

# INDEPENDENT EXAMINATION OF THE BREEDON ON THE HILL NEIGHBOURHOOD PLAN

EXAMINER: Wendy Burden BA (Hons) DipTP MRTPI

Please find below the response of Breedon on the Hill Parish Council, in red, to the Examiner's questions set out in her letter of 9 October 2024.

## 1. Policy Both2: Protecting the landscape and Locally Important Views

NWLDC raises objection to Views 1 and 2 which appear to be over tracts of open land. The views over open countryside are subject to NWLLP Policy S3. Can BOTHPC provide any particular reason why it would be appropriate to include these views in the BOTHNP?

The matter was raised by NWLDC at Regulation 14 stage. The representation and the Parish Council's response is set out in Appendix 3 of the Neighbourhood Plan Consultation Statement. For ease, the response was:

*There are many scenic views in the parish that local people value. Only five have been identified as particularly important and of these only two- Views 1 and 2 are of the countryside.*

*The Berry Field was once the Berry Cricket Ground and is overlooked by Local views 1 and 2. The significance of these views can be drawn from Hand-me-down-Hearsays- an album of photographs stories and anecdotes from parents and grandparents, friends and neighbours in the Parish of Breedon cum Worthington during the summer of 2002. The book provides a reference work for local people to learn or remember what life was like in the area during the 20th Century.*

*When so much of the local landscape has been affected by quarrying, the views that are largely untouched by modern development are particularly important to local people.*

Views 3, 4, and 5 are within a settlement but can reasons be provided as to why these views are important and how proposals could potentially impact on them?

View 3 is from Main Street, Breedon on the Hill looking north over The Green and to Breedon Hill. It is a key view, that is much photographed, showing the relationship between the village, the green and Breedon Hill beyond. The significance of this view can also be drawn from Hand-me-down-Hearsays.

View 4 is from Blackwell Lane, Wilson towards and down Short Hill. The view demonstrates the special character of the settlement derived from the informal grouping of (former) farmhouses, outbuildings and farmworker's dwellings together with the relatively open form of settlement pattern.

View 5 is from Moor Lane, Tonge towards The Green. The view demonstrates the special character of the settlement is largely derived from the informal grouping of (former) farmhouses, outbuildings and farmworker's dwellings along the principal road. The view also includes key landmark buildings, including Brookside Farmhouse and the influence of the Ramsley Brook on the form and character of the settlement. Breedon Hill is visible in the background.

All three views are particularly sensitive to change as a result of new development that could adversely affect the form and character of the settlements concerned, the relationship between buildings and open spaces, and between the settlements and their landscape setting.

## 2. Policy Both3: Areas of Separation

BOTHNP seeks to designate Areas of Separation for locations which are currently subject to the Countryside Policy S3 in the adopted North West Leicestershire Local Plan (NWLLP) and in draft Policy S4 in the emerging Local Plan. The countryside policies in both existing and emerging LPs seek to not only protect the countryside itself but also to prevent any harmful impact upon the separation between settlements.

In the adopted NWLLP an Area of Separation is identified in Policy En5. This seeks to maintain the physical separation between Coalville and Whitwick. The designated area is not covered by the countryside policy (S3 and emerging S4) since it is located within the Limits of Development of the two settlements. The Areas of Separation proposed in the BOTHNP are all located within the Countryside, outside the Limits of Development.

In these circumstances there is no strategic policy basis for the proposed designation of Areas of Separation in the BOTHNP, and the purpose of the designation is provided for in the existing and emerging Countryside policies in the adopted and emerging Local Plans. Can the BOTHPC show any reason and/or direct me to the supporting evidence which would justify the inclusion of a policy which would duplicate existing policy provisions and potentially be more onerous than national and strategic policy?

