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# Catshill and North Marlbrook Neighbourhood Plan

## Representations on behalf of St Philips to the Submission Plan (Regulation 16) Consultation

### Land at Stourbridge Road, Catshill

#### 1. Introduction

- 1.1 Avison Young is instructed by St Philips Ltd ('St Philips / the client') to prepare and submit representations to the Catshill and North Marlbrook Plan Submission Version (Regulation 16) consultation.
- 1.2 St Philips controls land at Stourbridge Road, Catshill ('the site'), edged red on the Site Location Plan attached to these representations at **Appendix I**. It has made representations to the various stages of the emerging Neighbourhood Plan ('the Plan'), the most recent being made through the Regulation 14 consultation on the pre-submission version of the Plan in October 2020. Initial engagement with the Catshill and North Marlbrook Parish Council ('the Parish Council') has also taken place comprising attendance at two meetings in September and November 2018.
- 1.3 Through its engagement with the Plan (specifically in its response to the Regulation 14 consultation) St Philips has raised a number of concerns around (i) the extent to which the Plan contributes to sustainable development; (ii) the extent to which the Plan complies with national planning policy; and (iii) the proposed designation of part of its land at Stourbridge Road as a Local Green Space ('LGS') and the evidence base to support this. Having reviewed the Regulation 16 version of the Plan, and the Parish Council's Statement of Consultation, our client's concerns do not appear to have been addressed. St Philips feel it necessary, therefore, to repeat these points in its response to the Regulation 16 consultation.
- 1.4 With the above in mind, we provide in these representations:
  - an overview of St Philips' land at Stourbridge Road;

- a summary of its engagement with the Parish Council and the Neighbourhood Plan, to date;
- St Philips' comments on the Regulation 16 consultation document;
- St Philips' comments on the extent to which the Plan meets the Basic Conditions; and
- our comments on the format of the examination of the Plan.

## 2. St Philips' Land at Stourbridge Road

- 2.1 The site comprises approximately 5.58 hectares of mostly agricultural land (and an area of tree planting) and adjoins the western edge of the village of Catshill. The site is located in the West Midlands Green Belt.
- 2.2 The site is bounded by the existing residential neighbourhood of Catshill, which lies to the north and east of the site. To the west, the M5 motorway defines the boundary of the site and naturally prevents the site from expanding further west. To the south, the site is bound by Rocky Lane, which bridges over the M5, providing a through connection to settlements beyond to the west.
- 2.3 The site is located 3 miles north of Bromsgrove railway station, which lies on the Birmingham 'Cross City' line and the Birmingham to Worcester line. This means that the station is served by frequent services between Lichfield and Redditch (via Birmingham) as well as between Birmingham and Worcester / Hereford. There are bus stops located on Stourbridge Road, adjacent to the site frontage. These are served by multiple routes, including the 90 and 144 lines. The former provides a frequent local service around the suburbs of Bromsgrove, terminating at the town's bus station, whilst the latter operates a route between Worcester and Bromsgrove.
- 2.4 Local services and amenities, including a primary school, post office and pharmacy, are all located within walking distance of the site.
- 2.5 To support its promotion of the site, St Philips commissioned a team of technical consultants and masterplanners to carry out surveys and investigations and use these to comments on the development potential of the site. The findings were published in a Vision Document, which was originally presented to the Parish Council as part of our client's initial engagement with it in November 2018. We have submitted the Vision Document again now to support these representations (see **Appendix II**).
- 2.6 Having assessed the various technical constraints and other factors that might influence development, the Vision Document concludes that the site could accommodate approximately 81 dwellings.

