

Our Ref: 5090/MC/DGW

Planning Policy  
Wychavon District Council  
Civic Centre  
Queen Elizabeth Drive  
Pershore  
WR10 1PT

12<sup>th</sup> August 2016

Dear Sir / Madam

## **Bredon Parish Neighbourhood Plan 2016-2030 – Regulation 16 Consultation**

### **Background**

Bredon Parish Neighbourhood Plan 2016-2030: Submission Version has been published by Wychavon District Council for the purposes of Regulation 16 Consultation under the Neighbourhood Planning (General) Regulations 2012 (as amended)<sup>1</sup>.

The following representation is submitted on behalf of John, Peter and Samantha Mitchell in accordance with The Neighbourhood Planning (General) Regulations 2012 (as amended). The Mitchells' farm around 214 hectares (530 acres) within the locality; their enterprise is operated on a mixed enterprise system of sheep, cattle and arable. That enterprise is a local employer and makes a significant contribution to the local economy; through its procurement of services, equipment, animal feed and the production of food.

A significant area of that land holding has been identified within the emerging Bredon Parish Neighbourhood as a proposed 'Local Gap'. In particular, the emerging designation 'Gap 5', as illustrated within the Bredon Parish Neighbourhood Plan - Policies Map, is centered on our Clients' principal complex of farm buildings and the hub of their farming enterprise. This representation raises objections to that emerging designation on the basis that it:

- is not supported by the Framework<sup>2</sup>;

<sup>1</sup> The Neighbourhood Planning (General) Regulations 2012 (as amended)

<sup>2</sup> National Planning Policy Framework, published March 2012



- was not identified within the recently adopted and operative South Worcestershire Development Plan (SWDP)<sup>3</sup>, nor are there any provisions within that plan for such a designation;
- is unnecessary in meeting the stated objectives of emerging Policy NP2: Local Gaps contained within the emerging Neighbourhood Plan;
- fails two of the three tests devised by Bredon Parish Council for identifying Local Gaps; and,
- unnecessarily adds an additional layer of planning restrictions, that would result in obstructing the sustainable economic growth of the successful farm enterprise run by our Clients, contrary the requirements of the operative development plan and the directives set by the Framework; particularly those objectives that seek to secure a prosperous rural economy.

This representation is consistent with the comments made on behalf of our Clients in respect of Parish Council's earlier Pre-Submission Plan Consultation, which also contained Policy NP2 and proposed 'Local Gap 5'.

## **Introduction**

Provision for Neighbourhood Planning is made through the Town and Country Planning Act (1990) (as amended)<sup>4</sup>, the Planning and Compulsory Purchase Act 2004 (as amended)<sup>5</sup>, the Localism Act 2011<sup>6</sup> and the Neighbourhood Planning (General) Regulations 2012.

In addition, the Framework<sup>7</sup> outlines that '*neighbourhood Planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community.*' Whilst the Planning Practice Guidance<sup>8</sup> makes explicitly clear that '*a policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and **supported by appropriate evidence.** It should be distinct to reflect and*

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<sup>3</sup> South Worcestershire Development Plan 2006-2030, adopted February 2016

<sup>4</sup> Sections 61E, 61F, 61G, 61H, 61I, 61J, 61K, 61L, 61M, 61N, 61O, 61P and 61Q of the Town and Country Planning Act 1990 (as amended)

<sup>5</sup> Sections 38, 38A, 38B and 38C of the Planning and Compulsory Purchase Act 2004 (as amended)

<sup>6</sup> Part 3, Chapter 3 of Localism Act 2011

<sup>7</sup> Paragraphs 183-185 of National Planning Policy Framework

<sup>8</sup> Paragraph: 041 Reference ID: 41-041-20140306 of National Planning Practice Guidance

*respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.* (Our Emphasis)

The emerging Neighbourhood Plan must therefore; i) accord with national policy and guidance; ii) clearly demonstrate the Plan and its emerging policies will help to achieve sustainable development; iii) be in general conformity with the strategic policies contained in the development plan; and, iv) adhere to EU Obligations and observe other basic conditions.