Paragraph 135 of the Framework states planning policies should ensure developments “are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).” Maintaining the distinctive and separate identities of Breedon on the Hill and Tonge is not the same as preventing any development in the identified Area of Separation between them. Sustainable development could occur in the area to which the policy applies that does not undermine visual separation. A policy defining an area where no development is to be permitted would seek to establish a regime that is more restrictive than even that applying in designated Green Belt. Such an approach would not have sufficient regard for national policy for it to be appropriate. Whilst the resistance of all forms of development in a defined area of open countryside would not have sufficient regard for national policy, the maintenance of a distinctive and separate identity of a settlement is a legitimate objective of land use policy.

The policy would not prevent sustainable development and has regard for those elements of the Framework that specifically recognise the importance of economic growth in rural areas; the special circumstances where isolated homes in the countryside will be acceptable; and those other types of development that will be appropriate. The policy would not prevent the development of essential utility infrastructure that is appropriately sited and designed. The policy has regard for paragraph 135 of the Framework.

The policy is in general conformity with the strategic policies included in the NWLLP applying in the Neighbourhood Area and relevant to the Neighbourhood Plan, in particular Policy S3. The policy serves a clear purpose by providing an additional level of detail and a distinct local approach to that set out in the strategic policies.

The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Having regard to the introduction; achieving sustainable development; plan-making; and decision-making sections of the Framework, and the components of the Framework concerned with conserving and enhancing the natural environment, the policy is appropriate to be included in a ‘made’ neighbourhood plan.

With regard to the Provisional Area of Separation, this relates to the potential designation of a new settlement in the emerging NWLLP. That is a strategic matter. Please advise on what basis a

Neighbourhood Plan might include a provisional proposal, in particular one which relates to a strategic matter which is (on the fact of it) outside the remit of neighbourhood planning?

While the proposed new settlement is a strategic matter, the designation of an Area of Separation is not, for the above reasons.

### **3. Policy Both5: Ecology and Diversity**

Clause two of this policy refers specifically to Schedule 7A to the Town and Country Planning Act 1990 (as amended) with regard to biodiversity net gain. I note that Draft Policy En1 in the NWLLP 2020-2040 requires at (a) “that development provides a net gain in biodiversity consistent with any national policy prevailing at the time that a planning application is determined”. To ensure that the BOTHNP remains up to date and relevant to national policy would this be a more appropriate form of words for Both5 clause 2?

The Parish Council would support this revision.

### **4. Policy Both7: Water Management**

At paragraph 4.36 it is recognised that the National Planning Policy Framework (NPPF) sets strict tests to protect people and property from the risk of flooding, including the use of sustainable drainage systems (SuDs) where appropriate. In the adopted NWLLP, Policy Cc2 provides a comprehensive approach to flood risk assessment and Cc3 deals with the use of SuDs. These policies are subject to review and are being carried forward in Draft Policies AP7 and AP8 in the emerging Local Plan.

I understand that this topic is of critical importance to the community of Breedon on the Hill. However, in the interest of clarity and to avoid duplication, is the retention of this policy justified by the inclusion of any specifically local matter which is not covered by the existing and emerging water management policies at National and Local Plan level?

Flood risk is a major concern for local people- 55% of respondents to our 2021 Questionnaire Survey were concerned about flood risk where they lived. As set out in paragraphs 4.41- 4.44 and the Breedon on the Hill Flood Risk Study, surface water runoff is a significant contributing factor to the flood risk in the village. So, it is important that all new housing in Breedon on the Hill incorporates Sustainable Drainage Systems as set out in Policy Both7 which was drafted with the support of the Lead Local Flood Authority. The Policy does not duplicate existing and emerging water management policies at National and Local Plan (Neighbourhood Plans are not tested against emerging Local Plan policies) level and is justified by local circumstances.

### **5. Policy Both11: Locally Valued Heritage Assets**

The term “non-designated heritage assets” is applied in National and Local Plan policy to heritage assets which are buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets.

Is this Policy intended to refer to those heritage assets which would be identified as non-designated heritage assets in National and Local Plan policy? If so, should the title of the policy be changed?