### 3. Engagement To-Date

- 3.1 St Philips first engaged with the Parish Council through two meetings in 2018. The first of these, in September 2018, was a general meeting of the Parish Council, at which St Philips was given the opportunity to present its broad aspirations for the site at Stourbridge Road. The second meeting was held in November 2018. This was a dedicated session which landowners / promoters and their consultants were able to present to a handful of Members, setting out the merits of their sites as potential allocations. We (Avison Young) and St Philips jointly presented at that meeting.
- 3.2 Members advised that they had two primary concerns with the suitability of the Stourbridge Road site, which can be broadly summarised as:
- highways capacity; and
  - suitability / safety of vehicular access from Stourbridge Road, in the light of the perceived network capacity issues.
- 3.3 Having heard these concerns, St Philips instructed its transport consultant, Phil Jones Associates (PJA) to prepare a specific transport note which looked at capacity and access issues. That note, which concluded that there was sufficient capacity to enable a safe and suitable access from Stourbridge Road to be formed, was issued to the Parish Council in December 2018, and is attached at **Appendix III** of these representations.
- 3.4 In July 2020, we received correspondence from the Parish Council in the form of a letter, advising us that it was proposing to allocate part of the land at Stourbridge Road as Local Green Space in the emerging Neighbourhood Plan. The letter from the Parish Council suggested that the proposed designation was the result of survey work undertaken by a Working Group within the Council, which carried out an 'assessment' of the site that included a survey amongst residents. The results of this assessment were presented in the form of a Scoring Matrix, a copy of which was attached to the Parish Council's letter. We were also provided with the outcome of a short 'tick box' assessment of the site, which concluded that the site has '*high*' community value and benefit, it '*a noise attenuation area*', and '*forms an important wildlife and green infrastructure area*'.
- 3.5 Following a review of the Parish Council's letter and the information attached to it, we wrote to the Parish Council in August 2020, asking it to clarify a number of points / questions relating to the Scoring Matrix and the survey undertaken by the Working Group, to help us better understand the proposed designation of St Philips' land (see **Appendix IV**). We did not receive a response from the Parish Council.

3.6 St Philip's latest formal engagement with the Neighbourhood Plan process was therefore through representations to the Regulation 14 consultation in October 2020, a full copy of which is attached at **Appendix V**. As the Parish Council had advised in July 2020, the Reg. 14 pre-submission version of the Plan proposed the designation of a significant part of St Philips' land at Stourbridge Road as Local Green Space. The key points arising from our client's response to the Reg.14 consultation can be summarised as follows:

- i) the proposed designation of part of the land at Stourbridge Road as Local Green Space would significantly constrain the delivery of the site which, by the Parish Council's own admission, appears to be one of the most sustainable and suitable options in the Plan area. This could lead to housing development having to be provided on less suitable sites in the Parish, which is directly at odds with the premise of sustainable development;
- ii) the proposed designation is un-evidenced and not justified, and is informed by an erroneous assessment that reaches conclusions contrary to other parts of the Parish Council's evidence base, such as the site assessments prepared by AECOM and the Parish itself; and
- iii) With the above in mind, the Plan fails to meet the first and fourth basic condition required to enable the Plan to be 'made' (as set out in the Town and Country Planning Act 1990). On this basis, the designation of the site as Local Green Space is wholly inappropriate and should be removed accordingly.

3.7 Having reviewed the Regulation 16 version of the Plan, our client's key concerns as described above do not appear to have been addressed, despite having been raised with the Parish Council on more than one occasion. We have, therefore, repeated these points below in our client's response to the Regulation 16 consultation.

## 4. Substantive Response to Regulation 16 Consultation

4.1 In this Section, we provide our client's substantive response to the Regulation 16 Consultation. We focus our comments on two principal matters:-

- i) the approach the Plan takes to dealing with future residential growth and development; and
- ii) the proposed designation of part of our client's site as Local Green Space (LGS).

4.2 In commenting on these matters, we highlight conflicts with national policy and adopted strategic policies, as well as deficiencies in the evidence base. Using the conclusions reached in this Section, we go on, in Section 5, to comment on the extent to which the Plan satisfies the Basic Conditions.

### **Approach to Residential Development Matters**

4.3 In light of the uncertainty around the amount of housing that might have to be provided in Bromsgrove, and then apportioned to the Parish, the Neighbourhood Plan, as drafted, does not propose to allocate sites for housing, and instead proposes to take on a policy-based approach.

4.4 It does, though, at Section 8.4, offer some commentary on the possible scale of housing development that may be required in the Neighbourhood Plan area, and suggests that 23 dwellings per annum may be required by 2030 (the end of the plan period for the adopted Bromsgrove District Plan). The suggested annualised housing figure is taken from a Housing Needs Assessment ('HNA') prepared for the Parish Council by AECOM. The HNA is dated September 2019, and so pre-dates changes to the standard method in December 2020, and updates to affordability ratios published by Government in March 2021.

4.5 The Plan also includes, at Section 8.5, some commentary on the assessment of potential housing sites in the Neighbourhood Plan area.

4.6 It is not clear what purpose the inclusion of commentary on housing numbers and possible housing sites seeks to achieve, given there is no policy in the Plan that either: a) sets a housing target for the Plan area; or b) allocates sites for development.

4.7 Although the District Council has commenced work on a review of its District Plan, it has not yet gone beyond a 'Further Issues' consultation, and so has not proposed a housing target for the new plan period, or confirmed its proposed spatial strategy or proposed distribution of growth around the District. Indeed, in October 2020, the District Council published a statement indicating that it was not

intending to carry out any further consultation until it received clarification on the form of any revisions to the planning system in the light of the publication of Government's 'Planning for the Future' White Paper in Summer 2020.

