity to Network Rail's land, assets and railway infrastructure.

For this information please visit www.networkrail.co.uk/asp/1538.aspx Please let me know if you would like more specific information on these standard guidelines and requirements.

Level Crossings

Development proposals affecting the safety of level crossings is an extremely important consideration for emerging planning policy to address. The impact from development can result in a significant increase in the vehicular and/or pedestrian traffic utilising a crossing which in turn impacts upon safety and service provision.

As a result of increased patronage, Network Rail could be forced to reduce train line speed in direct correlation to the increase in vehicular and pedestrian traffic using a crossing. This would have severe consequences for the timetabling of trains and would also effectively frustrate any future train service improvements. This would be in direct conflict with strategic and government aims of improving rail services.

In this regard, we would request that the potential impacts from development affecting Network Rail's level crossings, is specifically addressed through planning policy as there have been instances whereby Network Rail has not been consulted as statutory undertaker where a proposal has impacted on a level crossing. We request that a policy is provided confirming that:

- The Council have a statutory responsibility under planning legislation to consult the statutory rail undertaker where a proposal for development is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway:

- *Schedule 5 (f)(ii) of the Town & Country Planning (Development Management Procedure) order, 2010 requires that... "Where any proposed development is likely to result in a material increase in volume or a material change in the character of traffic using a level crossing over a railway (public footpath, public or private road) the Planning Authority's Highway Engineer must submit details to both Her Majesty's Railway Inspectorate and Network Rail for separate approval".*
- Any planning application which may increase the level of pedestrian and/or vehicular usage at a level crossing should be supported by a full Transport Assessment assessing such impact: and
- The developer is required to fund any required qualitative improvements to the level crossing as a direct result of the development proposed.

Planning Applications

We would appreciate Bodenham Parish Council providing Network Rail with an opportunity to comment on any future planning applications should they be submitted for sites adjoining the railway, or within close proximity to the railway as we may have more specific comments to make (further to those above).

I would be grateful if Herefordshire Council could consider the comments made within this email.

Regards,

Barbara Morgan

Town Planning Technician (Western & Wales)
 1st Floor Templepoint
 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

Neighbourhood Development Plan (NDP) – Core Strategy Conformity Assessment

From Herefordshire Council Strategic Planning Team

Name of NDP: Bodenham Neighbourhood Development Plan Regulation 16 consultation

Date: 10/01/18

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
Policy BNDP 1: Delivering New Housing	SS2, RA1, RA2	Y	
Policy BNDP 2: Settlement Boundaries	RA1, RA2, RA3,	Y	
Policy BNDP 3: Mix, Type and Tenure of New Housing Development	H3	Y	
Policy BNDP 4: Flood Risk and Drainage	SD3	Y	
Policy BNDP 5: Employment	SS5, RA6, E1, E3, E4	Y	Criterion 1. (1.5) the use of the word 'commercial' is open to wide interpretation. It would be useful if the supporting text could be more explicit about what it is trying to prevent. I.e. commercial might imply large scale therefore would small scale developments be more acceptable. Does this refer to fruit picker/temporary farm worker type accommodation?
Policy BNDP 6: Large scale economic activities	E1	Y	
Policy BNDP 7: Local Community Facilities	SC1	Y	

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
Policy BNDP 8: Protecting Landscape and Important Public Views	LD1, LD2, LD3, LD4	Y	
Policy BNDP 9: Landscape Design Principles	LD1, LD2, LD3, LD4,	Y	
Policy BNDP 10: Protection and Enhancement of the Built Environment	SD1	Y	
Policy BNDP 11: Tranquillity and Light Pollution (Dark Skies)	SD1	Y	
Policy BNDP 12 Open Spaces	OS1, OS2, OS3	Y	
Policy BNDP 13 Renewable Energy	SD2	Y	

Other comments/conformity issues:

Pg A-31 Refer to the Herefordshire Local Plan Core Strategy 2011-2031.

1. Paragraph one redacted.

2. I strongly object to the settlement boundary proposed in the draft Bodenham Neighbourhood Development Plan as it takes no account of existing physical boundaries and features, and excludes the large garden entirely from the settlement area of Bodenham Moor - I have set out the reasons for my objections below:-

History - Broom cottage dates from the mid seventeenth century and is probably the oldest property in the lower part of Bodenham Moor - drawing the settlement boundary tightly across the back of the house (with no explanation or justification) leads to the perverse effect of stating Broom Cottage is not as much part of the village settlement as the dozens of far more recent houses which surround it. REDACTED

Physical features - Guidance Note 20 (GN20) states 'settlement boundaries should include buildings and associated land that makes up the village form'. The settlement boundary as drawn takes no account the existing and historic curtilage of the property or the physical features which exist. The boundary, as drawn in the NDP suggests that the garden was not historically linked to the house - this is untrue as described on modern deeds dating back to 1932, and older deeds as part of the larger curtilage associated with the Methodist Church.

The settlement boundary is also drawn to exclude the garage which has planning permission dating from 1969. It is difficult to tell from the line drawn on the plans exactly where the NDP thinks the settlement boundary should be as different maps appear to have been used for the settlement boundary (Annex G) and the Bodenham Moor Policy Map - the latter appears to suggest that the settlement boundary takes in part of the bathroom on the north west corner of the house.

Consistency - It is recognised that Guidance Note 20 states that large gardens can be excluded from the settlement boundary to limit expansion but this should be done consistently and fairly - large gardens have not been excluded in this way in other parts of the village including the adjoining property, houses to the east and west of the The Moor (C1125) to the south of Broom Cottage, and notably to the south side of Millcroft Road (C1121) where the gardens of the houses are all included in the settlement boundary in stark contrast to the line drawn at Broom Cottage which entirely excludes all the land to the rear of the house.

Future housing needs - I note that the NDP does not identify any land in Bodenham or Bodenham Moor as suitable for future development but merely rejects land that has been put forward except for the England's Field development which is under way. Whilst understanding that it is not the function of the NDP to

specifically earmark land for housing the plan appears to rely entirely on windfalls and rural increase to meet the minimum requirement until 2031. Recent events suggest the minimum may not be enough in any area, and it is hard to see where the windfalls may be built in future if the settlement boundary is drawn to prevent future expansion or development of any sort.

While I entirely accept that any proposals to extend the existing building, or future development of the site would be subject to the usual planning constraints including the amenity of neighbours, access to the highway and the setting of a listed building - I am also clear that it is not the function of a Neighbourhood Development Plan to artificially, and selectively, limit future development or expansion of the settlement.

Stephen Turner

10th January 2018

Latham, James

From: Wood, Tina
Sent: 11 December 2017 10:21
To: Neighbourhood Planning Team
Subject: FW: Bodenham Regulation 16 neighbourhood development plan consultation

I refer to the above NDP. Below are my comments/observations.

Figure 3 Bodenham Parish Residential tenure within the village. It states that a % is council housing. I would advise that the local authority does not hold any stock. You may wish to revisit this section and amend.

P16 section 5.7 local occupancy condition. I do have concerns with regards to this section. The 1996 Housing Act defines local connection and this local connection criteria forms part of our policies e.g. Allocation Policy. The definition within the plan does not conform to policy and I would be unable to support the local connection criteria within this plan as it currently is.

Below are the 1996 Housing Act criteria.

- live there now or have done in the recent past
- work there
- have close family in the area

Living in an area

You have a local connection if you've lived in a council area for at least:

- 6 out of the last 12 months
- 3 out of the last 5 years

Working in an area

You have a local connection if you're working or self-employed in a council area.

Close family in the area

You have a local connection if any of your following family members have lived in a council area for at least 5 years:

- parents
- adult children
- brothers and sisters

Special reasons

The council could decide you have a local connection for a special reason.

For example if you:

- need to live in the area to receive specialist health care
- have important social connections with the area

Kind regards

Tina

Tina Wood
Housing Development Officer

Strategic Housing | Adult and Wellbeing Directorate
Herefordshire Council
Plough Lane
Hereford, HR4 0LE
Tel: 01432 261975



From: Neighbourhood Planning Team
Sent: 23 November 2017 10:18
Subject: Bodenham Regulation 16 neighbourhood development plan consultation

Dear Consultee,

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

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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

Herefordshire.gov.uk

James Latham
Technical Support Officer
Neighbourhood Planning and Strategic Planning teams
Herefordshire Council

Our Ref: PR. 245
Date: 11th January 2018

Neighbourhood Planning
Herefordshire Council
PO Box 230
Plough Lane
Hereford
HR4 0LE

Dear Sir/Madam

Regulation 16 Submission Consultation on Bodenham Neighbourhood Development Plan 2011-2031

These representations have been prepared by Walsingham Planning Ltd on behalf of our client Bovis Homes and respond to the formal Regulation 16 Submission consultation on the draft Bodenham Neighbourhood Development Plan 2011-2031 (BNDP).

Background

You should be aware that through consultants RPS, Bovis Homes submitted detailed representations in response to the Regulation 14 consultation on the BNDP. These representations, dated November 2016, proposed a number of recommendations to the BNDP to bring it into line with the Herefordshire Local Plan and to ensure that it is capable of enduring over the Plan period to 2031. The focus of these representations was on the treatment of Land South of Chapel Lane – also referred to as ‘Shuker’s Field’ – in the BNDP, whereby this land is proposed to be designated as an area of Local Green Space. Robust evidence included within RPS’s representations clearly demonstrate that the BNDP’s assessment of this site is fundamentally flawed and that it is not capable of meeting the tests of the designation of Local Green Spaces (LGS) set out in the National Planning Policy Framework (the Framework).

The recommendations in RPS’s representations included the removal of the Local Green Spaces policy from the Plan, and the allocation of the Land South of Chapel Lane for housing, to ensure that it accommodates capacity for growth in the face of future uncertainty over the Plan period. Regrettably, the subsequent BNDP Consultation Statement, which sets out how issues and concerns raised at the Regulation 14 consultation stage have been considered and addressed, simply dismisses these recommendations, without any specific analysis or assessment of the case made in the representations



for removal of the proposed LGS designation on Land South of Chapel Lane in particular. The consequence in our view is that the Regulation 16 submission version of the BNDP does not meet the Basic Conditions to enable it to proceed to referendum. We would add that the representations made by RPS as a response to the Regulation 14 consultation (the main text of which is attached to this letter as **Appendix I**) remain valid and should be taken into consideration in this current consultation.

Accordingly, Bovis Homes maintains its **objection** to the BNDP, and within these current representations makes two principal recommendations to amend the Plan as discussed in detail below, and starting first with open space policy and the proposed LGS designation.

Section 8: Open Spaces and the Environment

Policy BNDPI2 as currently drafted seeks to restrict development on designated Local Green Spaces, as listed at Annex C, to that which is directly related to the retention, management or improvement of the green space, or where there is a very special circumstance, for example development is essential to meet specific necessary utility infrastructure needs. The LGS designations listed at Annex C include our client's land interests, namely Land South of Chapel Lane (Shuker's Field); it's 'Special Qualities/Local Significance and Character' being described as:

'The field makes a significant contribution to public amenity by virtue of its open space rural character and provides much valued relief from the otherwise linear built form in the central part of the Bodenham Moor settlement. It is of critical importance in helping to preserve the character and setting of four immediately adjacent Grade II listed buildings.'

The supporting notes state:

'Refused by Herefordshire Council on landscape and other grounds. There were also 250 strong local objections to its development.'

In order for land to be designated as LGS within the BNDP, there needs to be demonstrable evidence that individual areas of land proposed for such designation meet the tests in paragraph 77 of the Framework. In this regard, the evidence presented by the Parish Council included within Annex C includes an assessment of each of the proposed sites against the category 'Special Qualities/Local Significance and Character'. This terminology is inconsistent with the thrust of paragraph 77 and as a consequence does not provide a meaningful assessment of whether the sites (including Land South of Chapel Lane) proposed as LGS should be designated as such.

It follows that we have fundamental concerns as to the objectivity of the BNDP's assessment of Land South of Chapel Lane. Indeed, the reference to development being previously refused on this site and the number of 'strong' objections being received suggests that that LGS designation is proposed as a means to prevent future development of the site. Furthermore, what is clear from the Regulation 14 responses set out in the subsequently published BNDP Consultation Statement is that there is in fact local objection to the designation of this site as LGS, with a number of representations highlighting its suitability for housing. Also, it is noteworthy that this site was not identified for protection as open



areas/green space spaces in the former 2007 Unitary Development Plan. This is significant as Policies HBA9 and RST4 of the UDP identified specific open/green spaces in the village that should be protected, for very similar reasons to a LGS designation. Land South of Chapel Lane was not identified as an open space or green space, and nothing has materially changed in respect of the appearance, character or use of the site since adoption of the UDP to justify taking an alternative view.

Relevant National Policy and Guidance

(a) National Planning Policy Framework (the Framework)

The justification for designating LGS sites is set out in the Framework. These can be identified through Local and Neighbourhood Plans as green areas of particular importance to local communities. However, paragraph 76 of the Framework makes it clear that identifying land as LGS should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Furthermore, an LGS should be capable of enduring beyond the end of the Plan period.

Paragraph 77 of the Framework goes on to say that LGS designation will not be appropriate for most green areas or open space. The designation should only be used:

- where the green space is in reasonably close proximity to the community it serves;
- where the green space is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife; and
- where the green area concerned is local in character and is not an extensive tract of land.

As mentioned above, the proposed LGS designations in the BNDP are not assessed against these criteria, which therefore constitutes a fundamental flaw in the Plan.

(b) Planning Practice Guidance (PPG)

The PPG adds to LGS policy in the Framework by stressing that designating any LGS will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the LGS designation should not be used in a way that undermines this aim of plan making.

Land that does not have public access can also be considered for designation, eg. **green areas which are valued because of their wildlife, historic significance and/or beauty** (emphasis added). However, the PPG advises that in the case of private land the qualifying body should contact landowners at an early stage about proposals to designate any part of their land at LGS. However, we are not aware that this has happened as part of the Plan making process, with neither the landowner or Bovis Homes, as promoter, being contacted directly to discuss the principle of the designation.



Bovis Evidence Base and Assessment

Fundamentally, the BNDP does not offer any substantive objective or technical assessment, based on evidence, to justify the designation of Land South of Chapel Lane as LGS, having regard to the tests at paragraph 77 of the Framework. The description of special qualities and local significance and character at Annex C are no more than subjective assertions, which appear motivated by a public reaction stemming from our client's previous planning application for housing on the site (application reference I50437 for the construction of 49 dwellings). The suggestion that many respondents to the previous BNDP survey believe that the site should be LGS to provide 'much valued relief from the otherwise linear built form' of the settlement (this being carried forward as a basis for LGS designation) falls outside the paragraph 77 tests. It has nothing to do with beauty, historic significance, recreational value, tranquility or richness of wildlife. Indeed, linear built form is the very essence of the character of Bodenham Moor.

There is a noticeable contrast in what the BNDP suggests in terms of LGS evidence and that provided by our client, both to support the previous planning application for development on Land South of Chapel Lane and the representations on the evolving Plan. We now refer to this evidence under the following heads: Landscape/Beauty/Tranquility; Recreational Value; Historic Significance; and Biodiversity.

(i) Landscape/Beauty/Tranquility

There is a substantial evidence base and technical assessment produced both by Herefordshire Council and MHP Chartered Landscape Architects that confirm that the Land South of Chapel Lane does not meet the criteria for designating LGS with reference to the paragraph 77 tests, and is not a 'valued' landscape (Framework paragraph 109). This evidence is in the form of the Council's Strategic Housing Land Availability Assessment (SHLAA) assessment of the site, the LVIA accompanying the planning application, and Herefordshire Council's Officers' Committee report on planning application reference I50437, which includes the Landscape Officer's comments. A summary of this evidence is included in MHP's Landscape Response Note dated November 2016 and attached as **Appendix 2** to these representations, and is reproduced here for convenience:

- The 2009 SHLAA identifies the site as being a potential housing site, having low/minor constraints to development. The Landscape Officer confirms that the SHLAA assessment of 'low/minor' represents the Council's assessment of 'land of lesser environmental sensitivity that is appropriate for development'.
- The Landscape Officer concluded (in the Officers' Committee report) that: 'Although it is inevitable that development on a greenfield site will impact on the landscape setting of the village.....the scheme is designed in a manner that renders the impact acceptable....'
- The reasons for refusal (in respect of application no. I50437) and the Officers' Committee report did not identify that the site was a valued landscape or that it was worthy of specific protection/landscape designation.



- The site is not a nationally or locally designated landscape.
- The site does not form part of the immediate setting of an Area of Outstanding Natural Beauty, Special Landscape Area, Historic Parkland or Conservation Area.
- The site is not in an area designated a scheduled ancient monument.
- The site is adjoined by established residential development on two/three sides.
- The site is within the Herefordshire Lowlands Character Area (profile 100) which in turn is within the Principal Settled Farmlands Landscape Character Area; the latter being a settled landscape character type.
- The site does not contain any rare or protected landscape elements or features, such as TPOs, woodland, specimen trees, orchards, statutory or non-statutory ecological designations or heritage assets.

The BNDP refers to the site's open space rural character, however the characteristics of the site are not wholly 'open'. MHP's Landscape Response Note explains that it is enclosed by high boundary hedges and enclosed in its wider setting by residential settlement on two sides, a substantial commercial orchard on one side and a densely vegetated riverine corridor on its fourth side. These are not physical characteristics that provide a great sense of openness to the local area. The site is undeniably open in the sense that it is an undeveloped piece of farmland but 'openness' and 'undeveloped' are different in landscape character terminology. With regards to rural character, the site has a rural farming use however it is not isolated within a solely rural environment. Its character is influenced by its context which is that of an established and active residential village, active local roads, active commercial orchard/farm and active dairy farm. These result in the site reflecting characteristics typical of a rural village with strong character ties to settlement; this being confirmed by the settled landscape character type defined by the District Landscape Character assessment. The elements that are usually associated with total rurality are lack of movement, noise, light from settlement, roads and intensive farming operations, ie. tranquility and isolation. The site does not have a strong sense of either.

It is noteworthy that although the BNDP refers to the site's 'open' rural character as contributing towards justification for LGS designation, Annex I to the draft Plan, which identifies Important Public Views, does now show any such views directly across the site.

In summary, in a landscape/beauty/tranquility context, the site Land South of Chapel Lane and referred to as Shuker's Field can be described as unremarkable arable land with little intrinsic value. There is no compelling evidence to conclude that the site is unique, distinctive or rare, elevating its importance above any other arable field defined by native hedges. Its designation as LGS does not protect an identifiable landscape or area of green space that has special features, local significance (other than



apparent popularity) or special character. We consider that the BNDP therefore proposes an illogical and unjustified use of the LGS designation.

(ii) Recreational Value

The site is an actively farmed arable field with no public access. The landowner's intention is continue farming the land as part of an established agricultural holding. There are no plans to provide public access to it. It therefore has no recreational value. The BNDP does not seek to claim that the site has recreational value, nor have access rights been sought by the BNDP Steering Group during the Plan's preparation.

(iii) Historic Significance

In seeking to justify designation of Land South of Chapel Lane as a LGS, the BNDP claims that this site is: '*...of critical importance in helping to preserve the character and setting of four immediately adjacent Grade II listed buildings*' (Annex C of Plan). However, no compelling evidence has been advanced by the Parish Council to support this assertion. Indeed, assessment undertaken by our client's Heritage Advisers EDP demonstrates that this statement is both unsupported and incorrect (See **Appendix 3** (which also forms Appendix 12 to the RPS representations), dated November 2016).