The Parish Council would support this revision.

Guidance is given on the process for the identification of non-designated heritage assets in the Planning Practice Guidance (PPG)<sup>1</sup>. It states that it is important that the decisions to identify them are based on sound evidence. This should include information on the criteria used to select non-designated heritage assets and information about the location of existing assets. The BOTHNP does not provide clear criteria for the evaluation and identification of the list of non-designated heritage assets in Policy BotH11. Can you direct me to the criteria used in their identification?

Neighbourhood Plan paragraphs 6.26 to 6.31 set out the community's approach to the identification of Non-Designated Heritage Assets which is fully in line with Planning Practice expectations that 'It is important that all non-designated heritage assets are clearly identified as such.' The Non-Designated Heritage Assets identified by Policy BotH11 are already on the Leicestershire & Rutland Historic Environment Record (HER). The inclusion of a site on the HER means that it has already been the subject to research and investigation in accordance with national standards of good practice.

A number of areas of Ridge and Furrow are identified for designation in Policy BotH11. The designations are challenged on the basis that the methodology published by Historic England and Northamptonshire County Council in 2001 has not been followed to justify the designations. Although English Heritage has taken photographs to enable the condition of ridge and furrow to be mapped and recorded in detail, how have the sites which are recorded been evaluated to ensure that they are of sufficient significance to justify identification in Policy BotH11?

Leicestershire County Council (LCC) has referred to the Leicestershire and Rutland Historic Environment Record which may provide information to inform the BOTHNP. LCC has also indicated that information can be provided on medieval ridge and furrow earthworks to help evaluate the surviving earthworks in the BOTHNP area. To what extent has the information held by LCC informed the designations proposed in Policy BotH11?

Map 12 is based on the Leicestershire and Rutland Historic Environment Record which provided a map showing the Turning the Plough ridge and furrow data (project published c.2000) and an extract from RF Hartley's ridge and furrow map showing its historic extent (created in the 1980s using post-war aerial photographs). A comparison of the two sources shows how little ridge and furrow survives- only seven such fields remain in the Parish and one of these is to be lost to development. Each has been checked for the presence of ridge and furrow by means of surface height modelling and visual inspection. It is important to note that Ridge and Furrow fields are to be protected as locally valued heritage assets having regard to the scale of any harm or loss and the significance of the heritage asset. That significance can be assessed in detail during the development management process.

## **6 Policy BotH13: Local Green Spaces**

The tests to be applied for land to be designated as Local Green Space (LGS) are set out in paragraph 106 of the December 2023 version of the NPPF. It also states that policies for managing development within LGS should be consistent with those for Green Belts.

I note the information provided in Appendix 3. However, additional clarification is required to enable me to reach a judgement as to whether designation of each of the sites meets the tests in national policy.

Can the following more detailed information be provided:

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<sup>1</sup> PPG Reference ID: 18a-040-20190723.

Sites 1-8: the area of each site; the reasons why the site is **demonstrably** special to the local community and the reasons why the site holds a **particular** local significance.

Site 4 – why is the long thin frontage strip of **particular** local significance?

Site 8 – is outside the settlement. How does it serve the local community?

Each Local green Space has been the subject of detailed assessment to ensure that designation criteria have been met. These assessments are on the Parish Council's website, but for ease they have been attached.

## 7. Paragraphs 9.10 and 9.11

Reference is made to a housing requirement for Breedon on the Hill of 13 dwellings to 2040. I note from the emerging NWLLP paragraph 4.25 and Draft Policy S2 that some limited development in the settlement will be appropriate but limited to either infilling or previously developed land. Can BOTHPC clarify (and point me to the evidence for) the origin of the 13 dwellings referred to in the BOTHNP? In the absence of any such specific figure in the emerging NWLLP, is it appropriate to include a specific figure in the BOTHNP?