- 4.8 In December 2020, Government updated its standard methodology for calculating housing need, and introduced a mechanism that results in a 35% uplift in housing need for authorities containing the top 20 most populated urban areas in England. That change has increased the level of housing need for Birmingham and, given the challenges it has faced in accommodating its need to-date, will almost certainly mean that Birmingham City Council will need to look to its neighbours in the housing market area, including Bromsgrove, to accommodate greater amounts of unmet need than had previously been expected.
- 4.9 A further point to draw attention to is that, in March 2021, Government published updated affordability ratios, which inform the application of the standard method.
- 4.10 The reason for drawing attention to these matters is because they confirm that the eventual housing target that the District Council selects is likely to increase from figures that were referred to in initial consultation documents, and are repeated in the AECOM HNA and the Neighbourhood Plan, meaning that such references are redundant.
- 4.11 This, in our view, leads to two possible conclusions.
- Firstly, if the Parish Council wants to use the Neighbourhood Plan to establish a housing target and allocate sites, then bringing forward the Plan now is premature. Instead, the Parish Council should wait until the District Council has made substantial progress with its review of the District Plan and has alighted upon: i) a housing target for the District; and ii) a spatial strategy that determines the level of growth to be distributed around the District.
  - Secondly, if the Parish Council does not wish to wait for clarity on the District Council's strategy, then it should remove references to housing need and housing sites from the Plan and instead prepare draft the Plan with 'development management'-type policies against which planning applications will be determined.
- 4.12 Nevertheless, given that the Plan does comment on potential housing sites within the Plan area, we have, on behalf of our client, carried out a review of the conclusions that have been reached.
- 4.13 The evidence base primarily consists of two separate Site Assessment Studies commissioned by the Neighbourhood Plan Housing Group ('NPHG') and AECOM respectively. Both studies rely on a 'traffic light' system of assessment, focussing on matters of sustainability and perceived likely traffic

generation. The land controlled by our client at Stourbridge Road (which is denoted by site reference 4 and labelled as 'Land off Westfields'), is marked as 'amber' in both assessments, which each conclude that the site is suitable for development. This makes it one of the better scoring sites; indeed it is only one of six (out of 25 sites in total) that the NPHG don't score as 'red' (i.e. unsuitable) and only one of four sites where both assessments agree on suitability. We note also that, in its Consultation Statement, when responding to our Regulation 14 representations, the Parish Council states that, "*it is acknowledged that [our client's site] may have some potential for future housing.*"

4.14 Importantly, and the relevance of which will become more apparent during the remainder of these representations, both site assessments conclude that the site offers no social or community value at the current time.

4.15 Notwithstanding the above, there are a number of anomalies within both assessments, which St Philips took the opportunity to identify in its response to the Reg. 14 consultation document. We note that these anomalies have not been addressed within the Reg. 16 Plan, so we have repeated them here.

- Firstly, the AECOM assessment scores the site 'red' on coalescence because they perceive it will result in a merging of Catshill and Bournheath to the west. This is despite i) the physical barrier of the M5 and ii) Bournheath being a very smaller, linear village, distant from the western side of the motorway and which looks unlikely to have a large development bolted onto it that would bring its urban edge closer to the motorway. As such, any residential development of the site would not appear incongruous in this location and would retain the sense of separation between Catshill and Bournheath. In its Consultation Statement, the Parish Council agrees that coalescence is an unlikely product of development on the site.
- Secondly, there are also discrepancies between the two assessments. For example, different conclusions are reached on the proximity of the site to a bus stop, which leads to different scores being ascribed. To confirm, there are two bus stops along Stourbridge Road directly to the east of the site that are both within 400m of the site boundary. On this basis, the site should have scored green/amber (as appropriate) in both of the studies in respect of proximity to bus stops. We note that the Parish Council, in its Consultation Statement, clarifies its approach to measuring distance, but in any event says it does not see proximity to a bus stop as a "*significant issue*".
- Third, the NPHG assessment scores the site 'amber' on site access because of potential safety issues regarding the speed of traffic and sight lines. This is inconsistent, however, with what the Parish Council says at paragraph 8.5.12 of the consultation document which states the site "*was initially thought to have access problems but it was subsequently shown that these could be overcome*". The AECOM assessment, however, scored the site 'green' for access. The Parish Council confirms



in its Consultation Statement that it accepts the submissions that were made by PJA on behalf of our client and which demonstrate that a suitable access can be achieved. Despite this, the NPHG has not taken the opportunity to update its assessment of the site.