In addition, in preparing this representation reference has also been given to guidance published on neighbourhood planning by Planning Aid England, the Local Government Association and the Planning Advisory Service.

### **Emerging Neighbourhood Plan Policy NP2: Local Gaps**

In order to properly address proposed Policy NP2, it is first prudent to examine the emerging policy, its justification and the evidence base used to inform it.

Policy NP2: Local Gaps and Key Views outlines that:

***'The Neighbourhood Plan defines Local Gaps on the Policies Map in order to prevent the coalescence of settlements, and to protect their character and rural setting.***

***Land within the defined Local Gaps will be kept open and free from development<sup>9</sup>. Development proposals may, however, be permitted if they do not harm, individually or cumulatively, the function and purposes of a Local Gap, or its open character.***

***This policy will not apply to any sites which have been allocated under the strategic policies of an adopted local plan.***

In examining the emerging plan, it is evident that the core purpose and objective of the above policy is to avert the amalgamation or joining of settlements and to protect the setting (i.e.

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<sup>9</sup> Which the emerging plan makes clear also relates to Agricultural development.

location, scenery, background, siting and unique character) of existing settlements. The emerging policy seeks to achieve those objectives by identifying and defining Local Gaps, keeping those Local Gaps open; essentially keeping those identified area free from all forms of development; other than in certain circumstances when development *may* be permitted. However, fundamentally, it is important to note that the policy is expressly written in a manner that its control would 'fall-away' if a subsequent Local Plan allocated land falling within the emerging local gap areas for strategic development purposes to meet further growth requirements; "***This policy will not apply to any sites which have been allocated under the strategic policies of an adopted local plan.***"

The evidence base<sup>10</sup> supporting emerging Policy NP2 notes that the designation of Local Gaps at Bredon, as proposed within the emerging Neighbourhood Plan, is supported:

- by the Framework, through three of the twelve core land-use planning principles;
- by the SWDP and in particular Policy SWDP 2; and
- by the Parish Council's own devised test/criteria for assessing and identifying Local Gaps.

### **Assessment of emerging Policy NP2: Local Gaps**

#### The Framework

The Framework sets out the Government's planning policies for England and how those policies are expected to be implemented.

The Framework makes it clear that its overarching objective is to encourage growth; making economic, environmental and social progress for this and future generations and delivering sustainable development without delay. Accordingly, it sets a 'pro-growth' agenda.

The origins of the Framework date back to the 'Open Source Planning Green Paper' released by the Conservative Party in 2010 to address the problems of the previous planning system which was said to have been "*broken*"; in that it was not delivering the social progress and economic growth that the country needs. The Framework was designed to facilitate positive growth. This is a critical point when assessing the 'soundness' of emerging plans.

The Ministerial foreword to the Framework defines the purpose of the planning system as being to help achieve sustainable development. It clarifies that:

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<sup>10</sup> Assessment of Local Gaps in Bredon Parish (May 2016)

*'Sustainable means ensuring that better lives for ourselves don't mean worse lives for future generations.*

*Development means growth.*<sup>41</sup>

As highlighted within the emerging Bredon Parish Neighbourhood Plan, the Framework is underpinned by 12 core planning principles<sup>12</sup>. However, contrary to the note made within paragraph 2.1 of the emerging Neighbourhood Plan's Assessment of Local Gaps at Bredon, none of those 12 core planning principles make any particular reference (direct or indirect) to the purpose of identifying Local Gaps through neighbourhood planning.

The emerging Neighbourhood Plan's Assessment of Local Gaps at Bredon specifically refers to core principles 1, 5, and 6 as set out within the Framework. However, none of those Core Principles provide any particular relevance or justification for the designation of Local Gap policies or the imposition of additional layers of planning control. On the contrary, Core Principle 5 sets out that planning should be *'supporting thriving rural communities'*. That's a positive process, not a negative or restrictive one.