The EDP report considers each of the four listed buildings located within 20-30 metres of this site (noting that there are no designated heritage assets within the boundaries of the site itself), with reference to the Archaeological and Heritage Assessment that was submitted with our client's planning application, no. 150437. In brief summary:

- *Broom Cottage and The Haven* – There are no known functional or historic links with the site, and very limited intervisibility between it and these buildings.
- *Moor Farm House* – Any visual link is limited and obscured. Any positive contribution made by the site to the significance of Moor House Farm is limited to a historic link only. However, this relationship is not so critical that it would prejudice development of the site, as has been confirmed by a consultation response from Herefordshire Council's specialist adviser (see below). Historic links are intangible, and therefore would remain regardless of development of the site.
- *Brook House* - There are no known previous historic or functional links with the site. The site does not in any way contribute to the significance of this listed building.

The consultation response from Herefordshire Council's Senior Building Conservation Officer (SBCO) on planning application reference 150437, dated 19th February 2015, is included within EDP's assessment report at Appendix 3. The response is not repeated in full here, but it is relevant to note that with reference to the Archaeological and Heritage Assessment carried out by EDP, the SBCO concluded that: '*It is considered that the proposal complies with heritage policy HBA4 and the NPPF chapter 12 and no objections are raised*'. (emphasis added). In summary, therefore, the consultation response from Herefordshire Council's specialist heritage adviser has effectively established that the presence of the four listed buildings in proximity to the Land South of Chapel Lane site does not



preclude development within it. This significantly diminishes the weight to be given to any suggestion that an LGS designation is justified on the basis that the site is *critically important* to the preservation of the character and setting of these assets.

In the context of the proposal to designate the site as LGS, EDP's assessment report dated November 2016 goes on to consider the BNDP's reference to the terms 'setting' and 'character'. This is a crucial piece of analysis, and it demonstrates that the basis for LGS designation in heritage terms is misguided. For instance, 'setting' (ie. the surroundings in which a heritage asset can be 'experienced') is not a heritage asset in itself and only has value in so far as it contributes to the significance of a listed building. It follows that in accordance with Historic England guidance, just because a site forms part of the 'setting' of a listed building that does not automatically mean that it contributes to the heritage significance of the asset. In this regard, EDP's assessment of our client's site in line with Historic England guidance (which has not been challenged by the Parish Council), does not identify that it contributes in any way to the significance of any surrounding designated heritage asset.

Thus, although the BNDP is relying on heritage value as a reason for proposing a LGS designation, objective assessment in fact determines that this site demonstrably does not have a heritage value in terms of its contribution to the significance of the surrounding listed buildings. Therefore, applying the Framework paragraph 77 test, the site Land South of Chapel Lane does not meet the 'historic significance' criteria for the designation of LGS.

(iv) Biodiversity

As noted above, Land South of Chapel Lane comprises intensively farmed arable land and the site is not subject to statutory or non-statutory nature conservation designations. Further, the Ecological Survey supporting planning application no. I50437 concluded that the majority of habitats present on the site, or affected by development of the site, are of negligible ecological interest and that their loss would be of no significance. Thus, there is no justification for designating the site as LGS based on richness of wildlife.

Summary

In summary therefore, the site Land South of Chapel Lane contains no features of historic or cultural interest, it is not available for recreation and there is no public access, and it has no specific biodiversity interest or richness. Further, its current nature as an undeveloped field does not afford it any greater landscape or visual value. Specifically, no compelling technical or corroborated landscape or heritage evidence has been provided within the BNDP to demonstrate that designation of the site as LGS meets the tests in paragraph 77 of the Framework. Its designation will simply frustrate the potential for any future sustainable development proposals on the site, contrary to the Framework and PPG.

On behalf of our client, to ensure that the Basic Conditions are met, we therefore **recommend** that:



The BNDP is amended so that Site No. 4 – ‘The field lying East of the C1125 and bounded to the North by Chapel Lane, known locally as ‘Shuker’s Field’ (and referred to in these representations as Land South of Chapel Lane) – is omitted from the list of Local Green Spaces at Annex C and other relevant plans within the Annexes to the Plan, and accordingly the site is not designated as Local Green Space.

Section 3: Housing

The BNDP seeks to explain that the proposals for housing delivery in the Parish reflect the housing policies for rural settlements set out in Herefordshire Council’s Local Plan, and in doing so they rely heavily on completions and commitments since 2011 (Policy BNDP1), including dwellings in the open countryside outside the two main settlements. No housing allocations are proposed over the period to 2031, as the Plan is simply seeking to do no more than meet an indicative housing growth target set out in Policy RA1 of the Local Plan.

However, this approach does not reflect the fact that in each of the rural Housing Market Areas (HMA), some rural settlements listed in Figure 4.14 of the Local Plan are more sustainable than others, and therefore, more appropriately, should accommodate greater levels of growth. In this regard, our client’s previous representations highlight that Bodenham Moor and Bodenham are key settlements in Herefordshire, capable of accommodating housing growth. Indeed, with reference to the Rural Housing Background Paper (2013) which formed part of the evidence base for the Herefordshire Local Plan, Bodenham Moor is ranked the highest scoring village in the Bromyard HMA, with the largest provision of services and a settlement size over double that of the next largest village. The size of Bodenham Moor contrasts significantly with other rural settlements within the Bromyard HMA. For example, Burley Gate is a village of approximately 52 dwellings, and whilst it is served by local facilities, in practice there will be only limited opportunities for development that can deliver meaningful sustainable growth, including affordable housing provision. Thus, there is a compelling case that Bodenham Moor, as the most sustainable settlement in the Bromyard HMA, should seek to accommodate additional housing growth over the period to 2031, as a positive response to ensuring that the overall housing need for Herefordshire’s rural areas set by the Local Plan is met.

We consider that the BNDP is taking an unacceptably narrow, short-term view with regards to housing growth over the Plan period. The BNDP Consultation Statement maintains that there is no evidence for any additional local housing need beyond that required by the Herefordshire Local Plan. However, this response ignores the representations from a number of local residents at the Regulation 14 consultation stage that there is a need for new housing in Bodenham Moor. By not planning for some limited additional growth and identifying a site/s for future housing in Bodenham Moor, the Plan demonstrates a lack of flexibility which inevitably will frustrate housing delivery, including the provision of affordable homes, as new evidence of housing need evolves over the Plan period, or if a district-wide shortfall in housing provision needs to be addressed.

In this regard, the proposed method for calculating local housing need set out in the Government’s consultation document: *Planning for the Right Homes in the Right Places: Consultation Proposals* indicates that Herefordshire will need to increase its annual housing delivery by at least 80 dwellings (and quite



probably more). Whilst it is accepted that little weight can be given to the consultation document at the present time, the statutory requirement to review Local Plans which will come into effect this year will inevitably mean that housing needs in Herefordshire will be reviewed over the course of the Plan period, and very likely an uplift in housing provision will be required. Accordingly, we recommend that for the Plan to be positively prepared and effective in delivering sustainable development over the period to 2031, flexibility should be built into the Plan to accommodate future growth beyond the minimum policy requirement currently proffered in the draft Plan. Inevitably this means that the Settlement Boundary which at present is tightly drawn around Bodenham Moor should be amended to be more flexible to accommodate growth (see below).

It should be noted that the Strategic Environmental Assessment (SEA) included within the Environmental Report (September 2017) forming part of the evidence base for the BNDP commends the allocation of sites for housing in the Plan on the basis that it would give greater certainty over future development within Bodenham Moor and Bodenham, meeting the Local Plan requirements in terms of the SEA. It notes that this option is 'not seen favourable locally given the level of existing commitments', however for the reasons given above the Plan should account for wider sustainable growth considerations.

Section 4: Settlement Boundaries

In drawing Settlement Boundaries tightly around the settlements of Bodenham Moor and Bodenham, the BNDP does not take into account that future growth may be required in the Parish which should be directed to these villages in the first instance. The BNDP cannot therefore be seen to be sufficiently flexible to respond to any new evidence of housing need and is not capable of enduring over the Plan period up to 2031.

The BNDP is simply relying on the provision of windfalls (one dwelling a year on average) within the Settlement Boundaries. However, the fundamental problem with this is that, given the now established threshold of 10 dwellings for the provision of affordable housing, the BNDP's housing policies are highly unlikely to deliver any affordable housing in Bodenham Moor and Bodenham over the Plan period. Thus, this approach will deliver less social benefits in comparison to an allocations-led strategy. We consider this to be a significant consideration which has not been taken into account as part of the windfall strategy.

Accordingly, we recommend that the Settlement Boundary around Bodenham Moor is adjusted to accommodate a housing allocation on Land South of Chapel Lane (Shuker's Field). For the reasons given in these representations, there is no justification whatsoever for the designation of this site as Local Green Space. Instead, the location of the site within the heart of the village makes it eminently suitable for housing development, including the provision of affordable housing. The suitability of the site is reinforced by the findings of the Herefordshire Council 2009 SHLAA report which, as previously mentioned, identifies the land as having 'low/minor constraints', and appearing viable for development (site reference HLAA/186/001). Consistent with these findings, and significantly, the 2015 SHLAA report assesses this site as **land with high suitability** for development (emphasis added).



Therefore, on behalf of our client we **recommend** that:

The BNDP is amended so that the Settlement Boundary shown on the plan at Annex G and other relevant plans within the Annexes to the Plan is altered to accommodate a housing allocation on the field lying East of the C1125 and bounded to the North by Chapel Lane, known locally as ‘Shuker’s Field’ (and referred to in these representations as Land South of Chapel Lane), with an additional policy introduced to deliver the allocation.

We ask that our representations and recommendations are carefully considered and drawn to the attention of the Examiner. We would add that we have raised significant issues associated with the Plan, and we remain available to be called upon to attend a Hearing, should the Examiner wish it.

Should you have any queries on the above, then please do not hesitate to contact the writer.

Yours sincerely

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Appendices:

- Appendix 1** – RPS representations on Regulation 14 consultation (main text only)
- Appendix 2** – MHP Landscape Response Note dated November 2016
- Appendix 3** – EDP Heritage Representations dated November 2016

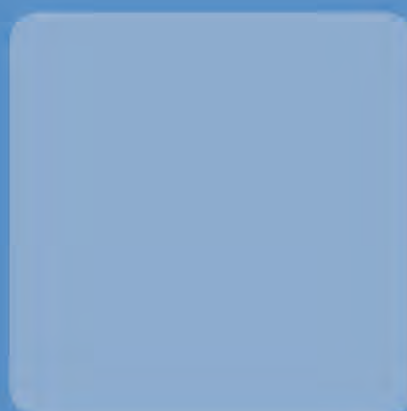
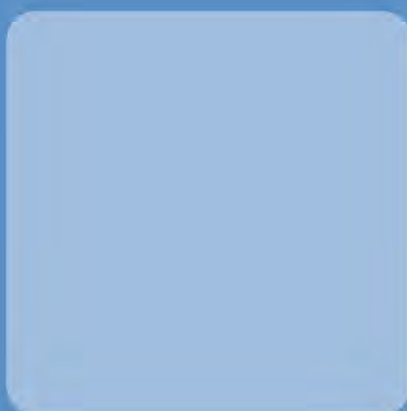


APPENDIX I

RPS

Bodenham Neighbourhood Plan:
Regulation 14 Consultation

RPS Response on Behalf of Bovis
Homes



**BODENHAM NEIGHBOURHOOD PLAN
: REGULATION 14 CONSULTATION**

**RESPONSE BY RPS ON BEHALF OF
BOVIS HOMES**

Date 14 November 2016

Our Ref: JBB8225.C4834

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1 INTRODUCTION

- 1.1 RPS has been instructed by Bovis Homes to respond to the Regulation 14 Consultation of the Bodenham Neighbourhood Development Plan (BNDP) ahead of Examination before an appointed Inspector.
- 1.2 The Draft BNDP has been prepared by Bodenham Parish Council, who act as the relevant body for preparing the NDP and the BNDP Steering Group has overseen the decision making process throughout the plan development. The Draft BNDP corresponds with the Bodenham Parish Boundary, including a number of villages though Figure 1 of the Draft BNDP draws attention to Bodenham Moor and Bodenham, which RPS understands to be the largest and most service rich settlements.
- 1.3 RPS is principally concerned with the treatment of Land South of Chapel Lane within the Draft BNDP. This site, also referred to as “*Shuker’s Field*’ elsewhere in the supporting documentation, has been promoted by RPS on behalf of Bovis Homes as an appropriate site for residential use and public open space. The scheme previously presented to the Council is included as **Appendix 1**. For clarity, the site will be referred to as Land South of Chapel Lane through the course of this response.
- 1.4 The BNDP includes the site of one of many Local Green Spaces within plan area, a proposal that RPS wholly objects to. In response to this RPS includes additional evidence to demonstrate that the BNDPs assessment of this site is flawed and it is not capable of meeting the tests for the allocation of Local Green Spaces, as included in the National Planning Policy Framework.
- 1.5 RPS also raises a number of concerns with the Plan, relating to the ability of the Draft BNDP to meet the basic conditions set out in the Town and Country Planning Act. As indicated within the response to the Draft BNDP, RPS raises a number of concerns in the way that the Parish Council has arrived at the preferred options for the Plan, which has disregarded important sources of evidence to inform the plan and has failed to assess suitable alternative options to key proposals in the document.
- 1.6 The following sections of this response go into these areas in more detail, though ultimately, RPS considers that the Draft BNDP at its core is imbued with erroneous assertions and a lack of credible supporting evidence. The Draft BNDP if adopted would not deliver upon sustainable aims but instead frustrate new development, contrary to the aims of the higher tier Herefordshire Core Strategy: Local Plan.
- 1.7 RPS cannot endorse the Draft BNDP and would strongly recommend that the Inspector does not progress the Draft BNDP to Referendum, in whole, or without substantive recommendations to the Plan.

2 GENERAL APPROACH TO THE NEIGHBOURHOOD PLAN

Creation of a Flexible and Resilient Plan

- 2.1 It is the role of the Examination to establish whether the Draft BNDP meets the basic conditions set out in the Town and Country Planning Act 1990¹ which are:
- a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan);
 - b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders;
 - c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders;
 - d) the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development;
 - e) the making of the order (or 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 order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations; and
 - g) prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).
- 2.2 These basic conditions should be read within the context of paragraphs 16 and 184 of the National Planning Policy Framework (NPPF) which requires that Neighbourhood Plans support the strategic development needs set out in higher tier Local Plans and set out policies for positive growth in their area.
- 2.3 This means that the Draft BNDP should be drafted to in accordance with the strategy of the Herefordshire Local Plan: Core Strategy (HLP) and should not plan to frustrate the objectives of this plan. RPS would therefore expect an emerging NDP to include sufficient flexibility so that it can respond to evidence which may lead to increases in housing need which will allow the BNDP to endure the plan period up to 2031. The Draft BNDP therefore needs to present an honest reflection about how it presents its housing requirement and the means in which it can be achieved.

¹ Paragraph 8 (1 and 2) of Schedule 4b, Town and Country Planning Act 1990 (as amended)

Evidence Led Approach

- 2.4 RPS advocates a transparent and evidence led approach, which will enable the objective assessment of the Draft BNDP. In doing so, it will be clear how decisions have been arrived at, how evidence has influenced the plan and how the findings of the Environmental Report supporting the Draft BNDP have been accounted for.
- 2.5 In doing so, the Draft BNDP should demonstrate that it satisfies the requirements of the SEA Directive² through the assessment of reasonable alternative options, which are informed by credible and robust evidence to ensure the validity of the process.

Neighbourhood Plan Objectives

- 2.6 The Draft BNDP includes a set of objectives that are linked to evidence drawn from the context of the Plan and input from local residents as part of the consultation process. The Draft BNDP proposes 12 objectives, linked to the policy areas included within the plan, ranging from housing requirement, employment, open space and renewable energy.
- 2.7 In relation to housing, it is noted that the BNDP seeks to meet the housing requirement set in the (HLP), which includes identifying land required for new development and define the extents and location of built development over the plan period.
- 2.8 RPS supports the delivery of these objectives and considers that the policies proposed to deliver these aims are scrutinised to ensure that they can be delivered in a way that does not compromise the HLP.
- 2.9 Comments provided by RPS within this response address concerns related to the policy approach which are considered to frustrate the delivery of these objectives and should therefore be revisited through examination.

² Article 5 (1) of Directive 2001/42/EC (the *SEA Directive*)

3 POLICY BNDP1: DELIVERING NEW HOMES

Delivering Herefordshire's Growth Requirements

- 3.1 The housing need for Herefordshire is derived from the 2015 Herefordshire Local Plan (HLP), which covers the need over the period 2011-2031. Policy SS2 of the HLP identifies a minimum need for 16,500 dwellings over this period, of which 40% is proposed for Hereford City, 28% to the main towns and 32% to the rural settlements. For the rural settlements, this equates to a minimum of 5,300 dwellings, which are proposed to be delivered to a number of settlements in accordance with the hierarchy established in Policy RA2 of the HLP.
- 3.2 The Draft BNDP translates this into local need through the Draft Policy BNDP1, which presents a minimum growth target of at least 71 dwellings over the period 2011-2031. The justification for this quantum is included within Annex F of the Draft BNDP, which plans for a minimum rate of growth based on a 15% increase in the size of both Bodenham Moor and Bodenham.
- 3.3 In order to calculate the future requirement for the settlements in the Parish, Annex F of the Draft BNDP also includes a list of commitments/completions which presents a figure of 72 dwellings. On this basis, the Draft BNDP takes the view that the completions and commitments to date meet the figure of housing need consistent with Policy SS2 of the HLP. As this is a minimum figure, the Draft BNDP includes a further windfall allowance of 57 dwellings, based on an assessment of developments over the past 15 years.
- 3.4 RPS does not agree with the calculation of the BNDP requirement and supply, which does not give confidence that the housing requirements of the HLP can be fulfilled.

BNDP assessment of Development in Bodenham Moor

Requirement

- 3.5 The assessment of housing need presented by the Draft BNDP is expressed as a proportion of the total number of households in the Parish. Table 2 of Annex F indicates that there is a need for 71 dwellings in Bodenham Moor and Bodenham. This is calculated on the requirement for 15% of the total dwellings in Bodenham Moor and Bodenham as a minimum requirement.
- 3.6 This follows a broadly similar approach towards the application of Policy RA2 of the HLP which was presented as part of the Planning Officers Report for the application at Land South of Chapel Land (paragraph 6.5 of **Appendix 2** refers). Where this deviates however is that the Parish Council has taken a view on the housing stock in the Parish, which differs from the evidence in the Planning Officer's report and Herefordshire Council's 2013 Rural Housing Background Paper.

Supply

- 3.7 The Draft BNDP includes an assessment of housing commitments and completions in the BNDP area from 2011 (Table 1 of Annex F), aligning with the start of the BNDP plan period. As part of this list, the assessment is made that there are 72 dwellings which have either been completed or are under construction/extant since 2011. RPS does not agree with this calculation.

3.8 The supply figures in Annex F of the Draft BNDP include a number of uses that should not be included within the supply. These are detailed below:

- Bodenham Moor – 53 dwellings
- Bodenham – 11 dwellings
- Elsewhere – 8 dwellings

3.9 This assessment makes no distinction between those sites completed, extant or under construction and assumes that all of the sites yet to be completed will come forward. Importantly, RPS has concerns over relying on information sourced locally, as this may not align with the data collected for Herefordshire by the Council. The Draft BNDP cannot assert that housing need has been met in Bodenham if the numbers proposed do not align with the Council's own figures.