- 4.16 The reason for making these points because it is apparent that, in their current form, both assessments conclude that our client's land represents a suitable development opportunity. If the discrepancies we have described above, then the corollary is that the conclusions of both assessments would be further strengthened (and may, possibly, lead to the site being scored as 'green' overall in one or both).
- 4.17 The fact that both pieces of evidence recognise the suitability of the site as a location for new housing is important when considering other contents of the Plan, and in particular the proposed designation of part of the site as Local Green Space. We return to consider this further in subsequent paragraphs.
- 4.18 A final observation in relation to residential development matters is in relation to the principal draft housing policy, Policy H1, which lists criteria that must be satisfied by all residential proposals. Amongst other things, it says that residential development will only be permitted on sites which are released from the Green Belt by the District or are previously developed non-Green Belt sites. Whilst the general presumption against development in the Green Belt is broadly consistent with national policy, the Plan doesn't include a reference to the Very Special Circumstances test (as outlined in paragraphs 143 and 144 of the NPPF) that would apply to proposals for development in the Green Belt. As drafted, there is a risk that Policy H1 would impose a blanket ban on residential development on greenfield land in the Green Belt. Although the NPPF sets a very high bar for allowing such development, it nevertheless does provide a mechanism where such development might be allowed. We therefore recommend that the policy wording be revised to include reference to the Very Special Circumstances test, in order to be consistent with the NPPF.
- 4.19 In its Consultation Statement, the Parish Council states that it disagrees with this view, on the basis that,

*"The policy identifies that Green Belt land should only be released for major residential development following the review of the green belt being carried out by the District Council to inform revisions to its current Local Plan. This will establish the 'very special circumstances' that justify the release of green belt land for development purposes."*

- 4.20 The Parish Council appears to have missed the point. Imposing a policy that states that residential development will only be acceptable on Green Belt sites where they have been released through a future Local Plan is inconsistent with national policy. Paragraph 143 of the NPPF confirms that development in the Green Belt may be acceptable where 'very special circumstances' apply. As drafted,

Policy H1 would effectively prevent development on any Green Belt site, even if 'Very Special Circumstances' had been demonstrated. It is that tension between Policy H1 and the NPPF that must be addressed in order to ensure consistency between the two. If Policy H1 did pay regard to that well-established policy test in NPPF Paragraph 143, it would not represent a weakening of the Neighbourhood Plan; after all the very special circumstances test sets a very high bar.

### **Proposed Local Green Space Designation**

- 4.21 The Plan proposes, at Policy Env 4, to allocate part of our client's site, which contains the area of tree planting, as LGS.
- 4.22 An immediate point to make is that the Plan, and its evidence base, show the extent of the proposed designation on a map. The eastern boundary of the proposed designation adjoins, very closely, the part of the site where our client's Vision Document shows (see the Concept Masterplan on page 55) vehicular access being taken from Stourbridge Road. The Parish Council has not given any consideration to whether the delineation of the LGS would leave sufficient room to form an access road without having to undertake development works within the designated area.
- 4.23 Moreover, the continuation of the eastern boundary of the proposed designation substantially reduces the developable area in the northern part of our client's site, by creating a narrow space between the proposed designation and Christ Church Cemetery. It is clear if the proposed designation is read alongside our client's Concept Masterplan that the proposed designation would leave very little space in which to accommodate housing and an access road.
- 4.24 At best, this will substantially reduce the capacity of our client's site. The Concept Masterplan in the Vision Document assumes that a development might achieve 81 dwelling. However, that will be significantly reduced if development is constrained to being delivered only in the southern part of the site, beneath the designated LGS area.
- 4.25 At worst, the delivery of our client's site will be prevented completely, as developers are unlikely to be able, or willing, to commit to the cost of forming a lengthy section of access road from Stourbridge Road to serve only a small number of dwellings in the southern part of the site.
- 4.26 We commented on the proposed designation on our client's behalf during the Regulation 14 consultation and stated that such an allocation would be: a) inconsistent with policy; and b) inconsistent with the aims of achieving sustainable development.

4.27 The Parish Council has responded to our comments in its Consultation Statement, and, in short, states that it disagrees with our analysis. Consequently, the Parish Council has not proposed any change to the proposed designation. We therefore must, as part of these representations, repeat our conclusions in respect of the proposed designation. We do so, though, with reference to the feedback from the Parish Council presented in its Consultation Statement.

