

# 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 additional questions set out in her letter of 28 October 2024.

## Question for BotHPC

1. With regard to the strip of land fronting Ashby Road which is proposed as part of Local Green Space (LGS) 4 in the BotHNP: there is a path which runs through the first part of the strip before it makes a 90' turn away from the road frontage. Once the path turns away, the only public view of the remainder of the strip is from the roadside. Ashby Road is a well used public highway and the road frontage is densely planted with trees and bushes such that any views into the proposed LGS are heavily restricted. The 30MPH speed restriction ends about halfway along the frontage proposed for LGS designation and traffic is generally travelling at speed as it passes the site.

The short strip of frontage which incorporates the path forms a link between the site of the balancing pond and the path which heads away from the frontage. This part of the frontage strip is clearly of importance to the local community for recreation. However, it is difficult to identify the reasons why the remainder of the strip would meet the criteria set out in paragraph 106 of the NPPF. Can the BotHPC provide supplementary clarification and direct me to any further relevant evidence to demonstrate that the designation of the whole length of the frontage strip as LGS is justified?

The pond and brook form important components of the surface water management plan for the area. However, it is recognised that the recreational value of the brook south of footpath M1A is more limited because the footpath does not run through it.

## Question for BotHPC and NWLDC

2. A Settlement Boundary is proposed for Wilson within which Policy BotH17 would apply. The adopted Local Plan (NWLLP) makes no provision for such a designation in a Neighbourhood Plan. In the preparation of the new NWLLP, a review of the Limits of Development is being undertaken. However, Wilson is not included in that review. The introduction of a Settlement Boundary for Wilson would introduce a new designation in the BotHNP which has no policy basis in the adopted Local Plan. Nor does it reflect any emerging proposals in the new NWLLP. In these circumstances such a designation would be inconsistent with both the adopted and emerging Local Plan policies. I would welcome comments from the Parish and District Councils on this matter.

Wilson is classified in the adopted Local Plan as a Small Village with very limited services, where development will be restricted to conversions of existing buildings or the redevelopment of brownfield land or affordable housing. However, the Local Plan does not define the geographic extent of the policy which creates uncertainty concerning the operation of Local Plan policies in Small Villages. To clarify matters, the Neighbourhood Plan defines a Settlement boundary for Wilson within which new housing development can take place in conformity with the Local Plan. The Neighbourhood Plan therefore supports the delivery of strategic Local Plan Policy S2 in accordance with NPPF paragraph 13.

Further, in accordance with national planning policy, Policy BotH17 and the defined Settlement Boundary for Wilson provides the community with its own policy to shape future development in and around where they live and work:

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development...” (Paragraph 29, National Planning Policy Framework)

### Question for BotHPC and NWLDC

3. Having visited the proposed housing allocation at Brook Farm Tonge, I question the treatment of the site as “previously development (sic) land” in Policy BotH18. In the Glossary to the National Planning Policy Framework (NPPF), the definition of “previously developed land” explicitly excludes “land that is or was last occupied by agricultural or forestry buildings --- and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape”. Having regard to previous uses of the land and the current overgrown and dilapidated state of the site, does this definition preclude Brook Farm from the national definition of “previously developed land”?

Furthermore, is there any basis in adopted NWLLP policies for the allocation of this site which lies within an area subject to Policy S3?

The Parish Council has largely addressed this matter in its response to question 9 of the Examiner’s initial letter dated 9 October 2024. That response included reference to the Ministry of Housing, Communities and Local Government consultation on its proposed approach to revising the National Planning Policy Framework. This includes broadening the definition of Previously Developed land to include hardstanding and glasshouses.

Regarding the Basic Conditions, the Examiner is reminded that the Neighbourhood Plan must be in **general** conformity with the strategic policies of the Development Plan. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

In considering a now-repealed provision that “a local plan shall be in general conformity with the structure plan” the Court of Appeal stated “the adjective ‘general’ is there to introduce a degree of flexibility.”<sup>1</sup> The use of ‘general’ allows for the possibility of conflict. Obviously, there must at least be broad consistency, but this gives considerable room for manoeuvre.

The scale of development proposed by Policy BotH18 is just eight dwellings- a scale of development which would not have a detrimental impact on the strategic spatial strategy of the Local Plan. Policy BotH18 provides an additional level of detail and a distinct local approach without undermining the Local Plan.

A neighbourhood plan can allocate sites for development, including housing<sup>2</sup>. NWLLP Policy S3 provides for the redevelopment of previously developed land in Small Villages like Tonge.

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development...” (Paragraph 29, National Planning Policy Framework).

Policy BotH18 is in **general** conformity with the strategic policies of the Development Plan and has regard to national policies and advice contained in guidance issued by the Secretary of State.

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<sup>1</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

<sup>2</sup> Planning Practice Guidance 042 Reference ID: 41-042-20170728 Revision 28 07 2017