Herefordshire Council Data

3.10 In order to present a consistent baseline, data from Herefordshire Council should be used. The Council monitor housing permissions and completions and keep an up to date trajectory of how the Council is performing against the overall requirement for new growth. There is no evidence that the BNDP has incorporated this data into their evidence base.

3.11 An up to date position has been obtained from Herefordshire Council in support of this submission, which includes housing completions and permissions from April 2011 to March 2016. This information is recorded on an annual basis and completions from April 2016 onwards have yet to be recorded.

3.12 The full data for Bodenham Parish is replicated as part of **Appendix 3**, though in summary this identifies:

- 1 Completion (April 2011-March 2016); and
- 59 Permissions (April 2011-March 2016)

3.13 One of these permissions relates to the single completed unit which when accounted for presents a total of 58 possible units recorded for the Parish since the start of the plan period in 2011. This is already indicating a difference of 14 dwellings from the list of dwellings recorded in the Draft BNDP.

3.14 The figures in the Draft BNDP do refer to a further approval in Bodenham Moor in June 2016 (P151651/F) which will not have been captured by Herefordshire Council's data. In the interests of certainty, RPS has added these 3 dwellings to the list of commitments in **Appendix 3**, taking the number of completions and commitments to 61.

3.15 RPS would advocate the use of the figures provided by Herefordshire Council as a more stable set of data, which is consistent with the approach to housing monitoring in the County. This does not however represent the full number of permissions that should be included in the Draft BNDP. A number of adjustments need to be made to this list to reflect the sites that the BNDP can include as part of the assessment.

- 3.16 RPS raises concern over the inclusion of sites outside of Bodenham Moor and Bodenham (open countryside) within the supply of sites. As indicated in **Appendix 3**, this equates to the 1 completed dwelling and 7 dwellings extant/under construction. Though RPS has no objection to including these sites within the overall supply of dwellings to meet Herefordshire's targets, these completions should not be counted towards the requirement for Bodenham Moor and Bodenham. It is clear from the reading of Policies RA1 and RA2 of the HLP, that the proportionate growth targets for the rural areas are concerned with development within or adjacent to existing settlement boundaries. The policy did not intent to see a further proliferation of isolated rural dwellings that would be set apart from the wider principles of sustainable development. The proportional growth rate is applied to settlements only and on this basis, developments in the open countryside should not count against this target. It is therefore proposed that the 8 dwellings recorded in the open countryside are not recorded against the overall supply. Following this, the Draft BNDP should only record the following:
- 0 Completions (April 2011-March 2016); and
 - 54 Permissions (April 2011-March 2016)
- 3.17 This presents a figure of 54 permissions within Bodenham Moor and Bodenham which can be considered against the BNDP policy framework. The final judgement to be made is to establish the deliverability of these sites and whether they can be expected to come forward within the plan period.
- 3.18 In presenting policies for the supply of housing, RPS would expect that a similar level of scrutiny was applied to the BNDP that is reflected in the HLP. At the time of submitting this response, the latest decision to consider Herefordshire's approach to calculating the supply of housing is set out in the Planning Appeal recovered by the Secretary of State at Bartestree³.
- 3.19 As part of this Appeal, the Appellant made an assessment of Herefordshire's housing land supply, challenging the Council's proposed supply of 5,715 dwellings, established in the Appellants Proof (Excerpt included in **Appendix 4**), presenting instead a supply of 4,140 dwellings. Part of the reduction in this assessment of supply involved the delivery assumption that not all of the proposed sites in the Council's supply will be delivered as planned. These may lapse, stall or fail to be delivered altogether. The Appellant proposed that a 10% deduction was made to the commitments to address this uncertainty in the planning process. This, along with other amendments proposed by the Appellant led to a reduction in the housing land supply from 5.0 years to 3.63 years, which was endorsed by the Inspector (paragraph 27 of **Appendix 5**) and remains the most up to date evidence on the position. As part of the appeal proceedings, the Council also confirmed that they agreed with this position, accepting the principles which led to this reduction.
- 3.20 RPS considers that the Draft BNDP is not sufficiently flexible in this regard should the permissions in the BNDP not come forward as expected. An appropriate mechanism to deal with this would be to use the approach now adopted by Herefordshire Council, which would introduce a 10% buffer on the committed development. Applying this to the relevant permissions in Bodenham Moor and Bodenham, this would reduce the overall number from 54 permissions to

³ APP/W1850/W/15/3051153 Land at Longworth Lane, Bartestree (Decision issued 26 October 2016)

49 permissions. This, RPS finds, is a more appropriate basis for approaching the housing supply in the emerging BNDP.

- 3.21 Set against the requirement of 71 dwellings in the village, this would leave an additional 22 dwellings to be found in order to satisfy emerging Policy BNDP1 of the neighbourhood plan in a way which is consistent with Policy RA2 of the HLP.
- 3.22 In addition to windfall development (identified as 57 dwellings in category G of Table 2, Annex F), the BNDP needs to plan for a further 79 dwellings within the plan period.
- 3.23 Consideration of the proposed settlement boundaries is offered as part of section 4 of this response, however RPS has concerns whether this level of need can be met within the identified settlement boundaries.
- 3.24 In order for the emerging BNDP to be consistent with the strategic plan in Herefordshire District, RPS recommends that the Council should also apply the same principles as Herefordshire which includes the provision of a 10% buffer to ensure flexibility in the supply. This has not been done and as such, the BNDP is inconsistent with the HLP.

BNDP potential land options assessment

- 3.25 In terms of the consideration of potential sites for future housing, Policy RA2 of the HLP states that:

“Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets, by indicating levels of suitable and available capacity”

- 3.26 In response to this, the Council has prepared a supplementary study⁴ to consider potential housing land that is “suitable to meet new housing requirements” (paragraph 1 refers). This document claims to draw on a number of sources, including Strategic Housing Land Availability (SHLAA) reports from 2009 and 2015, assessing these options using criteria set out in paragraph 3.1 of the study.
- 3.27 As indicated elsewhere in this response, RPS finds that this evidence is not fit for purpose in guiding the direction of the BNDP. RPS does not consider that this assessment has considered how new housing will be delivered through the BNDP and the Plan has taken an overly restrictive approach to new growth in the Parish.

Sustainability of Bodenham Moor

- 3.28 Policy RA2 identifies Bodenham Moor and Bodenham as key settlements in Herefordshire and identifies the Settlements of Bodenham Moor and Bodenham as settlements capable of accommodating proportionate growth in the Bromyard HMA (Figure 4.14 refers). Twelve settlements are included within this table for Bromyard, recommending that proportionate housing growth will be supported within and on the edge of these settlements.

⁴ Potential Housing Land in Bodenham Neighbourhood Area: Consideration of Options and Reasoned Assessment

- 3.29 What this table does not do is make a distinction over which of these settlements are more or less capable of delivering sustainable growth to contribute towards the overall housing need set out in Policy SS2 of the HLP.
- 3.30 As part of the evidence base for the HLP Examination, Herefordshire Council published the Rural Housing Background Paper in 2013. This includes an assessment of each of the twelve settlements included for proportionate development in Policy RA2 of the HLP, an excerpt of which is included in **Appendix 6**. This indicates how each of the villages have been selected, accounting for settlement size, provision of services and planning constraints. Of the sites on the list Bodenham Moor is ranked the highest scoring village in Bromyard HMA, with the largest provision of services and a settlement size over double of the next largest village.
- 3.31 Whilst Policy RA2 of the HLP remains flexible enough to deliver growth in each of the settlements listed in Figure 4.14, it is clear that some settlements present greater opportunities for sustainable growth than others. For example, Figure 4.14 includes villages such as Burley Gate, a village of 52 dwellings. Whilst it is served by local facilities, there will be limited opportunities for growth that can deliver meaningful sustainable growth including affordable housing provision.
- 3.32 From this assessment it is clear that Bodenham Moor is the most sustainable village in the Bodenham HMA, which should be a consideration as part of the BNDP in respect of the ability of the HLP Policy RA2 villages to meet the overall housing need set by HLP Policy SS2.

4 POLICY BNDP2: SETTLEMENT BOUNDARIES

- 4.1 In the text preceding Policy BNDP2, the Draft BNDP correctly identifies that Bodenham and Bodenham Moor are identified in Policy RA2 of the Herefordshire Local Plan as settlements to receive proportionate sustainable growth. To deliver this Policy, the Draft BNDP indicates that Bodenham and Bodenham Moor need defined boundaries to identify their limits and define where the restrictive countryside policies of the Local Plan apply (paragraph 4.1 of the Draft BNDP refers).
- 4.2 RPS does not consider that the Draft BNDP has correctly established what Herefordshire Council intended through Policy RA2, which indicates that housing growth will be supported in or adjacent to the settlements identified in the Policy. Indeed, the supporting text to the Local Plan policy indicates that development should be located within or adjacent to the main built up areas to ensure that isolated, non-characteristic development does not arise (paragraph 4.8.16 refers). If it were the intention of the Local Plan to oversee the introduction of settlement boundaries, this should be done in a way which considers the need for potential housing sites adjacent to the settlement boundaries in the BNDP, to avoid further development in isolated areas of the Parish.
- 4.3 Herefordshire Council offers further guidance on proposing settlement boundaries, published as part of the Herefordshire Neighbourhood Planning Guidance Note 20⁵. The first page of text in this guidance document includes a summary of the advantages and disadvantages of proposing a settlement boundary as part of a BNDP. The Guidance Note advises that whilst settlement boundaries can offer certainty, done incorrectly, they can be crude and inflexible. Importantly, under the 'advantages' of a settlement boundary, the guidance suggests that BNDPs can ensure a more plan led approach to future housing growth, allowing for the allocation of sites over a windfall approach. The Draft BNDP has not planned positively for future growth and despite identifying potential options for future housing allocations none have been included within the proposed Plan. Instead, the windfall growth target for Bodenham Moor and Bodenham is expected to be met within the tightly drawn settlement boundary. For Bodenham Moor, this has only been adjusted from that of the former UDP settlement boundary (**Appendix 7**) to reflect committed growth in the village.
- 4.4 What the BNDP has not done is consider the potential that future growth may be required in the parish which should be directed towards Bodenham Moor and Bodenham in the first instance. The BNDP cannot therefore be seen to be sufficiently flexible to respond to any new evidence of housing need and is not capable of enduring the Plan period up to 2031.
- 4.5 The need for flexibility in the BNDP process has been recently confirmed through the Planning Appeal at South of Ford Lane, Yapton, the decision for which was recovered by the Secretary of State. The Secretary of State's Report on this Appeal was published on 13 September 2016⁶ which involved the consideration of policies in the adopted Yapton BNDP and the implications for development arising from the emerging Arun District Local Plan.

⁵ Guide to Settlement Boundaries (revised January 2014)

⁶ Land to the South of Ford Lane, Yapton (APP/C3810/A/14/2228260)

- 4.6 One of the key issues in the Appeal was the consideration of adopted BNDP Policy BB1, concerned with the permission of development outside of the built up area boundary. The Appeal considered the weight that could be given to BNDP Policy BB1 in light of uncertainty surrounding the housing need of Arun District. The Inspector for the Secretary of State held that weight could be afforded to Policy BB1 on the basis that the boundary included sufficient flexibility that it could respond to potential uplifts in the housing need in the District. As illustrated on the Proposals Map in the Yapton BNDP (**Appendix 8**), this includes land beyond the proposed allocations, which would provide additional opportunities for growth within the settlement boundary.
- 4.7 This same level of flexibility does not exist in the Draft Bodenham BNDP, the boundary for which includes very few opportunities for additional growth should future evidence determine a higher level of housing need in Herefordshire or a need to address any shortfalls that accrued in the County. The Herefordshire Local Plan is by no means an old document, having been adopted in October 2015. Despite this, the Council is already displaying difficulties maintaining a five year supply of deliverable housing against the Councils housing requirement. Rather than close the door on flexibility, the BNDP needs to build flexibility into the Plan, which will allow it to respond to unmet need in the County and assist the Council in addressing shortfalls in housing delivery. The BNDP should therefore take the lead from Policy RA2 of the HLP which states:
- “Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets, by indicating levels of suitable and available capacity”***
- 4.8 The Draft BNDP does not include such an assessment and is instead reliant on windfall sites to allow the village to meet the minimum growth targets set by Policy SS2 of the HLP.
- 4.9 The Parish Council may be aware that in the past 12 months guidance has been reintroduced into the online National Planning Practice Guidance (PPG). Concerning planning obligations, the PPG makes clear (paragraph 031-20160519 refers) that affordable housing contributions should not be sought on sites less than 10 dwellings, to encourage small scale and self-build development. Whilst this is a positive move to remove barriers to delivery of smaller schemes, this does impact on the provision of affordable housing that can be generated from new schemes. This is also accounted for in Policy H1 of the HLP. The windfall led strategy for the BNDP would fall under this site threshold, preferring piecemeal development over plan led approach to strategic growth. This policy would not be able to derive any additional affordable housing and as a result would deliver less social benefits in comparison to an allocations led strategy. This is a significant consideration which has not been taken into account as part of the windfall strategy.
- 4.10 In light of the Yapton Decision, RPS considers that there is a need for additional sites adjacent to the settlement boundary is to ensure that the BNDP is sufficiently flexible and capable of enduring throughout the plan period up to 2031. The identification of such sites need to be guided by evidence of site suitability and deliverability. The best resource available to the BNDP in this regard is the evidence base prepared by Herefordshire Council, particularly the Strategic Housing Land Availability Assessment (SHLAA).

5 POLICY BNDP3: MIX, TYPE AND TENURE OF NEW HOUSING DEVELOPMENT

- 5.1 The supplementary text preceding this policy frames the Parish Council's intention to deliver an affordable housing policy which sets out levels of affordable housing expected in the Parish. Here, reference is made to the Herefordshire Council's affordable housing targets and the current levels of affordable housing need which are noted will change over time.
- 5.2 The actual policy however is more loosely worded than this, covering market and affordable housing. This indicates that application must include details of the mix, types, sizes and tenures to meet local housing requirements and include affordable housing to comply with HLP Policy H1 – Affordable Housing. The Policy needs to be clear that this relates solely to affordable housing and needs to understand the difference between outline and full planning schemes and the appropriate level of detail that can be submitted at each stage.
- 5.3 One of the key sentences here is 'local housing requirement'. RPS recognises that this phrase is often used to relate development to affordable housing and understands that this is the intention of the policy. What the policy should not do is try and frustrate the delivery of market housing in the parish and there are no national standards in this regard relating to types and sizes. This should be clarified along with the removal of the reference to local housing requirements.
- 5.4 RPS considers that although poorly worded, the intentions of Clause 1 of BNDP3 seek to inform the provision of future affordable housing and if this is the case, the framework for this policy already exists as part of the higher tier HLP. An additional policy on this matter is therefore duplication and unnecessary for the purposes of policy formation.
- 5.5 Clause 2 of the policy indicates that proposals for affordable housing should be located within settlement boundaries of Bodenham and Bodenham Moor. RPS considers that this policy should not be limited to affordable housing and principles should be prepared to identify proposals for market housing on the edge of the key villages. Paragraph 5.6 of the Draft BNDP identifies a current need (as of 2014) for 10 further affordable houses in the Parish, 8 of which are for affordable purchase. As the Parish Council will be aware, the Government has changed its stance on affordable housing contributions (cite PPG), which advocates that affordable housing should only be applied to schemes of 10 or more. This will be beneficial for the small housebuilding industry, though this will not benefit the delivery of affordable housing and it is unlikely that the policy approach undertaken by the Draft BNDP will deliver any further affordable housing. The BNDP needs to recognise the benefits of delivering market housing which can support the delivery of affordable housing as a benefit to development. This can only be requested on schemes of 10 or more and RPS recommends that in order to meet the current and future affordable housing need in the Parish, further site allocations are introduced into the BNDP.
- 5.6 Clause 3 of this policy relates to the monitoring of local housing need, citing a review of the plan if local needs are not being met. This policy lacks any certainty or clarity on the exact conditions to trigger a review and how the issue might be resolved. Rather than include a policy for the early review of housing, it would be more prudent to address any signals of housing need at this

juncture and avoid another lengthy plan review process. As indicated above, RPS recommends that additional housing allocations adjacent to Bodenham Moor can achieve this and this approach will provide a higher degree of safeguarding than the plan currently offers.

6 POLICY BNDP 4: FLOOD RISK AND DRAINAGE

- 6.1 This policy provides a similar policy framework to that expressed in HLP Policies SD3, SS7 and SD4 and again, it is unclear what new information the policy brings that is not already addressed in the HLP.
- 6.2 The supporting text to the policy is helpful in this regard, indicating at paragraph 6.5 that there is no foul water capacity for Bodenham, suggesting that new schemes will have to come forward using private septic tanks as an alternative means of dealing with foul water. This is by no means a preferable solution and this evidence should have been incorporated into the plan making process to inform the hierarchy of new development locations. This environmental constraint will limit the ability of housing schemes in Bodenham, which places greater emphasis on Bodenham Moor as a location for new growth and this information should inform Policy BNDP1, placing Bodenham Moor as the principal settlement for new growth.

7 POLICY BNDP 6 LOCAL COMMUNITY FACILITIES

- 7.1 This policy seeks to protect existing community facilities, support new proposals and generate funds locally to contribute towards existing schemes in the BNDP plan area. RPS generally supports the Parish Council's intention to support and protect the existing services and facilities in the Parish, though concern is raised in relation to the means of appropriating funds for these items.
- 7.2 Clause 3 of this policy includes a requirement for developer contributions to be used for four specific schemes. Paragraph 7.6 of the Draft BNDP indicates that contributions will be sought via Section 106 agreements and/or Community Infrastructure Levy (CIL) to provide for these schemes. RPS does not consider that, in the main, Section 106 is an appropriate mechanism to secure these contributions as other than Clause 3b, these schemes relate to upgrades that are unlikely to relate to new development. Section 106 contributions can only be sought where they are directly related to the development; necessary to make the development acceptable and; are fairly and reasonably related to the development (paragraph 25-094-20140612 of the PPG refers). Other than Clause 3b, the other items on this list do not relate to this and cannot be enforced through contributions.
- 7.3 These items can be contributed to as part of CIL contributions and with a Neighbourhood Plan in place, the Parish will be able to secure 25% of CIL receipts. Presently, this policy is not compliant with national and local policy and does not meet the basic conditions required to proceed to Referendum.
- 7.4 RPS recommends that this policy is amended to separate out items relating to schemes compliant with Section 106 contributions and which should be met through CIL contributions. As identified by RPS, the majority of schemes listed in Draft Policy BNDP6 are considered to be CIL schemes, as these relate to upgrades beyond the remit of making new developments acceptable.

8 POLICY BNDP 7: PROTECTING LANDSCAPE AND IMPORTANT PUBLIC VIEWS

- 8.1 Comments related to this policy will be addressed as part of a technical appendix, to be submitted further to this statement, within the Parish Council's agreed consultation period ending on Sunday 20 November 2016.

9 POLICY BNDP8: LANDSCAPE DESIGN PRINCIPLES

- 9.1 Comments related to this policy will be addressed as part of a technical appendix, to be submitted further to this statement, within the Parish Council's agreed consultation period ending on Sunday 20 November 2016.

10POLICY BBDP9: PROTECTION OF LOCAL CHARACTER

- 10.1 Comments related to this policy will be addressed as part of a technical appendix, to be submitted further to this statement, within the Parish Council's agreed consultation period ending on Sunday 20 November 2016.