### **Planning Policy Context**

4.28 Paragraph 99 of the NPPF states that the designation of land as LGS through local and neighbourhood plans should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. This is supported by Paragraph: 007 Reference ID: 37-007-20140306 of the Planning Practice Guidance ('PPG') 'Open space, sports and recreation facilities, public rights of way and local green space', which states (our emphasis added):

*"Designating any Local Green Space 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 Local Green Space designation should not be used in a way that undermines this aim of plan making."*

4.29 Paragraph 100 of the NPPF states that the LGS designation should only be used where the green space is:

- (a) in reasonably close proximity to the community it serves;
- (b) 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
- (c) local in character and is not an extensive tract of land.

4.30 Paragraph 101 of the NPPF provides that policies for managing development within a Local Green Space be consistent with those for Green Belts. It is because of this that Paragraph 010 Reference ID: 37-010-20140306 of the Planning Practice Guidance ('PPG') 'Open space, sports and recreation facilities, public rights of way and local green space' states:

*"If land is already protected by Green Belt policy, or in London, policy on Metropolitan Open Land, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space."*

- 4.31 Neither the Neighbourhood Plan nor its evidence base comes to a conclusion as to what, if any, additional benefit would be gained from allocating the site at Stourbridge Road as LGS, given its location in the Green Belt.
- 4.32 The Parish Council will be aware that St Philips is promoting the release of the site from the Green Belt through the Bromsgrove District Plan Review. However, that is a separate plan-making process, the outcomes of which are not yet known. We have already commented on the timing of the Neighbourhood Plan relative to the District Plan Review, but as the Parish Council has opted to prepare the former ahead of the latter, then it falls to the Neighbourhood Plan to be consistent with the adopted strategic plan. That being so, then the site should be treated by the Neighbourhood Plan as Green Belt site. In the absence of any explanation of what additional benefit designation of the site as LGS would bring over and above its Green Belt designation, then the Parish Council has not justified the proposed designation.
- 4.33 Furthermore, in Summer 2020, during the period which the Parish Council describes as 'Phase 3' in its Consultation Statement, a survey was hosted on the Parish Council's website under the heading, "*Save Our Countryside!*". A screenshot is at **Appendix VI**. That survey sought views on the proposed designation of 6 sites as Local Green Space, including part of our client's land. The outcome of that survey forms part of the Parish Council's evidence base, and we comment on it further below. However, we are concerned that the framing of the survey as an opportunity to 'save the countryside' places the proposed designation in direct conflict with Paragraph 99 of the NPPF and Paragraph: 007 Reference ID: 37-007-20140306 of the PPG, because it is being used as a mechanism to constrain development and "*investment in sufficient homes*".
- 4.34 In addition to these principal matters of consistency with policy, our client also has concerns about the approach that the Parish Council has adopted in seeking to designate land as LGS.

#### **Local Green Spaces Designation Study**

- 4.35 The Parish Council's approach to the designation of Local Green Spaces in the Neighbourhood Plan is set out in Appendix 12 of the Neighbourhood Plan evidence base, 'Local Green Spaces Designation Study'. Our client's land is identified as site 6 within the Study and is described as the 'wooded area to the south east of the M5, near 'The Piggeries' to the rear of the cemetery.'

#### **Methodology and Assessment**

- 4.36 The Study begins by describing how the Parish Council's Environment Working Group identified six green spaces which exemplified "*the distinctive character and environment*" of the Parish, primarily through means of community consultation. However, the Study fails to explain how the Parish Council

arrived at the six chosen sites from any pool of sites that may have been generated by those initial consultation sessions. The Parish Council's Consultation Statement suggests that work undertaken in relation to the Landscape Character Assessment also contributed to the identification of proposed LGSs. No further detail is provided, however. Therefore, we remain left with only a vague explanation of how the Parish Council came to alight upon its proposed LGS designations. Set against a questionnaire that encouraged residents to 'save the countryside', the sense remains, in the absence of evidence to the contrary, that, in the case of our client's site, the Parish Council has sought to propose an LGS as a means of constraining development. Such an approach would be plainly in conflict with the NPPF and the PPG, especially if the outcome were to be that it prevented delivery of our client's site altogether.