In accordance with NPPF paragraph 68, the Parish Council asked NWLDC to provide a requirement figure for Breedon on the Hill Neighbourhood Area for the plan period. In response, NWLDC indicated that the housing requirement for Breedon on the Hill is 13 dwellings (see email exchange).

The Parish Council is aware that the Draft (Regulation 18) North West Leicestershire Local Plan 2020 – 2040 does not set out a housing requirement for designated neighbourhood areas. This is contrary to NPPF paragraph 67 and the Parish Council has made representations accordingly. However, in its accompanying Proposed Housing and Employment Allocations for Consultation, NWLDC states (paragraph 4.76):

*The Parish Councils at Breedon on the Hill and Long Whatton and Diseworth are currently preparing Neighbourhood Plans in which they are proposing to allocate housing sites. On this basis, we do not plan to allocate sites in the Local Plan in these settlements. However, if these allocations are not forthcoming, we may potentially allocate sites in a future version of the Local Plan.*

Planning Practice Guidance (Paragraph: 103 Reference ID: 41-103-20190509) states:

*Where neighbourhood planning bodies have decided to make provision for housing in their plan, the housing requirement figure and its origin are expected to be set out in the neighbourhood plan as a basis for their housing policies and any allocations that they wish to make.*

## 8. Policy Both16: Land North of Southworth Road, Breedon on the Hill

With regard to clause D of the policy, as previously stated, matters relating to flooding and drainage are subject to policies within the NPPF, in the adopted NWLLP and in the emerging NWLLP. If it is considered that D should be retained<sup>2</sup>, is there any reason why it should not reflect the wording in Paragraphs 170b) and 173c) of the NPPF “to ensure that flood risk is not increased elsewhere”?

The Parish Council recognises that Policy Both7 may make criterion D unnecessary.

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<sup>2</sup> Subject to the deletion of reference to Policy Both7.

Please note that on 1 October 2024, NWLDC resolved to permit (subject to a S106 Agreement) planning application 24/00007/FULM- The erection of 18 dwellings (100% affordable housing), access, landscaping and associated works-Land to the north of Southworth Road, Breedon on the Hill, Leicestershire DE73 8LU (report attached). The Parish Council wishes Policy BotH16 to be retained in the event of future revisions to the proposal and so that the Parish benefits from the limited protections offered by NPPF paragraph 14.

#### **9. Policy BotH18: Brook Farm, Moor Lane, Tonge**

Having regard to the objection raised by NWLDC, which states that the allocation of the site would not be in general conformity with NWLLP Policy S2, are there any particular local circumstances which are considered to justify the allocation of the site?

The matter was raised by NWLDC at Regulation 14 stage. The representation and the Parish Council's response is set out in Appendix 3 of the Neighbourhood Plan Consultation Statement. For ease, the response was:

*Brook Farm on Moor Lane is a vacant site that was previously used as a plant nursery. While the site may not meet the strict definition of previously developed land, the site bears many similarities. There is a dwelling on site which has not been occupied for years and is in disrepair. There are many derelict glasshouses with broken glass across the site and dense areas of overgrown vegetation. The local community supports the redevelopment of the derelict Brook Farm site to bring it back into active use, to secure environmental improvements and to support the provision of housing to meet local needs.*

*A development of 10 dwellings represents just 0.07% of North West Leicestershire's 2020-39 housing requirement. The allocation is therefore in general conformity with the strategic policies of the development plan.*

*The concerns of the Conservation Officer are noted, but smaller workers' cottages are a feature of the Conservation Area. The Parish Council believes that the development of the site for around ten dwellings can secure the restoration and re-use of Brook Farmhouse and an overall enhancement of the Conservation Area.*

Please also note that on 30 July 2024, The Ministry of Housing, Communities and Local Government published for consultation its proposed approach to revising the National Planning Policy Framework. It also sought views on a range of wider planning-related proposals. As part of this consultation, views were sought broadening the definition of Previously Developed land to include hardstanding and glasshouses.