11 POLICY BNDP10: OPEN SPACES

11.1 Policy BNDP10 of the Draft BNDP proposes the allocation of Local Green Spaces (LGS) to be granted restricted status for development, unless very special circumstances arise which outweigh the need for their protection. The policy also indicates that proposals resulting in the loss of other public open space will also not be permitted.

11.2 The policy refers to LGS sites listed in Annex C which includes seven sites illustrated in Appendix 1 of the Draft BNDP and replicated below:

Bodenham Moor

1. Car park and tennis courts adjacent to Parish Hall, together with parcel of land to the east;
2. Grassland north east of the GP Surgery;
3. Bodenham Moor village green;
4. Land south of Chapel Lane, known as 'Shukers Field'.

Bodenham

5. Village green;
6. Field opposite war memorial; and
7. Lady close orchard and Bodenham lake.

11.3 Annex C also includes details of each of these proposals, including the proximity to the village and the Parish Council's determination of special qualities or local significance which justify the designation.

11.4 In the supporting text to the policy, the Draft BNDP states that the former 2007 Unitary Development Plan (UDP) identified sites for protection as open areas/green spaces and this protection should be continued through the BNDP (paragraph 8.10 refers). As illustrated in **Appendix 8**, the UDP offered protection for one site as an *Open Area and Green Space* (identified as Site 2 in the Draft BNDP) and two sites safeguarded as *Open Space and Allotments* (identified as part of Site 1 and Site 3 in the Draft BNDP). The current BNDP proposals deviate from this process, in that rather than identifying

National or Local Policy and Guidance

11.5 The justification for including LGS sites emerged within the NPPF in 2012, which outlines the ability for Local Plans or Neighbourhood Plans to identify such sites. The NPPF is clear that the provision of LGS sites should be consistent with the local planning of sustainable development and should complement the investment of sufficient homes, jobs and other essential services (paragraph 76 refers).

11.6 Paragraph 77 of the NPPF is clear that the designation of Local Green Spaces will not be appropriate for most green areas or open space and thus should not be applied liberally or

without justification. In this regard, the same policy of the NPPF is explicit in the particular justifications that a Local Plan or Neighbourhood Development Plan would need to satisfy in order to allocate a LGS. Three tests are provided as part of paragraph 77, which are:

- The green space is in reasonably close proximity to the community it serves;
- The green space is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value, tranquillity or richness of its wildlife; and
- The green area concerned is local in character and not an extensive tract of land.

11.7 The NPPG offers further clarification on this matter (paragraph 37-007-20140306 refers), noting that BNDPs need to be consistent with planning for sustainable local need and the designation of LGS sites should not be used in a way that undermines this aim of plan making (RPS emphasis).

11.8 The NPPG confirms (paragraph 37-019-20140306 refers) that LGS sites do not need to be in public ownership, however the qualifying body should contact the landowners at an early stage about proposals to designate any part of their land as a LGS. This has not been undertaken as part of this plan making process.

11.9 LGS is a restrictive and significant policy designation which, in the context of the NPPF, requires a management consistent with the policy approach for the Green Belt. From this overview of the policy context it is clear that the designation of LGS sites is not appropriate in most cases and should not be used lightly.

11.10 Importantly, LGS designations should not constrain the ability of delivering sustainable development and should be informed by robust evidence to meet the tests set out in paragraph 77 of the NPPF.

Local Evidence

11.11 In order to for LGS sites to be included within the BNDP, there needs to be demonstrable evidence that the sites proposed meet the paragraph 77 tests of the NPPF.

11.12 The evidence presented by the Parish Council in this respect is included within Annex C of the Draft BNDP, which includes an assessment of each of the proposed sites set against a category listed as '*Special Qualities/Local Significance and Character*'.

11.13 This terminology is inconsistent with thrust of paragraph 77 of the NPPF and as a consequence does not provide a meaningful assessment of whether any of the sites proposed should be allocated as LGS sites.

11.14 Beyond the guidance provided by the NPPF and NPPG, additional clarification on the examination of LGS sites can be understood from recent examples of BNDPs elsewhere in the country. The issue of LGS sites was one of the issues for consideration by the Inspector appointed to examine the Swanwick BNDP. As part of Policy 2 the BNDP proposed three areas of land to be designated as open land adjacent to the village of Swanwick. The Inspector's Report to this BNDP (**Appendix 9**)

- 11.15 further clarification on how Local Green Space should be scrutinised has been the subject of a recent Examination as part of the Swanwick Neighbourhood Plan.
- 11.16 In April 2016 the independent Planning Inspector reported on the compliance of the BNDP to meet legal requirements and satisfy the 'basic conditions' set out in law following the Localism Act⁷. This considered the proposed sites under Policy 2 against the framework for assessing LGS sites. In his assessment, he refers to the three tests of Paragraph 77, noting that all three need to be satisfied in order for a site to be considered as a LGS.
- 11.17 The Inspector goes on to qualify (third paragraph of page 19) that whilst the BNDP stated that the sites held an *intrinsic value*, no substantive evidence was provided to demonstrate that the areas of land held a particular significance (for reasons of beauty; historic significance; recreational value; tranquillity or richness of wildlife). Additionally the Inspector was not convinced that the proposed sites were indeed proposed as LGS.
- 11.18 Taking this into consideration, the Inspector determined that the Policy did not fulfil the requirements of Paragraph 77 of the NPPF and did not meet the basic conditions. As a result of this, the Inspector recommended the deletion of Policy 2 which, alongside other recommendations, was required in order for the plan to proceed to Referendum.
- 11.19 As indicated above, the Draft Bodenham BNDP is not supported by any evidence of this nature which justifies why each of the proposed sites meet the three tests of Paragraph 77. Without demonstrable evidence for the inclusion of the LGS sites, RPS does not consider that the Draft BNDP satisfies the basic conditions and, on this basis, the sites should be recommended for deletion.

Alternative Assessment of Local Green Space Proposals

- 11.20 As indicated above, the assessment of LGS sites within the Draft BNDP has not been undertaken in accordance with the NPPF and the NPPG and does not satisfy the basic conditions required for a BNDP to proceed to public Referendum. The Draft Bodenham BNDP falls foul of the same issues raised as part of the Swanwick BNDP Examination, which resulted in the recommended deletion of the policy for allocating open spaces.
- 11.21 In response to this RPS has considered each of the LGS sites proposed in the Draft BNDP against the criteria listed in paragraph 77 of the NPPF, having regard also to paragraph 76 which requires that the LGS sites should be capable of enduring beyond the end of the plan period. This assessment undertaken by RPS is enclosed as **Appendix 10**, the summary of which is replicated below:
- 1. Car park and tennis courts adjacent to Parish Hall, together with parcel of land to the east*
- 11.22 This proposed site includes recreational facilities associated with the Parish Hall, including tennis courts and a car parking area. There is a further parcel of land submitted south of the tennis courts which is currently used for small hold agricultural use.
- 11.23 In terms of the site's potential as a LGS, the assessment made by RPS indicates that whilst part of the site does contribute towards recreational benefits to the village, it is poorly located to the

⁷ Paragraph 8(2) of Schedule 4b of the Town and Country Planning Act 1990

core functions of the village and does not contribute towards the local character of the village. It is noted that part of the site (relating specifically to the tennis courts) were previously identified as an area of safeguarding for open space and allotments, however this did not cover the area now identified by in the Draft BNDP, which includes a car park and adjacent grazing land. These areas were not previously included in the UDP and do not bear any correlation with the tests of a LGS included in the NPPF.

11.24 The Council's evidence (Annex 3 of the Draft BNDP) indicates that this site is the only publicly owned social and recreation facility in the Parish. Whilst RPS does not dispute this, this does not provide sufficient justification against the tests of the NPPF.

11.25 It is therefore questionable whether the BNDP should be using powers to identify this site as a LGS, as it does not conform to the tests in the NPPF. The NPPF states that the LGS designation is not appropriate for most green areas or open space (paragraph 77 refers) and RPS consider that this is the case for this site.

2. Grassland north east of the GP Surgery;

11.26 The Draft BNDP proposes to include a small area of grassland within the supply of LGS sites which is located behind the Bodenham Moor GP Surgery. This land is owned by Herefordshire Council, who manages the site and maintains the three trees on site.

11.27 There are no public facilities on this site, no rights of way or any marked access routes. The Council's evidence claims that this is essential to the character of the heart of the village. Whilst RPS notes that this is one of the few undeveloped areas of green space in the village, the Council has not provided any justification to demonstrate this fact.

11.28 As the BNDP notes, this site is owned by Herefordshire Council and as such, the site is already offered a level of protection through the democratic process. For the Council to release the land for anything other than its current use, it would need to go through internal cabinets, involve local members and potentially undertake consultation. The BNDP needs to establish exactly why it wishes to designate this site as a LGS. If it is to protect the site from development, RPS considers that public ownership already offers a level of protection, which makes the LGS designation unnecessary.

3. Bodenham Moor village green;

11.29 The Bodenham Moor village green is also under public ownership, albeit covering a larger area than the green space adjacent to the GP Surgery. The site includes a children's play area and park benches.

11.30 As indicated in the evidence submitted alongside this response (**Appendix 10**), the village green offers recreational benefits to the village and, located in the centre of the village, does contribute towards the character of the settlement. The site is also owned by Herefordshire Council and as such the village green is offered a level of protection through these means. A LGS designation would not be appropriate.

4. Land south of Chapel Lane, known as 'Shukers Field'.

- 11.31 RPS has been involved in promoting this land on behalf of Bovis Homes which was presented to Herefordshire Council as a planning application in 2015. An assessment has been made over whether the site contributes towards all of the three tests of the NPPF (paragraph 77).
- 11.32 The assessment of the site provided by RPS (**Appendix 10**) indicates that the site does not hold any local significance as a LGS other than the proximity to the village, which is by itself not enough to justify the designation of the site as a LGS.
- 11.33 The site is currently managed for agricultural purposes and does not serve any functions to the local community and does not enrich the local character. Indeed, the planning proposal submitted by Bovis in 2015 included an area of public open space and a Children's play area, which may have provided some basis for consideration, however the Draft BNDP has considered the site on its current value.
- 11.34 The assessment of the site made by the Draft BNDP (Annex C) indicates that the site makes a significant contribution to public amenity by virtue of its open space/rural character, provides relief from the otherwise linear character to the south of the village and is critical in preserving the character and setting of the adjacent Grade II listed buildings.
- 11.35 RPS wholly disagrees with this conclusion. Should the Inspector observe the site, it is clear that the parcel of land proposed is enveloped by an existing hedgerow which bounds the site to the north and the east, obscuring views into the site. There are no public rights of way through the site, which is used solely for arable purposes and it therefore offers little in the way of public amenity, use or contribution to the character of the village.
- 11.36 Though other sites proposed as LGS in the Draft BNDP are not supported by any substantive and qualified evidence, this site has the benefits of the evidence base submitted as part of the application to Herefordshire Council in 2015 (reference). As evidenced within the supplementary Archaeological and Heritage Assessment supporting the 2015 planning application, there are no assets of historic importance within the site.
- 11.37 In response to this application (**Appendix 10**), the Officer's report submitted to members for consideration included responses from the Council's Conservation Manager covering both historic buildings and archaeology (paragraphs 4.7 and 4.12 refer). In summary, the Conservation Manager found that the development proposal was in compliance with Policy LD4 of the Herefordshire Core Strategy and Chapter 12 of the NPPF and subsequently no objections were raised.
- 11.38 It is therefore clear that the site fails to meet the NPPF tests of what a LGS site should be and the Draft BNDP is unjustified in the inclusion of the site.
- 11.39 Additionally, the NPPF is clear (paragraph 76 refers) that LGS sites should be capable of enduring beyond the plan period. As identified in Section 2, RPS is concerned that the Draft BNDP is not sufficiently flexible to meet any additional housing need arising in the County, some of which may be required in Bodenham Moor, as the largest village in the Bromyard HMA. The Draft BNDP does not correctly reflect the evidence base underpinning the Herefordshire Core Strategy which identifies this site as land with potential for residential development, reflecting its suitability for housing. There are no other identified sites of this scale in the village that could

meet additional need and therefore it would be inappropriate to designate this site as a LGS as this designation would not endure.

5. Bodenham Village green;

11.40 This small parcel of land includes a Grade II listed war memorial cross and a capped well feature. It does not meet any of the criterion necessary for LGS designation and is already safeguarded through the Grade II listing.

11.41 It is not considered that this site meets the tests required in order to allocate this as a LGS.

6. Field opposite war memorial; and

11.42 This is a privately owned parcel of land with little evidence of local recreational use and value to the local community. There are no provisions on the site or evidence that this site contributes to the character of the village. It is not considered that this site meets the tests required in order to allocate this as a LGS.

7. Lady close orchard and Bodenham lake.

11.43 This proposed LGS covers a significant space including Bodenham Lake nature reserve and an area of orchard to the east of the site. This site is used for recreational purposes by the youth sailing club and is noted area for local wildlife. As an existing local nature site, this site is already afforded a level of protection which would offer an appropriate level of safeguarding from development. On these grounds a LGS designation would not be appropriate.

Summary

11.44 The above information demonstrates that none of the sites identified in the Draft BNDP are capable of meeting the qualifying criterion identified in paragraph 77 of the NPPF. Some of the sites identified are already offered protection, through the local designations as nature sites, or contain Grade II Listed Buildings. This will ensure that these parcels of land are protected, though the other sites promoted in the BNDP, such as Land South of Chapel Lane, are not qualified by the same evidence and are not fit for allocation as a LGS.

12 SECTION 11 REVIEWING AND MONITORING THE PLAN

- 12.1 This section of the Draft BNDP refers to the monitoring and review of the plan and includes a number of observations, including the possibility of increased need for housing during the lifetime of the plan period. These increases are expected as a result of additional demand for housing, arising from increases in population and movements in local house prices. In response to this, paragraph 11.2 proposes that a review is undertaken in 2021 to ensure that the details of the plan are kept relevant. Such an early review period does raise alarm with RPS as the plan is proposing a review within 4 years of adoption. The plan should be capable of enduring for at least the duration of the plan period up to 2031 and should make provisions to do so to avoid the lengthy process of plan review.
- 12.2 The Parish Councils evidence points towards inadequacies in the provision of housing as it is these means which form the principal issues for review. The BNDP should be sufficiently flexible that it can respond to any emerging evidence of housing need. RPS has already identified that the plan needs to make additional provision for housing and the evidence provided in this section compounds this need further. RPS therefore proposes that additional allocations are found adjacent to Bodenham Moor, as the most sustainable location in the Parish. Land south of Chapel Lane remains available to meet this need and evidence from Herefordshire Council identifies this site as the most sustainable location for growth. It is therefore recommended that this site is included within the BNDP to provide sufficient land for the extant housing need to be met and safeguard the BNDP to ensure an early review of the plan is not needed.

13 ENVIRONMENTAL REPORT

- 13.1 The Parish Council has submitted an Environmental Report (ER) alongside the BNDP, which has been prepared by Herefordshire Council. This document includes an assessment of policies included in the Draft BNDP against environmental objectives transposed from the SEA Directive (Annex II (2) of 2001/42/EC).
- 13.2 As indicated in the report (paragraph 1.5 refers) the screening of the BNDP undertaken in 2014 identified that there may be significant environmental effects and consequently an SEA would be required.
- 13.3 Though Herefordshire Council's report has correctly identified the requirement for this report to be prepared, RPS has a number of concerns relating to the methodology and scope of the ER, which is not considered to meet the requirements of the SEA Directive. Clarification on these disputed areas is presented below.

Methodological approach

- 13.4 RPS welcomes the initiative of Herefordshire Council in preparing this report, though remains concerned over the robustness of the approach and the subsequent findings that are derived from the ER.
- 13.5 In setting the SEA objectives and baseline characteristics, the ER indicates that development in the Parish will predominantly be via existing commitments and windfall development (paragraph 3.10 refers). The text goes on to say that the full impacts of the SEA Directive will be tested at the planning application stage when the full details of the location are known. This is quite a confusing stance from the Council as it suggests that the ER has purposefully delegated certain SEA objectives for a later time, instead of testing the full SEA Framework illustrated in the assessment of the Herefordshire Core Strategy. To make this statement prior to assessing the BNDP itself is somewhat of a fait accompli and does not recognise the importance of the SEA in identifying options that can lead to more sustainable outcomes.
- 13.6 What we are therefore left with is a partial SEA assessment, which focusses on a select number of SEA objectives relating to the environment, rather than the full suite of social, economic and environmental indicators. The SEA framework has therefore been skewed in favour of the environmental indicators which offer only one part of the three dimensions of sustainable development.
- 13.7 If Herefordshire Council are insistent that the BNDP is supported by a SEA compliant ER, this cannot be a cherry picked document of indicators as this undermines the credibility of including the report as part of the supporting evidence base. It is therefore paramount that the ER is revised to reflect the whole SEA Framework used by the Council so that it can be used as a means of fully understanding and appraising alternative options to the plan.

Assessing the NDP Options

- 13.8 The ER includes an assessment of each of the Draft BNDP policies and objectives against the Council's SA framework. Notwithstanding comments made above on the lack of balance in the

proposed indicators, RPS also raises concern on now the appraisal of options in the ER has informed the Draft BNDP.

- 13.9 Section 5 of the ER points to nine spatial options which have been assessed as alternative growth strategies for the BNDP. These options relate principally to housing growth in the Parish, considering what the environmental impact would be to include further allocations for housing in Bodenham Moor and Bodenham. The outcome of this assessment is detailed as part of the table supporting paragraph 5.6.
- 13.10 Given the residential focus of these options, it is considered that a comparative assessment can be made against the scoring of Draft BNDP Policies 1 and 2, which are concerned with the delivery of new housing and the imposition of settlement boundaries to define the extents of new development.
- 13.11 The ES scoring of Policies 1 and 2 of the Draft BNDP is included in support of paragraph 6.5 of the document. For Policy BNDP 1, this indicates that relationship of the SEA objectives is unclear and that further information is needed. This is represented by blanket 'unknown' scores against the assessment of this emerging policy. In respect of the settlement boundary (Draft Policy BNDP2), the policy is found to be compatible with the SEA objectives. RPS is concerned by the scoring of the ER in respect of BNDP1, which is largely mirrored in the assessment of Objective 1 of the BNDP, which is to meet the housing requirements of the HLP. This tells us that there is uncertainty over the ability of the BNDP to deliver growth in line with the higher tier HLP – this information has come directly from Herefordshire Council. This is important, not only as this relates to other housing sensitive policies in the BNDP (such as Emerging Policy BNDP 2: Settlement Boundaries), but it suggests that there may be a potential conflict with the HLP. This is incompatible with paragraph 8 (2) (e) of the Town and Planning Act 1990 (amended), which requires general conformity with the Development Plan, which in this case is the HLP.
- 13.12 As indicated the options presented by the ER (Section 5 refers) includes nine alternative strategies to the proposed plan, which have reportedly been considered by the NDP steering group as part of the production of the BNDP (paragraph 5.1 refers).
- 13.13 The table supporting this assessment identifies two options which have the strongest correlation to the environmental objectives in the report, which are:
- Option 2: Allocate Sites for Housing; and
 - Option 4: Allocate Sites and Identify a Settlement Boundary.
- 13.14 The assessment of both of these options is awarded the same score, which is a mixture of strong and very strong compatibility scores with the ER. When taken against the scores of Policies BNDP 1 and BNDP 2, it is clear that either of these options would lead to a stronger correlation with the environmental indicators in this report. The findings of this report however, do not appear to have been taken into account.
- 13.15 Though Options 2 and 4 present different approaches, they share the common ground of the need to introduce additional allocations into the BNDP. The ER is clear in this regard that this would lead to moderate to significant effects in the context of the appraisal. Conversely, the ER indicates that the baseline position promoted through the Draft BNDP offers less certainty over

the positive effects for any growth as it does not allocate land for housing, instead relying on a criteria based policy (paragraph 5.4 refers).