- 4.37 The Study goes on to provide a summary description of each of the six proposed Local Green Spaces, as well as an assessment of the extent to which each site meets the characteristics of an LGS. This is done by way of a scoring matrix, with the sites being scored high, medium or low for each characteristic.
- 4.38 Of the nine potential characteristics identified, our client's land scores 'low' in five categories (over half of the characteristics) and 'medium' in another. It only scores as 'high' in three of the characteristics (and so just a third of those on which the scores are based). Given that four of the remaining five green spaces are scored as 'high' in a minimum of five categories, it is unclear how, or why, our client's site, which scores 'low' in over half of the selected characteristics of an LGS, is then selected for designation. Put another way, there is no explanation of what threshold the Parish Council applied when using the matrix; for example, the Plan and evidence base does not clarify whether a site needed to score 'high' in only one category to be selected for designation, or if some other minimum score required. In the absence of any such explanation, it is impossible to understand what bearing the scoring matrix has had on whether the proposed designations would be carried through into the final version of the Plan. This renders the matrix meaningless and the result is that it provides no justification to support the proposed designation of the LGS.
- 4.39 The conclusion in the matrix is that our client's land *"forms an important wildlife... area"*. We have been unable to find any evidence within the Neighbourhood Plan evidence base, be that an Ecological Appraisal or Habitat Survey, which supports this claim. Whilst the photos of the site included in the Study show the presence of various ecological features such as brooks, ponds and heathlands etc., no supporting evidence as to the significance of these features has been published, to demonstrate the site is rich in wildlife, as required by Paragraph 100 of the NPPF.
- 4.40 The site is also referred to as a 'noise attenuation area', presumably because of its location between the existing settlement to the east and the M5 motorway to the west. It is not apparent if this feature

has been afforded weight in determining whether the site is allocated as an LGS or not. Nevertheless, no evidence is provided to support that assertion, or to demonstrate that without the tree planting, there would be a detrimental effect in relation to noise. Consequently, no reliance can be placed on that statement.

4.41 Furthermore, the matrix states that our client's site scores 'high' in terms of community value and benefit. This is wholly contrary to the conclusions reached in both of the housing site assessments prepared by AECOM and the Parish Council itself, which state explicitly that the site has no social or community value.

4.42 There is plainly a very clear conflict between the evidence base in this regard. The only basis on which the Local Green Spaces Study concludes that the site has a 'high' community value is, as far as we can see, the results of a questionnaire. However, as we shall now go on to explain, the results of the questionnaire / survey have very little merit in justifying the designation of the land as LGS.

4.43 The Study describes the Parish Council's engagement with the local community, by way of a questionnaire, in order to gauge support for the proposed Local Green Spaces. Paragraph 4.3 of the Study states:

*"The proposed local green spaces were judged on how demonstrably special these spaces were considered to be to the local community on the criteria laid down in NPPF para. 100. b). The question asked was 'to what extent do you feel that the following descriptions apply to the six identified green spaces i.e. beauty, historic significance, recreational value, tranquillity and richness of wildlife.'"*

4.44 The Local Green Spaces Study reports that the number of completed questionnaires was 121. That number is exceptionally low, and we note two points in this regard.

- First, the AECOM Housing Needs Assessment reports that, based on data taken from the 2011 Census, the Neighbourhood Plan Area had a population of 6,858. A return of 121 questionnaires therefore equates to a response rate of 1.8%. The HNA also reports that there are 2,923 households in the Parish area. Even measured against that number, a return of 121 questionnaires equates to a response rate of 4.1%, which is still very low and must not be considered in any way representative of the views of the Parish's residents.
- Second, minutes of the Parish Council's Neighbourhood Plan Steering Group meetings on 22 January 2020 and 26 February 2020 (copies of which are at **Appendix VII** of these representations) report that 200 questionnaire responses were needed in order for the data to

have any statistical confidence. Minutes of a meeting dated 15 July 2020 report that the minimum number required had increased to 220 (although it also reports that 125 responses had been received by then). By the Parish Council's own admission, 121 questionnaires provides no statistical confidence. Even if 220 responses had been received, that would represent a response rate of circa 7.5% of households, which would still be incapable of being relied upon. That only 121 questionnaires were returned, according to the evidence base, makes any data extracted from them wholly unrepresentative and incapable of being relied upon as evidence to support the Plan.

4.45 Moreover, the table and graph on Page 27 of the Study indicate that fewer than half of respondents thought that our client's site met a series of 'descriptors', with the exception of 'richness of wildlife'. If those responses are expressed as proportions of the population and number of households in the Plan area, then the results are as follows.

Descriptor	Number of Respondents	% of Population (2011 Census)	% of Households (2011 Census)
Beauty	44	0.6%	1.5%
Historical Significance	16	0.2%	0.5%
Recreational Value	48	0.7%	1.6%
Tranquillity	47	0.7%	1.6%
Richness of Wildlife	82	1.2%	2.8%
No Applicable Descriptor	17	0.2%	0.6%

4.46 It is apparent from the table that the percentages across all descriptors are very low indeed. The greatest support is for the describing our client's site as 'rich in wildlife' but that is only supported by 1.2% of the population and 2.8% of households. The percentages for the other descriptors are far lower.