#### **10. Policy BotH20: Affordable housing**

As stated in the objection to this Policy by NWLDC, the provision of affordable housing within new developments is dealt with in NWLLP Policy H4. Policy BotH20 requires 10% of housing on previously developed land to be affordable whereas the Local Plan Policy requires just 5% in settlements within BOTHPC. What special circumstances exist that would justify a more onerous requirement in the BOTHNP?

Furthermore, Policy BotH20 seeks to add a criterion to restrict the eligibility for affordable housing to people with a local connection. This matter is in conflict with the NWLDC housing eligibility criteria which requires no local connection to the district and could inhibit the Registered Provider's ability to secure funding for new affordable housing schemes. In these circumstances can BOYHPC provide any locally specific land use reason why such criteria would be justified?

These matters were raised by NWLDC at Regulation 14 stage. The representation and the Parish Council's response is set out in Appendix 3 of the Neighbourhood Plan Consultation Statement. For ease, the response was:

*Policy Both20 aims to be broadly in conformity with North West Leicestershire Local Plan Policy H4 but addresses more recent national size thresholds, minimum affordable housing requirements, First Homes requirements and local information on tenure split.*

*North West Leicestershire District Council does not operate Local Lettings Policies. This means that local people are not prioritised for affordable housing with larger housing developments expected to meet affordable housing needs identified in the district. However, the Neighbourhood Plan is only required to be in general conformity with the local development plan and as the District Council's housing eligibility criteria is not part of the development plan, the Neighbourhood Plan can set its own requirements. Indeed, Planning Practice Guidance makes clear that as part of the section 106 agreements, neighbourhood planning groups can apply eligibility criteria, including a local connection test.*

NWLDC housing eligibility criteria are not relevant to the Basic Conditions.

NPPF paragraph 66: "Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership..." It is clear that NWLLP Policy H4 is out of date.

#### **11. Policy Both22: Residential Conversion of Rural Buildings**

The residential conversion of rural buildings is subject to Policy S3 of the adopted NWLLP and draft Policy S4 in the emerging NWLLP. Paragraph 84 of the NPPF also sets out the circumstances in which isolated homes in the countryside, including the conversion of redundant or disused buildings, may be permitted.

Policy Both22 appears to set out a more restrictive approach to the control of such development as a result of clause A. As such, the Policy would be in conflict with both National and Local Plan policy. Can the BOTHPC provide any locally based reason to justify the more onerous level of control proposed in this policy?

The matter was raised by NWLDC at Regulation 14 stage. The representation and the Parish Council's response is set out in Appendix 3 of the Neighbourhood Plan Consultation Statement. For ease, the response was:

*The Draft Breedon on the Hill Neighbourhood Plan has had regard to national planning policy and is in general conformity with the Local Plan when it comes to the re-use of re-use and/or adaptation of rural buildings. Policy Both22 provides for the conversion of rural buildings of architectural and historical interest to residential. Whereas there is no such requirement under Policy Both25 which supports the business conversion of rural buildings irrespective of its architectural or historic merit. In this way, the Neighbourhood Plan prioritises business development over isolated dwellings in the countryside.*

#### **12. Policy Both24: Replacement Dwellings**

Although the preamble to this policy refers to replacement of rural dwellings, the wording of the policy does not confine its application to rural dwellings. Is it intended to apply specifically to the replacement of dwellings in the countryside?

In accordance with Policy Both21, policies Both22, Both23 and Both24 are intended to apply to areas outside the Breedon on the Hill Limits to Development and the Wilson Settlement Boundary.

Furthermore, would clause D be effective since an extension to an existing dwelling could result in the loss of two or three bedroomed accommodation? Does clause C ensure that the scale of an existing dwelling would be maintained?

As set out in paragraph 9.56, it is recognised that conditions may be necessary to remove permitted development rights to prevent replacement dwellings from being extended disproportionately in the future.