- 13.16 It appears that the ER has been undertaken in isolation of the Draft BNDP, which makes little response to the fact that more sustainable options are identified through the ER, which casts doubt over whether the current proposals for a settlement boundary with no further allocations represent the most sustainable option for the Parish.
- 13.17 Paragraph 5.5 of the ER indicates that a settlement boundary for Bodenham Moor already existed and it was therefore logical to continue with this as a means of defining the growth area. For point of clarification, RPS bring to the Inspector's attention that settlement boundaries were included as part of the now largely superseded Unitary Development Plan (UDP). Settlement boundaries do not exist as part of the HLP and therefore it is entirely appropriate to reassess the view over whether they are appropriate to include within the assessment.
- 13.18 In this regard, there remains an inconsistency with the application of settlement boundaries for Bodenham Moor and Bodenham. The ER indicates that there can be greater certainty of the impacts of the BNDP if allocations are introduced into the Plan and the directions for growth are clearer. On the other hand
- 13.19 RPS content that the Draft BNDP fails to consider the most appropriate growth options for the Parish and would recommend that the BNDP is guided by the ER prepared in support of the Plan, which recommends that greater certainty can be introduced by allocating sites for housing as part of the Plan process.

Further consideration of Options

- 13.20 As noted above, the ER has considered high level spatial options for the plan, however it is unclear how this information has informed the plan making process of the BNDP.
- 13.21 Additionally, RPS notes that an assessment of the potential housing site options has not been considered as part of the ER or Draft BNDP. The Parish Council's information note on the consideration of housing options includes a review of three sites in Bodenham Moor and three sites in Bodenham. It is questionable that this forms an adequate baseline to consider reasonable alternatives, though there are still options available to the BNDP. These alternative options should, therefore, have been also appraised as part of the ER to determine how well each of the sites scored against the sustainability assessment which would contribute towards the site selection process.
- 13.22 RPS considers that there are serious implications arising from this decision, which draws on the findings of the recent challenge to the Henfield Neighbourhood Plan, the decision for which was handed on 13 October 2016⁸. The legal challenge (**Appendix 11**) was made to the emerging NDP on three grounds:
1. that the NDP had failed to lawfully assess reasonable alternatives to the spatial strategy established by the Plan;

⁸ [2016] EWHC 2512 (Admin). CO/2515/2016. Stonegate Properties Ltd and Littleworth Properties Ltd vs Horsham District Council and Henfield Parish Council.

2. the NDP had failed to consider any alternatives to the Built-Up Area Boundary (BUAB) as established in the NHP; and
3. the NDP Inspector failed to give any adequate reasons as to why the NDP met EU obligations.

13.23 In the background to the challenge, J Patterson notes that Henfield is recognised as a village appropriate to accommodate further housing development, as a category 1 village in the higher tier Henfield Core Strategy (paragraph 31 of **Appendix 11**). From reviewing this judgement, it is clear that Henfield is considered on a similar settlement hierarchy as Bodenham Moor, as the largest village in the Bromyard HMA.

13.24 As part of the Henfield NDP, the Plan sought to exclude development to the west of the village on the grounds that locals felt it would place unsustainable pressure on the local road system and infrastructure. In her assessment of the site, J Patterson found that the assertions made to justify the exclusion of development to the west of the village was not supported by evidence and cannot be considered anything other than guesswork (paragraphs 73 and 74 refer). Paragraph 74 reasons that as no evidence has been presented to qualify the points made, the reason for rejecting the option were flawed. As a consequence, under the SEA Directive the need to assess alternatives in a comparable and accurate way was not undertaken.

13.25 RPS finds that this description of how the Henfield NDP was undertaken mirrors closely the loose approach towards evidence included in the Draft BNDP. RPS notes the assessment of housing sites made as part of the supplementary note supporting the Draft BNDP which is founded on a number of anecdotal assumptions and sweeping statements. This evidence note rules out the site for potential residential use from the outset (paragraph 4.3.1) noting that the preference for a Local Green Space would be incompatible with housing. In addition to making this foregone conclusion, the note includes an assessment of the site against a mixture of uses (paragraphs 4.3.2 to 4.3.9 though no evidence is presented to justify these comments. Evidence has been presented on these issues as part of the former planning application for the site (15/0437) though this has not informed the BNDP options assessment process. As part of the planning application, the Planning Officer was satisfied that sufficient evidence was prepared which met the local requirements and importantly, represented sustainable development. No references have been made to this point, or the evidence underpinning the assessment.

13.26 The second ground of the challenge to the Henfield NDP followed similar grounds, indicating that the imposition of the settlement boundary (BUAB) had not been tested through a process which considered reasonable alternatives. This, again, corresponds to the treatment of settlement boundaries undertaken as part of the Draft BNDP, which has included only one fixed boundary which establishes the extent of development. Indeed, the ER does include an assessment of alternative options which includes extending the proposed boundary to include housing allocations (paragraph 5.2 or the ER refers), though the exact boundary is not specified (or taken into account as part of the NDP). In the case of the Henfield NDP, J Patterson reasoned that the settlement boundary is intrinsically linked to the delivery of the spatial strategy, which should have been qualified by an assessment of alternatives (paragraph 100 refers). As a consequence, J Patterson also found that this area of policy was in breach of EU obligations.

- 13.27 RPS considers that the imposition of the settlement boundary is linked to the delivery of spatial Policy BNDP1: Delivering New Homes and as such should have tested alternative options for delivery. Much like the Henfield NDP, the Draft BNDP has failed to do this.
- 13.28 RPS therefore considers that the Draft BNDP has fallen foul of the same mistakes made in the Henfield NDP and has not considered reasonable alternatives to the plan, consistent with the SEA Directive and therefore the Draft BNDP is incompatible with EU obligations.

14 SUITABILITY OF LAND SOUTH OF CHAPEL LANE

- 14.1 As indicated in Section 11 of this response, the Draft BNDP is supported by an information sheet⁹ relating to the consideration of potential housing land in the BNDP area.
- 14.2 This includes an assessment of three sites in Bodenham Moor and two sites in Bodenham. These are listed below:
- Site 1: Land South of Chapel Lane (Bodenham Moor)
 - Site 2: Land Opposite England's Gate (Bodenham Moor)
 - Site 3: Land to the Rear of Jalna, Chapel Lane (Bodenham Moor)
 - Site 4: Land to the North of Bunhill (Bodenham)
 - Site 5: Land to the North of Bank House (Bodenham)
- 14.3 This report does not propose to assess each of these sites in detail, this should have been the responsibility of the BNDP. RPS does however wish to raise concern with the assessment of Site 1: Land South of Chapel Lane, which corresponds with land promoted by Bovis Homes.
- 14.4 Before comments are provided in relation to this site, it should be noted from the outset that RPS questions the validity of the inclusion of this evidence, which does not disguise the lack of objectivity present in the assessment process and as indicated in Section 13, has not been subject to the Environmental Report. Additionally, the evidence base document has been very selective in the information presented in the note, ignoring a number of key factors in the assessment of suitability, availability and achievability.
- 14.5 This is apparent from paragraph 2.1 of the note, which includes the list of studies considered in the site selection process. Notably absent from this list is the latest 2015 Housing Land Assessments which includes a culmination of the housing land availability assessments in Herefordshire to date.
- 14.6 These documents provide the most up to date information published by Herefordshire Council on the deliverability of sites in Bodenham Moor and Bodenham, however they have been omitted from this study. The document for Bodenham Moor in particular indicates 15 sites which have been submitted to Herefordshire Council, all of which have been appraised against local constraints to determine the potential suitability. Despite this, the Draft BNDP appears to have only considered three sites in the assessment, one of which (Site 2: Land Opposite England's Gate) has already been approved through development management process and is considered as a commitment rather than a potential future allocation. If the study was to approach land around the villages in an objective manner, all the sites would have been considered, allowing for more realistic opportunities for comparison, which would also have gone some way to demonstrate that alternatives had been considered as part of the process, the requirement for

⁹ Potential Housing Land in Bodenham Neighbourhood Area: Consideration of Options and Reasoned Assessment

which has been established through the Henfield Decision¹⁰ (as noted in Section 13 of this report).

Site History

- 14.7 RPS has been involved in the promotion of this site for Bovis Homes through preparation of the Herefordshire Core Strategy and supporting SHLAA documents. A planning application was submitted to the Council (reference 15/0437) in February 2015, which was determined by Herefordshire's Planning Committee in October of the same year.
- 14.8 The application proposed 49 dwellings on the site (illustrative plan enclosed as part of **Appendix 1**), which included affordable housing, open space and a children's play area. The Planning Officer's Report was presented before members recommending that permission be granted for the proposed development. The Planning Officer demonstrated that the proposed development contributed towards the fulfilment of the economic and social roles of sustainable development, responded well to the landscape setting of the village and preserved the setting of the adjacent listed buildings (paragraph 7.2 of **Appendix 2** refers). Subsequently, the Planning Officer considered that this scheme represented sustainable development which accorded with the policies in the HLP.
- 14.9 Though the site was recommended for approval, elected members did not reach the same conclusion. Further to discussion the scheme was refused on two grounds:
1. Members felt that the erection of 49 dwellings would not reflect the size of Bodenham Moor and would be prejudicial to its landscape setting and settlement pattern. The proposal would not result in the delivery of a scheme that generate the size, type and range of housing required in Bodenham Moor or the wider Bromyard HMA; and
 2. Members reviewed the context of a further 49 dwellings on the proposed scheme in the context of the recent granting 40 dwellings [*Land Opposite England's Gate*] in the northern end of the village. Members felt that further large-scale unplanned growth on greenfield land without proportionate increases in local services or employment would be unnecessary. Reference was also made to the emerging Neighbourhood Plan which was considered to render irrelevant the housing delivery in the village, contrary to local views.

BNDP Evidence Base

- 14.10 As noted above the evidence underpinning the assessment of potential housing land is the information sheet for the consideration of potential housing land in the BNDP area. The assessment of Land at Chapel Lane follows around two pages of text, most of which appears to have been transposed from previous submissions to the Core Strategy, as it includes references to policies in the former UDP (such as Policy E16 on paragraph 4.3.5) which have since been superseded. Reference is also made to the *emerging* Core Strategy (paragraph 3.1).
- 14.11 Paragraph 3.1 of the note refers to a range of criteria which were considered in the assessment of sites, including compliance with the Core Strategy, constraints to development, visual impact, environmental health concerns and connectivity to services.

¹⁰ [2016] EWHC 2512. Stonegate Homes and Littleworth Properties vs Horsham District Council and Hensfield Paish Council. Published 13 October 2016

14.12 Though the note sets out this criteria, it is unclear whether these issues have been considered at all, for the assessment of Land at Chapel Lane follows a fragmented approach of mainly anecdotal information, rather than an assessment informed by evidence. Each of the issues raised in the BNDP evidence are turned to as they are raised in the note, with headings to indicate the topic area.

Flooding & Drainage

14.13 Paragraph 4.21 of the note indicates refers to the 2009 SHLAA assessment, which presented the site as one with low/minor constraints. The supporting text, replicated in paragraph 4.21 of the BNDP evidence notes that the site appears viable and could take access from the C1125 or C1114 on Chapel Lane. It is noted that the southern edge of the site is flood zone 3 and is in an area of minerals constraint. Paragraph 4.3.2 of the BNDP evidence also draws on the impact of potential flooding

14.14 As part of the 2015 planning application for the site, plans were submitted which would not only mitigate this impact but seek to improve the existing situation in Bodenham Moor, where there are known flooding issues. In the Planning Officers Report of the site, he comments that the Flood Risk Assessment (FRA) submitted alongside the proposal included plans for sustainable urban drainage to attenuate surface water flows from the site and additionally demonstrated that there was no risk from fluvial flooding (paragraph 6.27 refers).

14.15 Comments are also made within the BNDP evidence relating to the capacity of the existing sewerage infrastructure to meet demand generated by the site (paragraph 4.3.9 refers).

14.16 This provides an update to the evidence base of the Council's 2009 SHLAA and demonstrates that this is not an issue which would affect delivery and the BNDP evidence is incorrect to include this in their assessment.

Heritage

14.17 The opening paragraph to the assessment of Land South of Chapel Lane includes reference to the proximity of the site to a number of Grade II listed buildings, notably Broom Cottage, The Haven (near the C1125 junction) and the Moor Farm House, all of which are Grade II listed. Additionally, this paragraph also makes reference to a large crop circle in the centre of the site, which the BNDP evidence considers may have possible archaeological interest.

14.18 In this regard, RPS would draw the Inspector's attention to the comments received in response to the Archaeological and Heritage Assessment submitted by Bovis Homes as part of the 2015 planning application. In the Planning Officers Report, he includes responses from the Council's Conservation Manager, who comments on both the historic assets and archaeology separately. The comments from the Conservation Manager indicate that the previous layout presented to the Council demonstrated that, through layout and existing vegetative screening, there was not a strong visual link between the development and the surrounding Grade II Listed Buildings. In terms of archaeology, the Conservation Manager took the view that the buried ring ditch (referred to in the BNDP evidence) was likely a Bronze Age feature representing the largely ploughed out remains of a former barrow or burial mound (paragraph 4.12 of the Planning Officer's Report refers). The Conservation Manager then goes onto suggest that given the condition of this feature and the isolation of the findings, it is of moderate archaeological significance which can

be mitigated through development. The Officer stated that there was no objection in regard to either heritage or archaeology.

- 14.19 Further to this, an additional statement has been prepared by EDP to reconsider the heritage assets in Bodenham Moor and the contribution of Land South of Chapel Lane to the heritage aspect of the LGS designation. This evidence (presented under **Appendix 12**) indicates that development is not precluded on this site for heritage reasons and the evidence provided as part of the BDNP in this regard is flawed.

Landscape

- 14.20 As an opening to the assessment of Land South of Chapel Lane, paragraph 4.3.1 of the BNDP evidence includes the foregone conclusions that this site is considered to be an important open space, making a distinctive contribution to the settlement.

- 14.21 This statement is not informed by any evidence of local landscape character which was comprehensively addressed as part of the 2015 planning application, to the satisfaction of Herefordshire Council. In addition to this, a further supplemental landscape report is proposed by RPS, which will be submitted further to this statement before the end of the consultation.

Transport

- 14.22 Paragraph 4.3.3 of the BNDP evidence base refers to anecdotal evidence of highways concerns in Bodenham Moor village relating both to the access and the capacity of the local road network. As part of the 2015 application, this issue was explored by the Traffic Manager at Herefordshire Council who raised no objection to the proposal. In the Planning Officer's report to committee (**Appendix 2**), it is noted that there is no quantifiable evidence to suggest that the highways network is not capable of safely accommodating traffic generated from 49 dwellings) and there are no objections to the point of access and visibility splays (paragraph 6.34 refers.

Odour/Amenity

- 14.23 Paragraphs 4.3.5 to 4.3.7 of the BNDP evidence refer to the proximity of the site to neighbouring farm properties, including Eastfield Farm. The evidence suggests that the uses relating to the farm result in issues of noise and odour, which affect existing residents and whilst it is not explicit, it is inferred that residential development on this site would also be affected. The evidence draws on former UPD Policy E16 in support of this point, however this has since been superseded by the HLP.

- 14.24 The issue of noise, odour and amenity relating to the site's proximity to Eastfield Farm was the subject of scrutiny as within the 2015 planning application on the site and an odour assessment was undertaken in response to consultation with the Council's Environmental Health Manager.

- 14.25 Having considered the Odour Assessment submitted to the Council, the Environmental Health Manager had no objection to development at this location, citing that the lack of recorded complaints to odour provides a good indication that there are no ongoing problems in this area. The Odour Report submitted alongside the application and the addendum report prepared therefore satisfied the requirements of the Environmental Health Manager.

Other Issues

- 14.26 The issues listed above respond to the particular concerns raised by through the BNDP in response to the suitability of Land South of Chapel Lane. They do not, however, reflect a full and comprehensive list of planning issues that are usually considered as part of a robust site selection process. The additional areas were covered as part of the application submission and dealt with in the Planning Officers Report:
- Landscape – scheme submitted in 2015 considered to comply with landscape Policy LD1 (of the HLP) in every respect (paragraph 6.16 of **Appendix 2** refers).
 - Biodiversity and Geodiversity – the Planning Officers report noted that the scheme complied with Policy LD2 of the HLP, offering opportunities for biodiversity enhancement and meeting the requirements of Policy LD3 of the HLP in terms of Green Infrastructure provision (paragraph 6.17 of **Appendix 2** refers).
 - Design – the Planning Officer noted that the 2015 application responded to the existing local character in terms of design and layout. The scheme responded positively to Policy RA2 of the HLP in terms of a high quality and sustainable design that is appropriate to the local context (paragraph 6.10 of **Appendix 2** refers).
 - Affordable Housing – in the summary of the Planning Officers report it is noted (paragraph 7.1 of **Appendix 2**) that the delivery of 49 dwellings, including 35% affordable would, along with the input of community open space, contribute towards the fulfilment of the economic and social roles of sustainable development.
- 14.27 These issues have been considered as part of the SHLAA submissions made to Herefordshire Council as part of the evidence generation process for the HLP. The HLP does not however allocate sites at a local level and expressed a preference for Neighbourhood Plans to be the proactive vehicles to deliver additional new development. As indicated in this response, this has not been done, leaving the BNDP in a vulnerable position in terms of meeting its housing need.

Summary

- 14.28 As demonstrated above, the evidence proposed as part of the BNDP submission is not fit for purpose and does not approach the assessment of sites in a consistent or objective way. Comments offered above relate to the BNDP views associated with Land at Chapel Lane, however this assessment is by no means comprehensive and does not even conform to the list of criteria in the BNDPs own evidence document (para 3.1). The 2015 planning application offers a more comprehensive approach towards the evidence for the site, addressing each of these planning areas in detail, amongst other topics not raised in the BNDP evidence. This information is available to the Inspector on request, though a summary of the position is succinctly included within the Planning Officer's Report (**Appendix 2**).
- 14.29 The issues addressed above demonstrates that the draft BNDP has had little regard to evidence in the site selection process and has ignored the positive benefits that could be derived from the development of land south of Chapel Lane. RPS considers that this site is entirely suitable for development and would constitute sustainable development in the context of the village. In order to give the plan sufficient certainty of delivery, RPS proposes that this site is included within the

BNDP as an allocation for housing development, which can incorporate the benefits and mitigation measures explored in detail as part of the 2015 planning application.