4.47 This only emphasises our conclusion that the survey data cannot be relied upon at all. The Parish Council says, in its Consultation Statement, when responding our Regulation 14 representations, that, "*there is overwhelming support*" for designating part of our client's site as an LGS. Our analysis shows that such a conclusion is plainly wrong. Most critically though, it means that the Parish Council has not

shown that the site is “demonstrably special” to the local community, and so has failed the test of Paragraph 100b) in the NPPF.

- 4.48 As an aside, it is worth noting that similar results are also observed for the other five proposed areas of LGS.

#### **Additional Observation**

- 4.49 The designation of the LGS would, at best, significantly constrain the developable area of our client’s site, but could, at worst, prevent its delivery altogether. The evidence base on housing sites (both the Parish Council’s own study and the AECOM study), identifies the site as being one of the better housing sites in the Plan area (by virtue of most of the 24 other potential housing sites being scored as ‘red’ by one or both assessments). The Parish Council also states itself (in its Consultation Statement) that it acknowledges the potential of the site to deliver residential development in future. It is therefore incongruous for the Parish Council to constrain the capacity, or even prevent the delivery of, our client’s site. By doing so, a greater number of additional sites in the Parish will be needed to accommodate future growth. Given that most other sites are scored as ‘red’ by one or both the housing site studies, then all the Parish Council will achieve by constraining the capacity of our client’s site is pushing development on to less suitable, less sustainable sites. That places the Parish Council’s strategy in direct conflict with the aim of achieving sustainable development.

#### **Local Green Space – Summary**

- 4.50 Our comments on the proposed designation of part of our client’s site as LGS in Policy Env 4 can be summarised in the following way.

- The site is currently designated as Green Belt and the Parish Council has not demonstrated what additional benefit would be achieved by the LGS designation, as required by the PPG.
- The origin of the proposed designation is unclear and has not been properly explained by the Parish Council. Its questionnaire on proposed designations was branded ‘save our countryside’. Taken together, these matters beg the question of whether the Parish Council is seeking to use the LGS designation to constrain the capacity of our client’s site. This is in direct conflict with Paragraph 99 of the NPPF, which states that LGS designations should “*complement*” investment in sufficient homes, not constrain it, and also with the PPG, that expressly forbids LGS designations being used to undermine the delivery of new homes.
- The evidence base that the Parish Council has compiled to support the proposed designation is weak. The scoring matrix on Page 23 of the Local Green Space Study is incapable of



interpretation, because it is not clear how the assessment influences the Parish Council's decision to designate the site.

- The assertions in that matrix are also unjustified. No evidence is provided to support assertions that the site is an *"important wildlife... area"* or a *"noise attenuation area"*.
- The matrix also describes the site as having 'high' community value. This is directly in conflict with the two housing site studies, which both expressly state the site has no community value.
- The suggestion in the matrix that the site might have 'high' community value seems to be drawn from the outcomes of the survey undertaken by the Parish Council. However, the response rate to that survey is so low as to make the data within it wholly unreliable and no meaningful data can be extracted from it. That is not just our opinion – the Parish Council itself has stated in its own meetings that 200 / 220 responses were required, in its view, to have any confidence in the data. We would argue though, that even 220 responses, in an area of 2,923 households is still wholly unreliable.
- There is, therefore, no evidence to show that the site has 'high' community value or that it is demonstrably special to the community, which is the test at Paragraph 100b) of the NPPF.
- By constraining the capacity of our client's site (at best) or potentially preventing its delivery at all (at worst), the Parish Council will drive development to less suitable and less sustainable sites, which is inconsistent with the aim of achieving sustainable development.

4.51 In the following Section, we comment on the extent to which the Plan, as drafted, meets the Basic Conditions.

## 5. Basic Conditions

5.1 In the preceding Section, we have set out our conclusions on the Plan, as drafted, in regards to its compliance with national policy and the adopted Development Plan. Having done so, in this Section, we comment on whether the Plan, as drafted, satisfies the Basic Conditions.

### **Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the Plan**

5.2 It is not appropriate for the Plan to be made. We say this for the following reasons.

- a) The Plan seeks to constrain and undermine the development of our client's site for residential development, which is in conflict with Paragraph 99 of the NPPF and Paragraph: 007 Reference ID: 37-007-20140306 of the PPG.
- b) The Plan seeks to designate land as LGS which is already in the Green Belt, and does not provide any explanation of what additional benefit would arise from doing so, placing it in conflict with Paragraph: 010 Reference ID: 37-010-20140306 of the PPG. This point is not undermined by our client's promotion of the site through the District Plan Review – that is a separate planning process with unknown outcomes and this Neighbourhood Plan must be assessed in the context of there currently being a Green Belt designation on the site.
- c) The Plan fails to provide any reliable, robust evidence to show that our client's site is "*demonstrably special*" and so worthy of LGS designation, and is in conflict with Paragraph 100b) of the NPPF as a result.
- d) By constraining the capacity of our client's site, and potentially preventing its delivery altogether, the Plan will almost certainly result in new housing needing to be provided on sites which, according to the Parish Council's own evidence base, are less suitable and less sustainable. This means that it will not be consistent with the aim of planning for sustainable development and provides a further basis for demonstrating conflict with Paragraph 99 of the NPPF.