Moreover, Core Principle 3 states that the planning system should proactively ***drive and support*** sustainable economic development to deliver business and thriving local places that the country needs. And, paragraph 14 of the Framework sets out, in very clear terms, that at the heart of the Framework there is a ***presumption in favour*** of sustainable development, which should be seen as a golden thread running through all plan-making. Again, a positive process, not a negative or restrictive one.

Specifically relevant to our Clients farming interests and the agricultural nature of the land subject of emerging Policy NP2, the Framework is clear that local planning authorities should have a clear understanding of business needs within the economic markets operating in and across their area (para 160). Paragraph 161 goes on to note that in establishing that understanding, local planning authorities should be mindful of the needs of the food production industry and any barriers to investment that planning can resolve. Again, that requires Plan Makers to undertake a positive

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<sup>11</sup> Ministerial Foreword, Page I; National Planning Policy Framework

<sup>12</sup> Paragraph 17 of the Framework

process in responding to the pressures placed upon enterprises related to food production, and not respond in a negative or restrictive approach.

Additionally, Paragraphs 183-185 of the Framework are cited within the emerging Bredon Parish Neighbourhood Plan's Assessment of Local Gaps. Those paragraphs are cited as further justification for the proposed designation of Local Gaps. However, Paragraphs 183-185 of the Framework must be read in the context of the Framework's pro-growth agenda, the 12 Core Principles and the presumption in favour of sustainable development. Those Paragraphs provide no justification for designating Local Gaps. While they do set the Government's general support for Neighbourhood Planning those paragraphs are aimed at *delivering sustainable development* and *getting the right types of development*, securing development, not constraining economic growth or preventing social progress.

In considering the 'soundness' tests of emerging Neighbourhood Plan Policy NP2, and the emerging designation Gap 5, it is important to note that the UK Government places particular emphasis on the planning system to support, not constrain, rural businesses and the rural economy. This is evident at Chapter 3: Supporting a prosperous rural economy and Paragraph 55 of the Framework.

To recap, no aspect of the Framework supports, or even mentions, the principle of applying 'Local Gap' designations. There is absolutely no direction within the Framework for the introduction of such local policies and no encouragement for the application of additional levels of control within neighbourhood plans that go beyond that which are already in place within the strategic policies of an operative development plan. On the contrary, the Framework's emphasis is that planning should play a role in removing the burdens and barriers faced by the food production industry and to support a prosperous rural economy.

#### South Worcestershire Development Plan (SWDP)

The SWDP 2006-2030 was adopted as recently as February 2016. It sets out how growth will be managed over the period to 2030 through a strategically driven growth agenda. As part of its adoption process it has been subject to extensive independent scrutiny and examination.

The SWDP contains 63 overarching policies which set a clear prescriptive vision of where, how and what type of development is acceptable in South Worcestershire. The plan specifically identifies, *inter alia*, development boundaries, development allocations and other key landscape and historical designations such as; Areas of Outstanding Natural Beauty (AONB), Green Belt, ***Significant Gaps***, Conservation Areas, Scheduled Monuments, Historic Parks and Gardens, Flood Risk Areas, Minerals Safeguarding and Consultation Areas and Strategic Green Infrastructure Areas.

As part of the plan making process relating to the SWDP, the areas proposed by Bredon Parish Council as Local Gaps would have been assessed by the Strategic Planning Authorities, as part of the assessment undertaken to define Significant Gaps; but were not identified for specific protection beyond the planning controls set out within Policy SWDP 2<sup>13</sup>. That is a fundamental point because the matter of coalescence between settlements was – as part of the SWDP plan making process – an important factor that was given due weight and thorough consideration.