15 CONCLUSIONS AND RECOMMENDATIONS TO INSPECTOR

- 15.1 As indicated within this response, RPS considers that there are serious concerns with the Draft BNDP, which is not compliant with the Herefordshire Local Plan and fails to meet the basic conditions required by the paragraph 41-065-20140306 of the NPPG. The principal issues identified by RPS in this report are summarised below:
- The Draft BNDP is not underpinned by credible or robust evidence and RPS is concerned that this Plan will frustrate future housing delivery including the provision of affordable housing to meet local need;
 - The Draft BNDP has not aligned itself with the housing requirement set in the Herefordshire Local Plan and has not used the Herefordshire housing data in presenting evidence of permissions and completions in the Parish;
 - The Draft BNDP Settlement Boundaries are not sufficiently flexible to respond to emerging evidence of housing need and do not allow for new growth to come forward in Bodenham Moor;
 - The evidence supporting the Draft BNDP has not adequately considered the need for new housing sites and the benefits that these could make in terms of supporting local housing need. The assessment of potential housing sites is flawed;
 - The Draft BNDP has not been objective or honest in its assessment of sites proposed as Local Green Spaces. Particular reference is made to the proposed Local Green Space on Land South of Chapel Lane and clear evidence has been presented by RPS to demonstrate that this site does not conform to the strict remit of the qualifying features these sites should include. Equally, RPS does also not agree with other sites promoted by the Draft BNDP which are considered to either be ineligible, or are covered by separate designations; and
 - The Environmental Report supporting the Draft BNDP has not correctly articulated the need to consider alternative sites for housing and has not been clear in its recommendations over the most sustainable alternative options. Additionally, the Environmental Report has been skewed from the outset and has not considered objectives that would contribute towards the broader consideration of sustainable development.
- 15.2 Taking these issues into consideration, RPS considers that there is significant cause for concern related to how the Draft BNDP has been approached, which has not taken into account the need to plan flexibly for new growth in Bodenham Moor and has not undertaken an honest appraisal of the suitability of potential new growth sites for housing in the village. For this reason, RPS encourages the Inspector to withhold the Draft BNDP from Referendum until key concerns are addressed.
- 15.3 RPS proposes a number of recommendations to the Draft BNDP, which would bring the document in line with the Herefordshire Local Plan and ensure that the BNDP is capable of enduring the plan period over the next 15 years. These recommendations are set out below:
- The housing requirement in the BNDP should be framed against the housing data from Herefordshire Council (as replicated in **Appendix 3**);

- The Settlement Boundaries should be amended to be more flexible, in line with the Yapton Decision. RPS considers that this should include Land South of Chapel Lane;
- The evidence underpinning the identification of housing sites should be revised in line with the comments prepared in this report;
- The Local Green Spaces policy should be removed from the plan;
- The BNDP needs to qualify why it has not progressed options for growth which include housing allocations, which scored well in the supporting Environmental Report;
- The Environmental Report needs to be amended to include a thorough assessment of potential housing sites and criterion which align with socio-economic indicators; and
- RPS considers that Land South of Chapel Lane represents the most suitable location for growth in the BNDP area, capable of supporting affordable housing delivery and public open space. This site has not been fairly considered by the Parish Council and RPS is of the view that this site should be allocated in the Plan to ensure that it remains sufficiently flexible and resilient to deal with future uncertainty in the plan period.

15.4 It is understood from the NPPG that most Examinations of BNDPs are undertaken as part of written representations, however in order to give certain issues a fair Examination, it may be necessary to hold a hearing to allow further views on particular issues (paragraph 41-056-20140306 refers). Ultimately, this decision rests with the Inspector, though RPS has outlined what it considers to be significant issues associated with the plan and remains available to be called upon for an Examination hearing, should the Inspector wish it.

APPENDIX 2

LANDSCAPE RESPONSE
TO EMERGING
NEIGHBOURHOOD
DEVELOPMENT PLAN &
POLICIES;

LAND OFF CHAPEL LANE,
BODENHAM MOOR

Prepared by:
MHP Design Ltd
Chartered Landscape Architects

On behalf of:
Bovis Homes Ltd

1 INTRODUCTION

1.1.1 This landscape and visual statement has been produced in response to the regulation 14 consultation draft of the Bodenham Neighbourhood Development Plan 2011-2031 (NDP) and is to be read alongside the submission made by RPS Planning and Development (RPS).

1.1.2 MHP Design Ltd are a practice of Chartered Landscape Architects registered with the Landscape Institute since 2001. Our approach to identifying and assessing the landscape and visual matters relating to the site is based on current best practice in accordance with the 'Guidelines for Landscape and Visual Impact Assessment. Third Edition', The Landscape Institute and Institute of Environmental Management and Assessment 2013.

2 BACKGROUND

2.1.1 The Land off Chapel Lane, Bodenham Moor has been subject to a detailed landscape assessment and landscape-led layout/design that supported a full planning application (P150437F) for Bovis Homes for 49 dwellings. The application was supported by Herefordshire Council details of which are set out in the officers planning committee report dated 28th October 2015, paragraphs 6.14 to 6.18. The application was refused by planning committee on landscape grounds, against officer advice, for the following reason:

"The erection of 49 dwellings on this green-field site would not reflect the size, role or function of Bodenham Moor and would be prejudicial to its landscape setting and distinctive, historic linear settlement pattern. Nor would the scheme result in the delivery of schemes that generate the size, type and range of housing that is required in this specific settlement or the wider Bromyard Rural Housing Market Areas".

2.1.2 The land is now being proposed within the emerging Bodenham Moor Neighbourhood Development Plan (NDP) to be designated as a Local Green Space.

3 THE SITE BASELINE AND CONTEXT

3.1.1 Despite the refusal, there is a substantial evidence base and technical assessment produced both by Herefordshire Council and MHP Design Chartered Landscape Architects that confirm the Land off Chapel Lane does not meet the criteria for designating Local Green Space as detailed in paragraph 77 of the NPPF, is not a 'valued' landscape and is suitable for housing. The evidence is in the form of the Councils Strategic Housing Land Allocations Assessment (SHLAA) assessment of the site, the application Landscape and Visual Impact Assessment (LVIA) and Herefordshire Councils case officer committee report including landscape officers' assessment of the site. A summary of this evidence is as follows:

- The SHLAA, 2009, confirms that there are 2 potential housing sites within Bodenham Moor; one of which is the Chapel Lane site. The SHLAA identifies the Chapel Lane site as having low/minor constraints to development and confirms that the site appears viable with potential to accommodate 80 dwellings.
- Herefordshire Councils landscape officer confirms (in the planning committee report) that the SHLAA assessment of low/minor represents the Councils assessment of 'land of lesser environmental sensitivity that is appropriate for development'.
- Herefordshire Councils landscape officer concluded (in the planning committee report) that "Although it is inevitable that development on a greenfield site will impact the landscape setting of the village and the associated setting of the designated heritage assets locally, the scheme is designed in a manner that renders the impact acceptable and less than substantial harm will result'.
- Herefordshire Councils landscape officer concluded (in the planning committee report) that 'Against its (the sites) current agricultural use the scheme is considered to represent an opportunity to enhance bio-diversity'. The scheme proposed complied to Policies LD1, LD3, LD4 and NPPF.
- The reasons for planning refusal and officer committee report did not identify that the site was a valued landscape (NPPF paragraph 109) or that it was worthy of specific protection/landscape designation
- The site is not a nationally designated landscape;
- The site is not a locally designated landscape;

- The site does not form part of the immediate setting of an Area of Outstanding Natural Beauty, Special Landscape Area, Historic Park Land or Conservation Area;
- The site is not in an area designated a scheduled monument;
- The site has no public access;
- The site has no recreation use and there is no evidence of recreational activity on the site;
- The site is adjoined by established residential development on two/three sides;
- The site is within the Herefordshire Lowlands Character Area (profile 100) which in turn is within the Principle Settled Farmlands landscape character area; the latter being a settled landscape character type.
- The site is immediately adjoining the settlement boundary of Bodenham Moor;
- The site does not contain any rare or protected landscape elements or features (such as TPO's, statutory or non-statutory ecological designations or heritage assets);
- The Bovis Homes application ecological survey concluded that there are no overriding ecological constraints to development on the site and that the majority of habitats present are of negligible ecological interest; their loss would be of no significance.
- The site is not a valued landscape as defined by NPPF

3.1.2 A full and detailed description of the site and its context is contained within the application Landscape and Visual Impact Assessment produced by MHP Design. The baseline site description accords with the description provided within Herefordshire Councils Planning Committee report dated 28th October 2015.

4 THE SITE IN CONTEXT OF THE POTENTIAL HOUSING LAND IN BODENHAM MOOR

4.1.1 The Potential Housing Land document has been prepared by a steering group formed by members of the Parish; it assesses three sites within Bodenham Moor one of which is Land off Chapel Lane. It states in relation to the Land off Chapel Lane site that

“The Steering Group considered the site to be an important open green space which makes a major contribution to the distinctive spatial character, form and pattern of the Bodenham Moor settlement. It is important to the rural character of Bodenham Moor and provides relief within an otherwise built up frontage...”

4.1.2 In relation to the Land off Chapel Lane site, the steering group conclude that *“it would be inappropriate to allow the site to be used for housing”*. This conclusion conflicts with the findings of the Councils SHLAA that identifies the site as having low/minor constraints to housing development and that the site is viable for housing. The councils landscape officer concurred, in the committee report, that the site is of lesser environmental sensitivity.

4.1.3 The Steering Group refer to the site providing important open green space. However, there is no technical evidence to demonstrate how the site functions as open green space. The land is actively farmed and in arable crop production. There is no public access to the site via footpaths, the site offers no recreational value, there are few views directly into or across the site due to high boundary hedges (albeit there are glimpses through gateways). Annex I of the NDP identifies key views and none are identified in direct relation to the site. The few close-proximity views of the site are afforded from local roads which are not in the higher sensitivity receptor group, as detailed in Guidelines for Landscape & Visual Impact Assessment (GLVIA). No national cycle ways or walking trails follow these local roads that would afford them greater value than any other local lane. The sites contribution to the area is unremarkable, it offers no rare or vulnerable elements (such as woodland, specimen trees, orchards, unimproved pasture/meadow or a great sense of openness). There is little identified within the National or District landscape character assessments or evidence base documents to conclude the site is unique, distinctive or rare elevating its importance above any other arable field defined by native hedges. To conclude it is important open green space is unsubstantiated.

4.1.4 The Steering Groups comments also refer to the distinctive spatial character, form and pattern of settlement as a reason to exclude the site. The physical elements that comprise the spatial character, form and pattern of Bodenham Moor are undeniably as follows:

- It comprises existing and established residential land use along both sides of the C1125 road and to a lesser extent along Chapel Lane,
- There is a mix of pre and post war architectural styles predominantly 2 storey brick and render,
- Low density residential development,
- Mix of older properties in a broadly linear pattern with more than half the village comprising modern dwellings clustered around internal estate roads that lead off the C1125 road such as Orchard Close, Ash Grove Road, Sycamore Close, The Moor, and the recently approved Bell Homes development opposite the inn,
- The rural character of the village is provided by its surrounding farmland crossed by numerous public rights of way, river floodplain with riverine vegetation and high ground containing the floorplain. The network of public rights of way provide excellent access to the open countryside to the north of Chapel Lane and west of Bodenham Moor leading to Bodenham, the River Lugg, Bodenham Lake and Queenswood Country Park on Dinmore Hill. The provision of such good countryside access provides substantial opportunities to get relief from any sense of the built-up settlement. It is notable that there are no public rights of way across the Chapel Lane site or immediately adjacent to it that lead to any destination landscape features.
- Unlike Bodenham, the pattern, form and setting of the Bodenham Moor is not protected or attributed great value by designation such as Conservation Area status.

4.1.5 The location of the Chapel Lane site provides it with good character and visual context to the existing settlement and is consistent with the post-war expansion of the village. Housing on the site would be consistent with the existing spatial character. Housing on the site would not extend residential development further along the C1125 or Chapel Lane where it does not already exist. The site has robust boundaries provided

by the two roads, stream and commercial orchards that enclose and separate the site from the wider open countryside meaning that housing on the site would not be able to encroach into the countryside.

4.1.6 With regards to the important open space and rural character; the characteristics of the site are not wholly 'open'; it is enclosed by high boundary hedges and enclosed in its wider setting by residential settlement on two sides, a substantial commercial orchard on one side and the densely vegetated riverine corridor on its fourth side. These are not physical characteristics that provide a great sense of openness to the local area. It is undeniably open in the sense that it is an undeveloped piece of farmland but openness and undeveloped are different in landscape character terminology. With regards to rural character; the site currently has a rural farming use however it is not isolated within a solely rural environment. It's character is influenced by its context which is that of an established and active residential village, active local roads, active commercial orchard/farm and active dairy farm. These result in the site reflecting characteristics typical of a rural village with strong character ties to settlement; this is confirmed by the settled landscape character type defined by the district landscape character assessment. The elements that usually associated with total rurality are lack of movement, noise, light from settlement, roads and intensive farming operations i.e. Tranquillity and isolation - the site does not have a strong sense of either.

4.1.7 To conclude that the land off Chapel Lane is an **important** open green space which makes a **major** contribution to a **distinctive** settlement providing **important** rural character and **relief** from built form (my emphasis) places too great a weight on characteristics that are evident as common place both locally, at a district level and at a national level.

5 THE SITE IN CONTEXT OF EMERGING BODENHAM NEIGHBOURHOOD DEVELOPMENT PLAN POLICIES 2011-2031 (NDP)

5.1.1 The NDP sets out its Vision for Bodenham which states that the residents wish to see *“the open and green character of the villages within the Parish not only maintained, but enhanced”* and they accept the need to accommodate more housing however they *“believe that the number of new dwellings must be compatible with the environmental constraints ... In particular, they wish to see the rural character of their villages promoted through the adoption of appropriate building styles and low housing densities, whilst maintaining and continuously improving the infrastructure of the Parish.”*

5.1.2 Within the NDP relating to Open Spaces and the Environment. *“The Plan endorses the environmental aims outlined in the Bodenham Parish Plan, including the need to protect and, where possible, enhance the distinctive local natural and historic environment. The protection of natural and historic assets is delivered through various existing statutory and other designations within the Parish. Protecting local identity falls to this Plan and the following objectives are defined:*

- *To protect and enhance the local landscape, particularly with regard to the setting of the Bodenham and Bodenham Moor settlements.*
- *To protect and improve the Parish’s public rights of way and open spaces, with particular reference to Bodenham Lake and the Parish’s other designated areas of importance for biodiversity.*

5.1.3 Housing on the Chapel Lane site provides opportunities to deliver substantial landscape and biodiversity enhancement and provide additional public open space and footpaths. The ability for the site to provide these enhancements was previously accepted and confirmed by the landscape officer in the committee report as follows:

“the detailed layout takes care to respond sensitivity to the strong boundary features by conserving and enhancing them where possible and maintaining a large landscaped buffer against heritage assets adjoining. Significant additional tree planting is proposed, on a site that has, boundary planting aside, no landscape features...Against its current agricultural use the scheme is considered to represent

an opportunity to enhance bio-diversity and complies with Policy LD1 in every respect”.

5.1.4 The following comments on the draft NDP policies have been framed against the context of a potential development on land at Chapel Lane, which follows the drafting of positively prepared policy framework.

5.1.5 Policy BNDP7: Protecting Landscape and Important Public Views

- *1. Proposals should ensure that the prevailing landscape character type, including key features and attributes, has positively influenced their design, layout and scale, as appropriate to the location and context of the site. Any landscaping proposals should be compatible with, and serve to consolidate, the established landscape character.*
- *2. Proposals should particularly respect the open countryside setting of the two main settlements. Development which would have an adverse effect upon the landscape setting of these settlements, considered in terms of the assessed landscape character, will not be permitted.*
- *3. The important public views defined in the map and table at Annex I will be protected from inappropriate development.*

5.1.6 There are good opportunities for housing on land off Chapel Lane to reflect the prevailing landscape character of Bodenham Moor. Paragraph 4.1.4 sets out the typical characteristics of the built form. The Herefordshire Landscape Character Assessment for the Principle Settled Farmlands sets out key characteristics (native hedges, trees, orchards), all of which can be incorporated within proposals for housing of the site. Therefore, part one of this policy can be conformed to.

5.1.7 Development of the site would not compromise point 2 of the policy as it is not located on land between the two settlements.

5.1.8 Annex 1 of the NDP does not identify any important public views that would be affected by housing on the Chapel Lane site. Many views in Annex 1 are of the land between Bodenham and Bodenham Moor which reflects where majority of vantage

points and footpaths are; this also identifies that this area of land is the most important in providing a setting to both settlement areas. There are two viewpoints near to the Chapel Lane site but neither look directly into or over it instead either looking towards the elevated fields (Dudales Hope and Houghton Court Farms) from the C1125 or from Chapel Lane towards the elevated land of Venn Wood and Cheat Hill escarpment. Housing on the Chapel Lane site would conform to part 3 of the policy.

5.1.9 Policy BNDP8: Landscape Design Principles. *All new development proposals will be required to demonstrate consideration of the following landscape design principles:*

- *a. Local habitats should be preserved and enhanced and wildlife conserved.*
- *b. Veteran, mature into landscaping schemes wherever possible. The planting of native species will be encouraged where they are appropriate to the location and setting in terms of type, height, density and the need for on-going management. Existing hedgerows should be retained and the establishment of new native species hedges is encouraged and established trees should be protected and incorporated*
- *c. Development which involves the removal of any orchard will be resisted unless developers can demonstrate that the loss of the orchard will not reduce the environmental biodiversity or cause the loss of wildlife habitat.*

5.1.10 With regards to policy BNDP8, Herefordshire Councils landscape officer (in the planning committee report) assessed the landscape design as sensitive and providing enhancement and complying with policy LD1 in every respect (refer to paragraph 5.1.3). The proposal did not involve removal of any orchard; it proposed new orchard within public open space for benefit of the community and wildlife habitat.

5.1.11 The scheme proposed was judged to comply with Policies LD1, LD3, LD4 and NPPF.

5.1.12 Policy BNDP9: Protection of Local Character. *Proposals should be designed in accordance with the guidance provided in Building for Life 12 so as to protect and enhance the distinctive character and appearance of the Bodenham Moor and Bodenham settlements and the rural areas of the Parish. In particular:*

- *a. Regard should be had to their established built, natural and historic characteristics and the wider townscape and landscape contexts;*
- *b. Proposals should seek to conserve or enhance the character of the settlements and farmsteads especially those with buildings of statutory and non- statutory heritage value;*
- *c. Layout, design and landscaping proposals should respect the landscape and townscape setting, the setting of heritage assets and residential amenity of neighbours;*
- *d. Suitable vehicular access to the highway, off-street parking and safe pedestrian access and cyclist access to local facilities should be provided; and*
- *e. Street lighting will not be permitted.*

5.1.13 It should be noted that the Building for Life 12 guidance is intended to be read as a whole in order to deliver sustainable objectives as opposed to a fragmented approach.

5.1.14 Housing on Land off Chapel Lane is sufficiently contained and related to Bodenham Moor so that it would not compromise the open flood plain landscape that provides the valuable and distinctive setting between the two settlements. Proposals for low density, two storey housing utilising local building materials found in some of the older Bodenham Moor buildings and landscape proposals reflecting characteristics identified by the district character assessment would protect and enhance the appearance of Bodenham Moor.

5.1.15 Policy BNDP10: Open Spaces

- *1. Development of the Local Green Spaces listed in Annex C will not be permitted unless, in the judgement of the Parish Council, very special circumstances arise which outweigh the need for their protection.*
- *2. Proposals that would result in the loss of public open space will not be permitted.*

5.1.16 The Land off Chapel Lane is identified in Annex C to be designated Local Green Space. The sites special qualities/local significance and character are identified as follows:

“The field makes a significant contribution to public amenity by virtue of its open space rural character and provides crucial much valued relief from the otherwise linear built form in the central southern part of the Bodenham Moor settlement. It is of critical importance in helping to preserve the character and setting of four immediately adjacent Grade II listed buildings”.

5.1.17 Appendix 1 Local Green Space within the NDP proposes seven sites, four of which are in Bodenham Moor, to be designated Local Green Space (LGS). No apparent criteria have been used to test the existing policy context, nature, function and value of the site in order to justify the proposed designation. No site specific special qualities, local significance or character have been identified within the NDP to demonstrate the site is of such value that it fulfils either the NDP or NPPF 77 thresholds for LGS. There is a noticeable contrast in what the NDP suggests in terms of LGS evidence and the application documents prepared for the land off Chapel Lane site.