### **The making of the Plan contributes to the achievement of sustainable development**

5.3 The Plan does not contribute to the making of sustainable development. It constrains the capacity of a potentially sustainable housing site. The Vision Document prepared for our client indicates that the site could deliver 81 units, if the area proposed for LGS designation is developed. If that part of the site is designated as an LGS, and becomes subject to Green Belt-equivalent policies (which would persist even if the remainder of the site were released from the Green Belt in the District Plan Review). This would

substantially reduce the capacity of our client's site, and may prevent its delivery completely. The Plan comments on the likely scale of residential development that may be needed in the Parish in future. While we have suggested that number is likely to increase, even if the Parish needed to accommodate 23 dwellings per annum by 2030 / 2040, then our client's site, with a capacity of 81 units, could make a reasonable contribution to that need.

- 5.4 However, the LGS designation could substantially threaten the delivery of our client's site at all, (and even if it were developed, its capacity would be very significantly reduced). This will mean that other sites would be needed to deliver the 81 units that could have been provided on our client's site. The housing site studies that form part of the evidence base (and the summary table at Figure 6 of the Plan) conclude that most of the other 24 potential housing sites are less suitable and less sustainable than our client's site. Consequently, the designation of an LGS on our client's site would drive development to less suitable locations, and would therefore result in less sustainable development in the Parish.

**The making of the 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)**

- 5.5 The adopted strategic policies place our client's site in the Green Belt. While our client is promoting the release of the site from the Green Belt through a review of the Bromsgrove District Plan, the outcomes of that process are unknown. As the Parish Council has prepared the Neighbourhood Plan now, it must be considered against the adopted strategic policies. As we have noted already, there is no explanation of the additional benefits arising from designating part of our client's site as an LGS, and so we conclude that there is a conflict with adopted strategic policies that place the site in the Green Belt.
- 5.6 The Plan also includes commentary on potential housing need for the Plan area, but does not include any policies specifying the amount of housing that should be provided in the Parish, or where that housing should be delivered. This appears to be a consequence of the Plan being prepared at a time where the District Council is in the early stages of reviewing its Local Plan. The inclusion of commentary on housing need is unclear, unnecessary in the absence of any related policies and, for the reasons we have given in the previous Section, out-of-date. It does nothing to aid the Plan's role in sitting alongside the District-level strategic policies.

**The making of the Plan does not breach, and is otherwise compatible with, EU obligations.**

- 5.7 Our client has no comment to make on this condition.

**Prescribed conditions are met in relation to the Plan and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).**

- 5.8 Our client has no comment to make on this condition.

## 6. Format of the Examination

- 6.1 Following the completion of the Regulation 16 consultation, an independent examiner will be appointed to determine whether or not the Plan meets the Basic Conditions required to enable it to be 'made'.
- 6.2 The legislation that controls the examination of Neighbourhood Plans state that the examiner should reach a view by considering written representations.
- 6.3 Nevertheless, 056 Reference ID: 41-056-20180222 of the PPG states that , where the independent examiner considers it necessary to ensure adequate examination of an issue or to give a person a fair chance to put a case, they must hold a hearing to listen to oral representations about a particular issue.
- 6.4 We have, on behalf of St Philips , posed questions to the Parish Council about the proposed designation of part of our client's land as Local Green Space, and the justification for this. A number of questions, specifically relating to the evidence base that underpins this designation, have been asked more than once (as evidenced by the information appended to these representations), and have not been answered (or answered fully) by the Parish Council. Those questions have underpinned the various points made in these representations about the robustness and reliability of the Parish Council's evidence base.
- 6.5 Given the very significant implications for the delivery of our client's site if part of it is designated as a Local Green Space, and the consequent impacts on the delivery of sustainable development in the Parish, then we think the issue warrants close examination and discussion between our client, the examiner and the Parish Council. A public hearing would be the most appropriate mechanism through which to assess these issues and ensure an adequate examination of the points. We therefore request, on behalf of our client, that examination of Policy Env 4, and its supporting evidence base, is undertaken by way of a public hearing.

**Avison Young**

**April 2021**