Planning Practice Guidance<sup>14</sup> outlines that in order for a Local Plan to be found sound '*appropriate and proportionate evidence is essential*'. It goes on to note that '*paragraph 158 onwards of the National Planning Policy Framework sets out the types of evidence that may be required*'. Paragraph 158 of the Framework highlights that '*each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals.*'

The reasoned justification for Significant Gaps is set out on page 50 (Paragraph 8) of the SWDP. It states that '*there are a number of Significant Gaps shown on the Policies Map. The purpose of maintaining these gaps, which either serve as a buffer or visual break between rural settlements and adjacent urban areas or protect the character and setting of settlements, is to provide additional protection to open land that may be subject to development pressures. The designation helps to maintain a clear separation between smaller settlements and urban areas in order to retain their individual identity. Acceptable development proposals in such areas may*

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<sup>13</sup> Development Strategy and Settlement Hierarchy

<sup>14</sup> Paragraph: 014 Reference ID: 12-014-20140306 of National Planning Practice Guidance

*include the reuse of rural buildings, agricultural and forestry-related development, playing fields, other open land uses and minor extensions to existing dwellings.'*

Therefore it is logical, and reasonable, to conclude that in finding the SWDP sound, the Examination Inspector looked at the evidence and agreed that it was adequate, up-to-date and relevant in relation to the economic, social and environmental characteristics and prospects of South Worcestershire (including the Parish of Bredon). At no point did the District Council or the Inspector find it necessary to statutorily adopt areas for the specific protection of open gaps at Bredon.

Thus, development proposals within the open countryside at Bredon must be considered under the provisions of Policy SWDP 2: Development Strategy and Settlement Hierarchy sets out the principles that justify where new development should be delivered within South Worcestershire. Importantly, it also make clear, through SWDP 2 (B), that windfall development proposals will be assessed in accordance with a specified settlement hierarchy, that focuses development on Worcester City, Main Towns, Other Towns, category 1, 2 and 3 Villages and Lower Level Villages. The aim being to ***restrict development in the open countryside***. Indeed, that has been the approach successfully taken at Bredon since the introduction of the 1947 Planning Act, since which the town planning system has served the locality well and protected the locality from sporadic development that might otherwise have been harmful.

In fact, Policy SWDP 2 (C) stresses that *'the open countryside is defined as land beyond any development boundary. In the open countryside, development will be strictly controlled and will be limited to dwellings for rural workers (see policy SWDP 19), employment development in rural areas (see SWDP 12), rural exception sites (see SWDP 16), buildings for agriculture and forestry, replacement dwellings (see SWDP 18), house extensions, replacement buildings and renewable energy projects (see policy SWDP 27) and development specifically permitted by other SWDP policies.'* Policy SWDP 2 sets put a robust set of controls to protect the countryside, but which have full and proper regard to the social and economic needs of the rural areas in line with the provisions of the Framework.

In light of the above, it is clear that there is no policy justification to support the emerging Neighbourhood Plan's proposed 'Local Gap' policy. There is certainly no specific support within the SWDP for the introduction of Local Gap policies through neighbourhood planning. It is also



clear that the land identified as falling within emerging Local Gap 5 currently falls within the open countryside, as defined by the SWDP, and as such that land is comprehensively and properly protected by Paragraphs 17, 28, 55 and 80 of the Framework alongside Policies SWDP 2, 10, 12 and 18 of the SWDP.

Emerging Policy NP2: Local Gaps blatantly undermines the provisions of the Framework<sup>15</sup> and the provisions of the SWDP – which correctly balance the protecting and enhancing our natural environment with the meeting the social and economic needs of our countryside. It is contended that the emerging Local Gap designation at Bredon Hardwick, and in particular Local Gap 5, is an unnecessary additional policy restriction which has no regard to the economic needs of the rural landscape and agricultural enterprises.

#### The emerging Neighbourhood Plan's 3 test/criteria for assessing and identifying Local Gaps

Bredon Parish Council has set out a specific methodology in assessing the suitability of Local Gaps. To be considered suitable for designation land assessed must accord with Tests 1, and 2 or test 3 to be considered suitable to be identified within the emerging Neighbourhood Plan as a Local Gap. This representation does not seek to comment on the appropriateness of those tests, it merely seeks to assess whether our Clients' land interests have been properly assessed.