5.1.18 It is notable that many of the proposed LGS sites already have designations/policies/community uses in place that protect them for development such as conservation status, village green, sports facilities, play areas or council owned/managed public open space. A second layer of policy/designation is unnecessary on many of the sites to add any further landscape protection adding to the general thrust of the NPPF which notes that Local Green Spaces should not be applied lightly, as these create a prohibitive framework for development.

5.1.19 The land off Chapel Lane does not reflect any of the physical elements attributable to other proposed local green space sites. There is little in common between other proposed sites and the land off Chapel Lane. It is an illogical and unjustified use of the Local Green Space designation which appears to be proposed to prevent development, in light of its recent planning history, as opposed to it being demonstrably special to justify such a designation. Designating the land off Chapel Lane site as Local Green Space does not protect an identifiable landscape or area of green space that has special features, local significance (other than popularity) or special character.

5.1.20 Paragraph 77 of the NPPF outlines the criteria for designating Local Green Space. It states that: “*The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.*

5.1.21 The proposed designation of the land off Chapel Lane is clearly not in accordance with the criteria sets out in NPPF paragraph 77.

5.1.22 No reference is made in the list of evidence base documents, reports and surveys used to inform the NDP of any local character assessment, visual assessment or sensitivity study undertaken by a suitably qualified landscape architect. Whilst this does not undermine the preferences expressed by the Parish it does identify that the policies and conclusions are not based on technical landscape assessment findings, that there are conflicts with technical evidence base documents (such as the SHLAA, LVIA and officers’ committee report) and that the NDP is unsubstantiated in finding that the Land off Chapel Lane site is inappropriate for housing or worthy of a Local Green Space designation.

6 SUMMARY

6.1.1 Overall the Land off Chapel Lane is unremarkable arable land with little intrinsic value. It contains no features of historic, archaeological or cultural interest; it is not available for recreation, there is no public access, it is not specifically valued for its perceptual aspects and no known associations with specific people or events in history. Its current nature as an undeveloped field does not afford it any greater landscape or visual value. Suitable housing proposals would not result in any adverse impacts that would significantly and demonstrably outweigh the benefits. Some landscape harm will inevitably occur, but it is below the NPPG threshold and not considered significant.

*...permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (NPPF paragraph 14). For the above reasons, I find that the harm that would be caused to the character and appearance of the area, and any other harm, would not cross this threshold.
(Source: paragraph 22, appeal Ref: APP/C1625/A/13/2207324 Land off Bath Road, Leonard Stanley 21 July 2014 for 150 houses – allowed)*

6.1.2 No technical or corroborated landscape evidence has been provided within the NDP to justify or meet the NPPF criteria designating the site as Local Green Space.

6.1.3 No technical or corroborated landscape evidence has been provided within the NDP demonstrating that the site contains any physical attributes, other than popularity, to justify the site as a 'valued' landscape referred to in the NPPF.

6.1.4 No technical or corroborated landscape evidence has been provided within the NDP to demonstrate that housing on the site would significantly and demonstrably outweigh the benefits. Therefore, to conclude the site is inappropriate for housing is unproven.

6.1.5 The findings of the NDP conflict with that of the Councils SHLAA, the Landscape & Visual Impact Assessment carried out by MHP Design for the previous planning application and the officer's committee report.

6.1.6 The site has capacity to accommodate housing proposals and comply with the emerging policies identified within the NDP.

APPENDIX 3

Bodenham Moor

Heritage Representations Regarding the Bodenham Neighbourhood Development Plan 2011-2031

Prepared by:
**The Environmental
Dimension Partnership
Ltd (EDP)**

On behalf of:
Bovis Homes Limited

November 2016
Report Reference
EDP2302_02a



THE
ENVIRONMENTAL
DIMENSION
PARTNERSHIP

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Appendix EDP 2	Consultation Response from Sarah Lowe, Senior Building Conservation Officer (SBCO; Herefordshire Council), dated 19 February 2015
Appendix EDP 3	Consultation response from Julian Cotton, Archaeological Advisor (Herefordshire Council), dated 27 February 2015.

Plan

Plan EDP 1	Location of Shukers Field and surrounding Listed Buildings (EDP2302/05a 14 November 2016 JTF/MM)
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This version is for electronic viewing only

For EDP use	
Report no.	H_EDP2302_02a
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Proofed	Jo Moody
Proof Date	14 November 2016

Section 1 Introduction

- 1.1 The following representations have been prepared by the Environmental Dimension Partnership Ltd (EDP) on behalf of Bovis Homes Ltd, in respect of the emerging *Bodenham Neighbourhood Development Plan 2011-2031* (BNDP), which is currently draft at Regulation 14 (BNDP) consultation. In particular, they have been drafted to respond to comments included within the draft BNDP and its supporting documentation regarding heritage constraints to the development of a field south of Chapel Lane, which is also known as 'Shuker's Field'.
- 1.2 The draft BNDP claims that Shuker's Field "*is of critical importance in helping to preserve the character and setting of four immediately adjacent Grade II listed buildings*" Bodenham Parish Council (BPC 2016b C.2). This reasoning is used as part of justification for the allocation of Shuker's Field as a Local Green Space. The following representations demonstrate that this statement is both unsupported and incorrect.
- 1.3 To this end, a brief summary of the results of a heritage setting assessment and archaeological work undertaken in 2014 as part of a planning application (Ref: 150437) for Shuker's Field, as well as the associated consultation responses from Herefordshire Council's Senior Building Conservation Officer and Archaeological Advisor are summarised below.
- 1.4 In light of this information, the document includes an appraisal and critique of any relevant comments regarding heritage constraints to the development of Shuker's Field contained within the draft BNDP and its supporting documentation.

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Section 2

Methodology

- 2.1 When considering Shuker's Field, in terms of the presence/absence of heritage constraints to its development, the following relevant sources of information were reviewed:
- EDP 2014. Land South of Chapel Lane, Bodenham Moor, Herefordshire: Archaeological and Heritage Assessment Unpublished;
 - Consultation response from Sarah Lowe, Senior Building Conservation Officer (Herefordshire Council), dated 19 February 2015; and
 - Consultation response from Julian Cotton, Archaeological Advisor (Herefordshire Council), dated 27 February 2015.
- 2.2 Subsequent to the production of the Heritage Setting Assessment contained within EDP 2014, a new guidance document has been produced by Historic England (formerly English Heritage). This provides guidance on assessing the setting of designated heritage assets using a five-step approach, which can broadly be summarised as follows:
1. Identify which heritage assets are capable of being affected;
 2. Assess whether, how and to what degree setting makes a contribution to the significance of the heritage asset(s);
 3. Assess the effects of the proposed development, whether beneficial or harmful, on that significance;
 4. Explore ways of maximising enhancement and avoiding or minimising harm; and
 5. Make and document the decision and monitor outcomes (HE 2015).
- 2.3 The 2014 Heritage Setting Assessment was produced with reference to the now superseded 2011 English Heritage guidance. However, although the 2011 and 2015 guidance differs in some ways, such as the change in terminology to reflect the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG), the methodology is basically the same, with the five step approach common to both.
- 2.4 The results of the heritage setting assessment undertaken in 2014 were reviewed through a site walkover in October 2016, which considered them in light of the new guidance (HE 2015).

- 2.5 In terms of the emerging draft BNDP, the following documents were reviewed:
- Bodenham Parish Council (BPC) 2016a. Potential Housing Land in Bodenham Neighbourhood Area: Consideration of Options and Reasoned Assessment Bodenham;
 - Herefordshire Council (HC) 2016. Environmental Report: Bodenham Neighbourhood Area Hereford; and
 - Bodenham Parish Council (BPC) 2016b. Bodenham Neighbourhood Development Plan 2011-2031 Bodenham.
- 2.6 Any comments contained within these documents, which pertain to potential heritage-based constraints to the development of Shuker's Field, were assessed in terms of their consistency with previous advice from the Herefordshire Council's specialist advisors. The comments were also assessed in terms of the evidence base that supports them and their consistency with policy and guidance.

Section 3 Baseline Position

- 3.1 The baseline position comprises the 2014 archaeological and heritage assessment (EDP 2014) and associated consultation responses from the Senior Building Conservation Officer (SBCO) and Archaeological Advisor. These sources of information have been augmented by a site walkover in October 2016.

Designated Heritage Assets

- 3.2 The heritage setting assessment identified that, although Shuker's Field itself does not contain any designated heritage assets, there are four Grade II listed buildings located within 20-30m that were identified as *potentially* capable of being affected by development within it (i.e. **Step 1** of HE 2015). These comprise:

- Broom Cottage (1082021) to the north;
- The Haven (1301783) to the north;
- Moor Farm House (1082022) to the west; and
- Brook House (1082020) to the south.

- 3.3 The locations of these listed buildings and the location of Shuker's Field are shown on **Plan EDP 1**. The full text of the 2014 setting assessment of these four listed buildings (i.e. fulfilling **Steps 2** and **3** of HE 2015) is included below in **Appendix EDP 1**. The following presents a summary of the 2014 work and consultation response, augmented by observations made during the October 2016 walkover.

Broom Cottage and The Haven

- 3.4 As both Broom Cottage and The Haven date from the 17th century and appear to retain much of their original fabric, it is clear that they draw a considerable amount of significance from their historic and architectural values. In the 2014 report, it was determined that a key part of their setting was the functional and historical connections between Broom Cottage and The Haven, as they were formerly the blacksmith's residence and forge. This aspect of their setting also makes a considerable contribution to the significance to both of them.
- 3.5 Furthermore, their historic link with Chapel Lane and Bodenham Moor village were also viewed as key aspects of their setting and positive contributors to their significance. In these terms, the high and dense northern boundary hedge of Shuker's Field contributes to the 'green tunnel' effect along Chapel Lane, creating an enclosed setting, with

limited views. As such, not only are there no known functional or historic links with Shuker's Field, there is also very limited intervisibility between it and these buildings.

- 3.6 Given these findings, which are confirmed by the October 2016 walkover, it was determined that a development within Shuker's Field would not result in any harm to the heritage significance of these two listed buildings or the aspects of their setting that positively contribute to this.

Moor Farm House

- 3.7 Moor Farm House comprises a 17th century farmhouse, with 18th century alterations and draws a substantial amount of its significance from its architectural and historic value.
- 3.8 The key aspects of Moor Farm House's setting, which contribute to its heritage significance, were considered to be the historic farmyard complex, of which it forms a part, and its links with the associated historic farm buildings. Brockington Road to its east (along the west boundary of Shuker's Field) was also considered to be positive. Similar to Broom Cottage and The Haven, the high and dense western boundary hedge of Shuker's Field contributes to the enclosure of this road and its 'green tunnel' effect.
- 3.9 Aerial photographic evidence suggests that there was once an entrance into Shuker's Field, directly adjacent to the farm. As such, it is probable that there was once a functional link between the farm house and the site. However, this link is now historic as the conversion of the farm to private housing and the closing of the accesses from the west into the site have served to disconnect the farm from its wider surroundings. Furthermore, this historic link is no longer appreciable due to the high hedge boundary along the west side of the site. This hedge also restricts views from and to the farmhouse to the top floor of the east elevation only, a view which is not considered to contribute to its significance due to its limited nature and 'segregation' from the farmland by the road hedges. As such, any visual link is limited and obscured.
- 3.10 Therefore, in so far as there is any positive contribution made by Shuker's Field to the significance of Moor Farm, it is limited to a historic link only. This relationship is not so critical that it would prejudice development of the field, as has been confirmed by a consultation response from Herefordshire Council's specialist advisor (see below). As historic links are intangible, it would remain regardless of the development of the field.

Brook House

- 3.11 Similar to the listed buildings above, as a 17th century structure with much of its original fabric, Brook House is a listed building that draws a substantial amount of its significance from its architectural and historic values. This building is a private house today and, in terms of setting, is set back from the road and enclosed within its gardens, which form the dominant aspect of its setting and contribute positively to its significance. There are no known previous historic or functional links with Shuker's Field.

- 3.12 The main views from this building are from the principal elevations, to the north east and south west, and do not include the site. Indeed, intervisibility between the two is heavily filtered by veteran trees within the garden.
- 3.13 Therefore, Shuker's Field does not contribute in any way to the significance of Brook House. Development within the field would not result in harm to this listed building, which is a position that has been confirmed by a consultation response from Herefordshire Council's specialist advisor (see below).

Consultation Response from Sarah Lowe, Senior Building Conservation Officer (Herefordshire Council), dated 19 February 2015

- 3.14 The consultation response from Sarah Lowe was based on a review of the 2014 planning application for Shuker's Field (Ref: 150437) for 49 dwellings, including associated parking and landscaping (see **Appendix EDP 2**). It was also made in light of the results of the heritage setting assessment presented in EDP (2014).
- 3.15 The SBCO observed that *"I am largely in agreement with the conclusions of the Archaeological and Heritage Assessment carried out by EDP in that, from a built environment perspective, the relevant sensitive receptors are the four grade II listed buildings to the north, west and south of the proposal site. Other listed buildings within the 1km radius study area are not considered to be affected by development on the site."*
- 3.16 The SBCO continues that the considerations of the listed buildings within the masterplan meant that the proposals would *"not have an adverse effect"* on Broom Cottage and The Haven. She was also satisfied that *"sufficient space would exist between the scheme and Brook House to the south so that the separate nature of the listed building and its garden has been respected."*
- 3.17 With regard to Moor Farm House, it was concluded that, although the proposals would result in a change to views from it to the east (noted by the Heritage Setting Assessment and site walkover as restricted to two windows on the first floor of the east elevation only), *"its position on the opposite side of the village road already gives the two sites a degree of separation."* The SBCO continues by advising that *"in addition the hedges and topography of the area do not allow a strong visual link between the two sites and therefore the impact of development on the setting of the listed building would be reduced"*.
- 3.18 In light of the assessment undertaken, the SBCO concluded that *"it is considered that the proposal complies with heritage policy HBA4 and the NPPF chapter 12 and **no objections are raised** [author's emphasis]."*
- 3.19 In summary, the consultation response of the council's specialist advisor has established that the presence of the four listed buildings in proximity to Shuker's Field does not preclude development within it. The setting of these listed buildings, in terms of

Shuker's Field, is therefore not an in principle issue, and development could come forward in a way that would not result in harm to any one of these heritage assets.

- 3.20 The walkover undertaken in October 2016 confirmed that the setting of these listed buildings has not altered in any significant way since 2014. It also confirmed the findings of the previous Heritage Setting Assessment.
- 3.21 Accordingly, although the national guidance (HE 2015) has been updated since the 2014 work, in order to reflect the terminology employed by the National Planning Policy Framework, there is no reason to believe or expect that the council's specialist advisor would not reach the same conclusions as previously, if presented with a similar proposal for development of Shuker's Field.

Non-Designated Heritage Assets

- 3.22 Shuker's Field was subject to a staged programme of archaeological investigations as part of the former planning application (Ref: 150437). Only one archaeological 'feature', a ring ditch likely to be of Bronze Age date, was identified. The Archaeological Advisor to Herefordshire Council provided advice regarding the treatment of these remains in the planning process, through a consultation response dated 27 February 2015 (see **Appendix EDP 3**). In this, he identified that the feature "*is an isolated find of moderate rather than a high level of archaeological significance*" and that "*any harm to it as a result of this development can be appropriately mitigated, either by design or by record*" – i.e. the archaeological remains within the site do not form a constraint to its development and there is no requirement for the Bronze Age barrow to be preserved *in situ*.

Summary

- 3.23 A previous application for development within Shuker's Field did not receive any negative comments from either the SBCO or the Archaeological Advisor to Herefordshire Council, in terms of designated or non-designated heritage assets.
- 3.24 In both cases, the officer did not identify any harm to heritage assets and registered no objection to the positive determination of the planning application.
- 3.25 In light of the evidence presented above, it is reasonable to conclude that there are no in principle heritage constraints to the development of Shuker's Field.

Section 4

Bodenham Neighbourhood Plan

- 4.1 The following section assesses and critiques statements made within draft BDNP and its associated supporting documentation with respect to Shuker's Field, with particular regard to any mention of heritage constraints to its development.

Potential Housing Land in Bodenham Neighbourhood Area: Consideration of Options and Reasoned Assessment (BPC 2016a)

- 4.2 This assessment recognises that Shuker's Field was previously identified as a site with "*low/minor constraints*" and appeared "*viable*" in Herefordshire Council's 2009 Strategic Housing Land Availability Assessment. In terms of heritage, this assessment notes that Shuker's Field is "*immediately adjacent Listed Grade 2 buildings on three of its four sides – Broom Cottage and The Haven near the C1125 junction to the north, The Moor Farm House to the west and Brook House to the south. In the centre of the site itself there is a large crop circle of possible archaeological interest*" (BPC 2016a). However, it does not identify any of these assets as forming a constraint.
- 4.3 With regard to the "*crop circle*", as detailed above, the archaeological potential of Shuker's Field has been previously established through a phased programme of archaeological work. The Archaeological Advisor to Herefordshire Council concluded that the one archaeological 'feature' present was only of moderate significance and did not form a constraint to the deliverability or capacity of Shuker's Field.
- 4.4 As well as considering Shuker's Field, this assessment also reviews the 'Land at England's Gate Inn' site as an alternative.
- 4.5 As part of this, it is recognised that the Grade II listed England's Gate Inn "*lies opposite the site*". Notwithstanding that there are in fact three Grade II listed buildings opposite the site, including the Inn's associated outbuilding and stables, the assessment concludes that the Inn is "*set well back from the highway...It is felt that the existing field boundary hedge, together with any further landscaping judged to be necessary, would ensure that the setting of this important historic asset would not be compromised*". There is a clear conflict in the consistency of the evidence presented in the BPC 2016a document.
- 4.6 In summary, the assessment of the 'Land at England's Gate Inn' option is deemed acceptable in terms of heritage because (1) the listed building is set well back from the highway; (2) there is an existing hedged field boundary between it and the development; and (3) further landscaping is possible within the development.

- 4.7 In light of this, it is notable that Shukers Field is no closer to listed buildings than Land at England's Gate Inn. All of the four listed buildings near Shuker's Field are also set back from the highway and are screened/obscured from the interior by existing hedgerows or (in the case of Brook House) by their own well planted private gardens. There is also ample opportunity to include landscaping within a proposed development of Shuker's Field. As such, assessed according to these criteria, there is absolutely no reason why it should not equally be identified as an acceptable area for development in the way that Land at England's Gate Inn is.
- 4.8 EDP therefore expresses concern over the robustness of the draft BNDP evidence as a means to appraise and compare parcels of land for residential development.

Environmental Report: Bodenham Neighbourhood Area (HC 2016)

- 4.9 There is no specific mention of Shuker's Field within this document, or heritage restrictions to its development. It is therefore questionable whether this report has considered fully the implications and options expressed within the emerging draft BNDP.
- 4.10 The Strategic Environment Assessment includes a series of objectives, against which the policies within the draft BNDP are measured, one of which is specific to heritage. The purpose of this objective is to "*conserve or where appropriate enhance the historic environment and culture heritage*" (ibid. 10). Based on the results of the 2014 archaeological and heritage assessment, as well as the responses of Herefordshire Council's specialist advisors more particularly, a development of Shuker's Field could demonstrably conform to this objective.