#### Test 1: Does any land in the proposed Local Gap already have planning permission, or has it been allocated in the SWDP?

The Assessment of Local Gaps in Bredon Parish sets out that Local Gaps should exclude land which is subject to an extant planning permission for development, or which has been allocated for development under the SWDP. An exception to this may be where it can be demonstrated that the Local Gap designation would be compatible with the planning permission / SWDP allocation, or where the planning permission / SWDP allocation is no longer capable of being implemented.

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<sup>15</sup> Particularly paras 160 and 161 which require the needs of the food production industry to be at the forefront of plan making, with the emphasis being that barriers to investment should be removed.

It is considered that proposed Local Gap 5 **meets** the criteria set out above as it the area it covers is not subject to an extant planning permission for development and/ or has it been allocated for development under the recently adopted SWDP.

Test 2: Does the area play an important role as a buffer preventing coalescence between settlements, and if so, could this role be significantly harmed by development?

The Parish Council's Assessment of Local Gaps in Bredon notes that for land to be designated as a Local Gap, it should be deemed that new development would exacerbate settlement coalescence. Where little open space remains between settlements, it may be taken as read that new development will exacerbate coalescence. The document notes that account should be taken of how even low levels of development can bring about large changes in the way an area is experienced in certain contexts. For example, a few dwellings or modern agricultural buildings could in some situations fragment the sense of uninterrupted open countryside. And, account should also be taken of the effects of incidental development, lighting, noise and traffic that may have a powerfully sub-urbanising effect on a rural location.

It is evident from that document that the description of perceived 'harm' goes much further than meeting the objective of preventing coalescence or the objective enhancing the setting of a settlement; it seeks to prevent development for the sake of doing so.

As noted above, the land which is subject of the emerging Gap 5 designation is no different than other land set within the open countryside. Any proposed development, such as dwellings or business premises, would be measured against the provisions of the adopted development plan Policy SWDP 2. That policy is robust and guarantees a thorough assessment of any proposal in terms of its suitability, impact and potential harm. That policy is tried and tested; since - in one form or another - it has existed since the introduction of the 1947 Planning Act.

There is significant open space between the settlements of Bredon's Hardwick and Tewkesbury (Mitton) and coalescence between those settlements is not a realistic threat. While it is agreed that even low levels of development - if not properly controlled - can bring about large changes, emerging Policy NP2: Local Gaps and proposed Local Gap 5 presents an unnecessary level of

restriction which is otherwise covered by the SWDP; which successfully protects the open countryside from unsustainable or harmful development.

Any development permitted by Policy SWDP 2 within that area could not, by definition, bring about any settlement coalescence between Bredon's Hardwick and Tewkesbury (Mitton). The land covered by the emerging Local Gap 5 is therefore not in any identified danger of coalescing and the proposed large buffer is unnecessary. Only a review of the strategic planning framework could introduce any significant pressure of coalescence between Bredon's Hardwick and Tewkesbury (Mitton). However, emerging Policy NP2 is clear that in those circumstances Policy NP2 would fall away in any event. It is therefore an unnecessary restriction and a restriction that would place additional burdens on our Clients agricultural enterprise for no justifiable reason.

Thus, it is clear that using the Parish Council's own set criteria, proposed Local Gap 5 fails to meet Test 2. Instead, reliance should continue to be given to Policy SWDP 2 which ensures there is little risk of coalescence.

Test 3: Does the area make an important contribution to the character or rural setting of settlement, and if so, could this be significantly harmed by development?

The Assessment of Local Gaps in Bredon Parish describes the area as '*chiefly consists of pasture, with an open character. Tewkesbury Road is lined with veteran hawthorn hedges. Extensive views through and under hawthorns across Avon vale. Large agricultural buildings at north and south ends.*' Here it should be noted that the existing landscape, as accurately described above, is a product of the successes of previous policy regimes of a very similar nature to the statutory provisions of Policy SWDP 2.