Bodenham Neighbourhood Development Plan 2011-2031 (BPC 2016b)

- 4.11 The first mention of Shuker's Field within the draft BNDP (BPC 2016b. 25) repeats part of the statement from the assessment (2016a), but omits to mention the listed buildings or archaeology.
- 4.12 Shuker's Field is also specifically mentioned in the 'Key Environmental and Other Assets Protected from Development under this Plan', within Table 1 (ibid. C-1). The 'category' of Shuker's Field is described as 'Local Green Space', and its 'Special Qualities/Local Significance and Character' includes the following statement:

"It is of critical importance in helping to preserve the character and setting of four immediately adjacent Grade II listed buildings."

- 4.13 Firstly, it is worth analysing the suitability of the terminology used in this statement. The draft BNDP states that the retention of Shuker's Field as an undeveloped piece of land is to preserve the 'character' and 'setting' of the listed buildings. The value of a listed building is expressed as its significance or special architectural or historic interest (in line

with s66 of the 1990 Act and court rulings), character more often referring to a Conservation Area.

4.14 Notwithstanding this, the 'setting' (i.e. the surroundings in which a heritage asset can be 'experienced') is not a heritage asset in itself and only has value in so far as it contributes to the significance of the listed building. Historic England guidance (2015) is clear that aspects of setting can be positive, negative or neutral; i.e. just because Shuker's Field forms part of the 'setting' of a listed building does not automatically mean that it contributes to the heritage significance of the designated asset. As discussed in the previous section, the existing assessment of Shuker's Field by EDP, in line with Historic England guidance, does not identify that it contributes in any way to the significance of any surrounding designated heritage asset.

4.15 The relevant national policy regarding the allocation Local Green Space is contained within Paragraph 77 of the NPPF, which states:

"The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land."*

4.16 As such, although heritage value is cited as a potential reason for the allocation of Local Green Space, on this occasion – as discussed in detail above - Shuker's Field demonstrably does not have a heritage value in terms of its contribution to the significance of surrounding listed buildings. The one archaeological feature located within Shuker's Field has been assessed by Herefordshire Council's Archaeological Advisor as being of moderate significance only and does not form a restriction to the development of the site, including that it does not need to be preserved *in situ*.

4.17 Therefore, applying the Paragraph 77 'test', Shuker's Field does not meet the heritage criteria for its allocation as Local Green Space.

4.18 It is also notable that the relevant legislation for listed buildings - the 1990 Planning Act, specifically s66 - does not preclude development in the event of harm to the significance of a listed building. Instead, the harm would be balanced against the public benefits, which would result from the proposed development (Paragraphs 133 and 134 of NPPF). As such, even where a development would result in substantial harm to the significance

of a listed building, it would not present an insurmountable obstacle to positive determination of an application.

- 4.19 This statement in the draft BNDP is the first mention in this document, or any of its supporting evidence, that the site contributes in any way to the Grade II listed buildings in its immediate proximity. This statement is presented in isolation of any evidence and no reasoning is presented anywhere in any of the documents as to how this conclusion was reached.
- 4.20 It is noted from the 'Evidence Base' section of the draft BNDP the list of consulted sources does not include the previous heritage assessment (EDP 2014) or the consultation response from the SBCO (dated 19th February 2015), where no objection was raised on heritage grounds to the development of Shuker's Field. Indeed, no sources of heritage information are cited within the 'Evidence Base' whatsoever.
- 4.21 Although it is noted that listing details for the listed buildings are included - provided through a link to britishlistedbuildings.co.uk that, albeit not curated by Historic England, does replicate information from the National Heritage List for England - there is no evidence that this information was critically analysed in reaching the conclusion noted above (i.e. that Shuker's Field is of critical importance to the surrounding listed buildings). Indeed, there is no evidence whatsoever that a heritage setting assessment of any of the four listed buildings was undertaken, in line with Historic England guidance (2015) or in fact any recognised guidance.
- 4.22 The inconsistency of this stance in comparison to the supporting assessment's (BPC 2016a) review of the England's Gate Inn site should be noted, where in this particular instance the proximity of a group of listed buildings within 20m of the development is not considered to be a constraint.

Summary

- 4.23 The potential for designated heritage assets to constrain development within Shuker's Field is only mentioned twice in the draft BNDP, and it is not mentioned at all in its supporting documentation and evidence base, although the presence of listed buildings is noted in the assessment (BPC 2016a).
- 4.24 The draft BNDP states that Shuker's Field is of "*critical importance*" to preserve the "*character and setting*" of the four listed buildings within its immediate vicinity. However, there is no evidence provided that demonstrates how this conclusion was reached and no indication that the national guidance (HE 2015) was utilised in making this assessment.
- 4.25 It is notable that Herefordshire Council's own expert advisor has provided a consultation response that does not object to the development of Shuker's Field for 49 houses and

associated landscaping. Indeed, they identify that the development was in keeping with national and local policy, which must take precedence over an emerging draft BNDP.

- 4.26 Similarly, although the assessment (2016a) notes that a crop mark within Shuker's Field may be of archaeological interest, it has already been established (as discussed above) that non-designated archaeology does not form a constraint to its deliverability or capacity.
- 4.27 Taking this information into account, it is considered that the evidence underpinning the proposed allocation of Shuker's Field as a Local Green Space is unjustified from a heritage perspective. Indeed, as demonstrated through this report, there is no evidence to suggest that it has any heritage value sufficient to preclude its development.

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Section 5 Conclusion

- 5.1 A previous heritage and archaeological assessment of Shuker's Field has not identified any in principle constraints to the development of this land parcel.
- 5.2 Whilst the emerging draft BNDP claims the current undeveloped nature of Shuker's Field is 'critical' to the preservation of the "*setting and character*" of four surrounding listed buildings, there is no evidence base put forward to support this assertion.
- 5.3 In contrast, the previous submission of Planning Application 150437 clearly demonstrates that the land at Shuker's Field can accommodate residential development without having an adverse impact on any of the surrounding listed buildings.
- 5.4 Clearly, it stands to reason that the evidence-based approach of the outline planning application, which was evaluated by Herefordshire Council's specialist advisors on heritage matters and found to not result in 'harm' to relevant heritage assets, should be preferred to the subjective comments of the emerging draft BNDP.
- 5.5 Furthermore, the proposed allocation of Shuker's Field as Local Green Space is unjustified in heritage terms, when applying the NPPF Paragraph 77 'test'. The site has no heritage value sufficient to preclude its development.

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Appendix EDP 1
Extract from EDP 2014. Land South of Chapel Lane, Bodenham
Moor, Herefordshire: Archaeological and Heritage
Assessment

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- 4.1 As discussed above, only four of the designated assets within the study area were identified as possibly sensitive receptors to this development. These are all Grade II listed buildings. Their settings were assessed during the site walkover.
- 4.2 Broom Cottage (**DHE245**) dates to the late 17th century and it is located c.30m to the north of the site. As a former blacksmith residence, it is functionally and historically, as well as physically, linked with the former forge building 'The Haven' (**DHE246** – this is also a listed building) to its south east. The relationship between these two buildings makes a considerable contribution to their significance. The link with Chapel Lane and Bodenham Moor village, which defines these listed building's wider setting, are also key contributors to their significance. There is no intervisibility between the listed building and the site (the house is set within gardens which are surrounded by mature trees and high hedges), but even if there were, this development would not impact upon the significance as it would not disrupt the key relationships which define its setting described above.
- 4.3 The Haven (**DHE246**), as discussed above, is the former blacksmith's forge building and is located c.25m to the north of the site. Similar to Broom Cottage, the key to the significance of this building is its relationship with Chapel Lane, the village of Bodenham Moor and the former blacksmith's house (**DHE245**).
- 4.4 Today, The Haven is a private residence set within its own garden. It faces onto Chapel Lane, but intervisibility with the site is limited due to the high hedge boundaries around the site which form a distinctive 'green tunnel' effect to the lane, in common with many roads in the area. For these reasons as discussed above, the land within the site is not considered to contribute to this listed building's significance and the proposed development will not detract from it. It should also be noted that the hedge along the north boundary is planned to be retained by the development. This will potentially have a beneficial effect on the setting of this asset as it will retain the distinctive character of the lane.
- 4.5 Moor Farm House (**DHE247**) is a probable 17th century building located c.10m to the west of the site separated by Brockington Road and a tall hedge. The primary contributors to the setting and therefore the significance of this heritage asset are the adjacent historic farmyard complex and its relationship with the component buildings and also the Brockington Road to its east. In addition to this, there are existing negative impacts on the setting of this building from modern housing which is located immediately adjacent to the south and north.
- 4.6 It is thought that there was once a functional link between the farm house and the site, as it was part of the farm land holdings (see **Aerial Photographs**), this link is now historic as the conversion of the farm to private housing and the closing of the accesses from the west into the site have served to disconnect the farm from its wider surroundings. Furthermore, this historic link is no longer appreciable due to the high hedge boundary along the west side of the site, which restricts views eastwards from the farmhouse to the top floor only, a view which is not considered to contribute to its significance due to its limited nature and 'segregation' from the farmland by the road hedges.

- 4.7 The hedge boundary along the west side of the site is another example of the regionally distinctive 'green tunnel' roads. These hedges are planned to be retained within the development, apart from a small section, c. 10m to the south east of this listed building, which will be removed to allow for vehicular access onto the site. This will cause a minor alteration to the setting of this listed building by the creation of a minor T-junction.
- 4.8 As such, there will be no change as a result of the development to the important relationships described above, which contribute to the significance of Moor Farm House. The current experience when travelling along the road will be subject to a minor change due to the partial views of the proposed development in the created gap toward the farm house, but this will have no effect on the significance of the listed building as its former relationships both physical and visual with the land within the site have already been removed.
- 4.9 Brook House (**DHE244**) is situated c.20m to the south of the site. This is a mid-late 17th century house with 20th century alterations. This is still a private house today and is set back from the road, enclosed within its gardens, which are the key contributors to the setting and therefore the significance of this designated asset.
- 4.10 The gardens are terraced into the natural slope on the north side, adjacent to the site, so that they are c.1m lower than the surrounding field (the spoil from this appears to have been deposited in the southern corner of the site and along the south boundary). Although these gardens do not have a hedged boundary between them and the site, there are veteran trees within the garden that serve to filter and obscure views into the site. These views are restricted to only certain parts of the south end of the site.
- 4.11 Were views possible into the site, this would not be considered an effect on the setting of this asset as it will not intrude on the garden setting. The main views from the house are focussed to the north west (the main house front) and south west and, as such, contribute to its significance. However, these key views are currently negatively impacted by the presence of industrial scale farm buildings at Gravel Farm, on the opposite side of the road.
- 4.12 Therefore, it is considered that three of these listed buildings will experience no change to their setting and therefore their significance apart from Moor Farm House, will experience no more than a slight/negligible change. There is potential for the development to have a beneficial effect to the settings of the identified buildings by enhancing the distinctive hedge boundaries which surround the site and create a 'green tunnel' effect to the roadways to the north and west.

Appendix EDP 2
Consultation Response from Sarah Lowe, Senior Building
Conservation Officer (SBCO; Herefordshire Council),
dated 19 February 2015

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MEMORANDUM

To : Internal Consultee
From : Mr Edward Thomas, Planning Services, Blueschool House - H31
Tel : 01432 260479 My Ref : 150437
Date : 19 February 2015

SITE: Land to the South of Chapel Lane, Bodenham Moor, Herefordshire
APPLICATION TYPE: Planning Permission
DESCRIPTION: Proposed 49 dwellings, including affordable dwellings, associated parking and landscaping.
APPLICATION NO: 150437
GRID REFERENCE: OS 354534, 250420
APPLICANT: Mrs Fiona Milden
PARISH: Bodenham

The application form, plans and supporting documents are available in Wisdom.

Please let me have your comments by 12/03/2015. If I have received no response by this date I shall assume that you have no objections. Should you require further information please contact the Case Officer.

Any comments should be added below and actioned in Civica to Mr Edward Thomas.

COMMENTS: (Continue on a separate sheet if necessary)

Object

Support

No Objection

Approve with Conditions (Please list below any conditions you wish to impose on this permission.)

Further information required

Consultation response from: **Sarah Lowe, Senior Building Conservation Officer**

The application site is located within the village of Bodenham Moor adjacent to the north-south village lane. It is proposed to develop the site for 49no. dwellings. Pre-application comments were provided.

Whilst there is no Bodenham Moor conservation area there are several listed buildings in the vicinity of the site. I am largely in agreement with the conclusions of the Archaeological and Heritage Assessment carried out by EDP in that, from a built environment perspective, the relevant sensitive receptors are the four grade II listed buildings to the north, west and south of the proposal site. Other listed buildings in the 1km radius study area are not considered to be affected by development on the site.

On a minor point the number of listed buildings within the study area is 11 not 10 - the barn at Ash Grove is listed separately to Ash Grove itself and the other buildings identified add up to 10.

The scheme layout shows that the listed buildings to the north will be looking onto public open space and therefore the change in the wider setting will not have an adverse effect. It is also clear that sufficient space would exist between the scheme and Brook House to the south so that the separate nature of the listed building and its garden has been respected.

Though Moor Farm House will have its outlook to the east altered by the development it is considered that its position on the opposite side of the village road already gives the two sites a degree of separation. In addition the hedges and topography of the area do not allow a strong visual link between the two sites and therefore the impact of development on the setting of the listed building would be reduced.

Overall it is considered that the proposal complies with heritage policy HBA4 and the NPPF chapter 12 and no objections are raised.

DATE RETURNED:

26 March 2015

Appendix EDP 3
Consultation response from Julian Cotton, Archaeological Advisor
(Herefordshire Council), dated 27 February 2015

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From: Cotton, Julian
Sent: 27 February 2015 10:55
To: Thomas, Edward
Subject: P150437/F, Land to the South of Chapel Lane, Bodenham

Ed,

P150437/F, Land to the South of Chapel Lane, Bodenham: proposed 40 dwellings etc.

Thank you for consulting me about this application. I have the following comments to make:

- As was discussed at pre-application stage and indeed as is stated in the application, there is some archaeological interest to the site.
- The interest effectively relates to a buried 'ring ditch' feature of likely Bronze Age date, present in the central part of the site. It is very probable that this feature represents the largely ploughed out remains of a former barrow or burial mound of that date.
- Having regard to its intrinsic nature and the particular condition it is in (demonstrated by the field evaluation undertaken previously), the feature **does** represent an archaeological issue, although a localised issue that is **not** an overriding one.
- Because the feature is an isolated find of moderate rather than a high level of archaeological significance, any harm to it as a result of this development can be appropriately mitigated, *either* by design or by record.
- Given that the applicants have not explicitly pursued the first option, I would regard it as entirely appropriate that the second (ie the archaeological excavation of the feature and its near environs) is pursued.
- Therefore, in accordance with Para 141 of The NPPF, and 'saved' Policy ARCH 6 of The Herefordshire UDP, I have no objections to this housing proposal, subject to the imposition of standard **archaeological programme of work condition E01 C47** in that regard.

Julian

Julian Cotton, Archaeological Advisor, Herefordshire Archaeology

Plan

Plan EDP 1

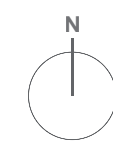
Location of Shukers Field and surrounding Listed Buildings
(EDP2302/05a 14 November 2016 JTF/MM)

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Shukers Field

Listed Building



Bovis Homes Limited

Bodenham Moor

Plan EDP 1: Location of Shukers Field and surrounding Listed Buildings



THE
ENVIRONMENTAL
DIMENSION
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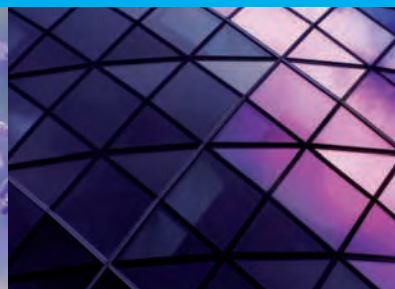
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Latham, James

From: Wellington Parish Council <wellingtonclerk@btopenworld.com>
Sent: 08 December 2017 13:49
To: Neighbourhood Planning Team
Subject: RE: Bodenham Regulation 16 neighbourhood development plan consultation

Dear James

Wellington Parish Council considered this consultation at their meeting on Thursday 7th December and resolved to support the proposals being put forward

Chris

Chris Bucknell
Clerk to Wellington Parish Council

www.wellingtonparishcouncil.org.uk



From: Neighbourhood Planning Team [mailto:neighbourhoodplanning@herefordshire.gov.uk]
Sent: 23 November 2017 10:18
Subject: Bodenham Regulation 16 neighbourhood development plan consultation

Dear Consultee,

Bodenham 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://myaccount.herefordshire.gov.uk/bodenham>

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

The consultation runs from 23 November 2017 to 11 January 2018.

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

Herefordshire.gov.uk



JEFFREYS & POWELL

Solicitors
(Established 1901)

Our ref. JA.CW.25270
Your ref.
Date. 19th February 2018

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V.M. Lewis LL.B. (Wales)

By Email: neighbourhoodplanning@herefordshire.gov.uk
sbanks@herefordshire.gov.uk

Dear Sirs,

Shuker's Field (also known as Land to the South of Chapel Lane, Bodenham)

We act from Messrs E & J Bevan the landowners of 'Shuker's Field' (also known as Land to the South of Chapel Lane), Bodenham, I wish to place on record a serious objection to the Bodenham Neighbourhood Development Plan (November 2017) following the Regulation 16 plan stage.

The Landowners have not been contacted by the Neighbourhood Plan Group to discuss the proposals for their land and strongly object to the proposed designation of their privately-owned site as Local Green Space in the submitted Neighbourhood Plan (NP). The Landowners contend that the Basic Conditions for a NP have not been met and that the NP has not met its legal requirements in terms of publicity and consultation.

National Planning Policy Guidance (NPPG) confirms that

A Local Green Space does not need to be in public ownership. However, the local planning authority (in the case of local plan making) or the qualifying body (in the case of neighbourhood plan making) should contact landowners at an early stage about proposals to designate any part of their land as



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Estate Practitioners

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the Solicitors
Regulation
Authority

Registration No.
597602

* Non-Lawyer

Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.

My clients have not received any direct contact at any stage from the Parish Council in respect of the proposal to allocate their privately owned land as Local Green Space. The Examiner will be aware that the site is the subject of an Agreement with Bovis Homes, who have historically sought to promote the site for residential development. Bovis Homes' consultants, Walsingham Planning have pro-actively made representations setting out why the site is not suitable for designation as Local Green Space, but neither my clients or Bovis Homes have been approached by the Parish Council to discuss the proposal and its objectives.

NPPG confirms that

Management of land designated as Local Green Space will remain the responsibility of its owner. If the features that make a green area special and locally significant are to be conserved, how it will be managed in the future is likely to be an important consideration. Local communities can consider how, with the landowner's agreement, they might be able to get involved, perhaps in partnership with interested organisations that can provide advice or resources.

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My clients have not received any direct contact from the Parish Council, and wish to reiterate that the land is part of a productive and viable farming operation. The site is in private ownership and there are no public rights of way that cross the site. It is our understanding that a LGS designation does not in itself confer any additional rights of public access, and that these would be a matter for separate negotiation with the landowners, whose legal rights must be respected. As set out above, there has been no contact made

with the Landowners in this, or any, regard. The nature of the farming operation is such that no additional rights are appropriate nor will be considered.

It is for the above reasons that the Landowner of Shuker's Field object to the proposed designation of the site as Local Green Space in the submitted Bodenham Neighbourhood Plan and request that the Inspector removes the Proposed Designation as Local Green Space.

Kindly acknowledge safe receipt of this letter.



LATE REPRESENTATION