With regard to any suggestion that the area makes any significant contribution to the character of a settlement, it is clear that the land identified within emerging Local Gap 5 is of no defined special character that would otherwise put it in a category different to other land in and around the existing settlements within the Parish. It cannot reasonably be argued as having qualities that enhance the setting of Bredon's Hardwicke or Mitton; it is simply a fine rural landscape that has no distinctive qualities to set it apart from other rural landscapes in the locality.

There is no demonstrable evidence that the landscape contained within proposed Local Gap 5 is of such a significantly special character that additional controls are required to be applied beyond those established under adopted development plan Policy SWDP2.

Therefore, in line with the Parish Council's set criteria, proposed emerging Local Gap 5 **fails** to meet Test 3. The land covered by emerging Gap 5 does not play any defined contribution to the character of Bredon's Hardwick and it does not comprise of any special interests of landscape importance in its role in providing a rural setting of the settlement of Bredon's Hardwick.

### **Summary and Conclusions**



This representation has set out a reasoned case as to why the Local Gaps Policy, and in particular emerging designation Gap 5, as proposed by emerging Bredon Parish Neighbourhood Plan are unnecessary and fail to meet the criterion set out by the Parish for assessing such matters.

Moreover, the additional level of planning control is unwarranted, unjustified and does not conform to the economic objectives of the operative development plan or the Framework; particular those objectives that seek to secure a prosperous rural economy and those objectives that seek to remove the burdens that prevent investment in food production. Those two points are central to our Clients' agricultural business interests at Bredon's Hardwick.

In light of the above, it is requested that proposed Policy NP2: Local Gaps along with the emerging designation Gap 5, as illustrated within the Bredon Parish Neighbourhood Plan - Policies Map, be deleted.

I would be grateful if you could acknowledge receipt of this representation. In the meantime, if I can be of any further assistance, please do not hesitate to contact me.

Yours faithfully,

  
Mark Chadwick MRTPI  
Senior Director  
Hunter Page Planning  


**Bredon Parish Submitted Neighbourhood Plan Consultation**  
**RESPONSE FORM**

Under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012, Bredon Parish Council has submitted its Neighbourhood Plan to Wychavon District Council. In accordance with Regulation 16, Wychavon would like to invite comments from organisations and individuals on the Neighbourhood Plan.

**This consultation runs from 9am Monday 4 July to midday Monday 15 August 2016.**

All comments will be made publicly available and identifiable by name and organisation (where applicable). Please note that any other personal information provided will be processed by Wychavon District Council in line with the Data Protection Act 1998.

Please fill in your details in the boxes below:

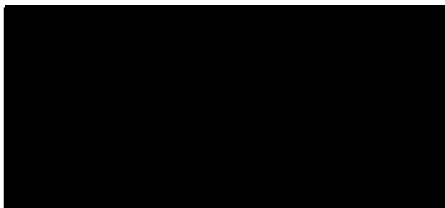
Full Name:

MARK CHADWICK

Organisation (if applicable):

HUNTER PAGE PLANNING

Address (including postcode):



Telephone number:



Email address:



Please state which part of the Neighbourhood Plan (i.e. which section, objective or policy) your representation refers to (please use a separate form for each representation):

Policy NP2 and Local Gap 5

Please use the space below to make comments on this part of the Neighbourhood Plan.

Please see the attached comments

Please use a separate form for each representation.

Please state whether you would like to be notified of the Council's decision on the Neighbourhood Plan proposal:

Yes

No

Please email this form to [policy.plans@wychavon.gov.uk](mailto:policy.plans@wychavon.gov.uk) or post it to Planning Policy, Wychavon District Council, Civic Centre, Queen Elizabeth Drive, Pershore, WR10 1PT.