

Gladman Developments Ltd

**Representations on
Brereton Neighbourhood Plan 2015-2030
Pre-Submission Version**



May 2015

1 EXECUTIVE SUMMARY

1.1 Context

1.1.1 These representations are made in response to the current consultation on the pre-submission version of the Brereton Neighbourhood Plan (BNP), under regulation 14 of the Neighbourhood Planning (General) Regulations 2012. Gladman Developments (Gladman) has land interests at Land off London Road, Holmes Chapel, a site which is adjacent to the built-up area of Holmes Chapel located within the Parish of Brereton. Gladman is actively working to promote the site for residential development.

1.2 National Planning Policy

1.2.1 Before a Neighbourhood Plan can proceed to referendum it must be tested through Independent Examination against the statutory Basic Conditions, set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended by section 38a of the Planning and Compulsory Purchase Act 2004).

1.2.2 Before the Brereton Neighbourhood Plan can progress to referendum, the Inspector must conclude that:

(a) **Having regard to national policies and advice contained in guidance issued by the Secretary of State**, it is appropriate to make the Neighbourhood Plan.

(d) **The making of the Neighbourhood Plan contributes to the achievement of sustainable development.**

(e) **The making of the Neighbourhood Plan is in general conformity with the strategic policies** contained in the development plan for the area of the authority (or any part of that area).

(f) **The making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations, and**

1.2.3 Having reviewed the Brereton Neighbourhood Plan, it is clear that there have been major flaws throughout the plan preparation process (contrary to basic conditions 8(2)(a), (d), (e) and (f)), and that there are many components, both policies and the supporting text, that are contrary to the basic conditions (especially basic conditions 8(2)(a), (d), (e)).

1.3 Emerging Cheshire East Local Plan

1.3.1 The adopted Local Plan which covers the Brereton Neighbourhood Area is the Congleton Borough Local Plan (2005) which covered the period until 2011. The plan period has now passed and this document is significantly out of date.

1.3.2 The former Congleton Borough now forms part of the unitary authority of Cheshire East Council (CEC). CEC is preparing a new Local Plan and the Local Plan Strategy (CELPS) was submitted to the Secretary of State for Examination in May 2014. The Examination hearing sessions commenced in September 2014, however the Inspector adjourned the hearings in October 2014 and published his interim views on the soundness and legal compliance of the CELPS in November 2014. The Examination was subsequently suspended in December 2014 for a period of 6 months. The Inspector raised a number of concerns with some fundamental issues relating to the evidence base underpinning the CELPS. In summary, the Inspector found that:

- The economic strategy was unduly pessimistic, including the assumptions about economic and jobs growth and did not fully reflect the proposals and initiatives of other agencies and the extent of site allocations proposed.
- There was a serious mismatch between the economic strategy and the housing strategy, particularly in the constrained relationship between the proposed level of jobs and the amount of new housing.
- There were shortcomings in the Council's objective assessment of housing needs.
- The proposed level of future housing provision seemed inadequate to ensure the success of the overall economic, employment and housing strategy.
- The proposed settlement hierarchy seemed to be justified, effective and soundly based, but further work is needed to justify the spatial distribution of development, including addressing the development needs of settlements in the north of the Borough.
- The process and evidence relating to the proposed amendments to the Green Belt boundary in the north of the district seemed flawed, particularly the release of sites from the Green Belt and the provision of Safeguarded Land, and there seems to be insufficient justification for establishing a new Green Belt in the south of the Borough.

1.3.3 As the Inspector has found that there are fundamental flaws in the Plan, CEC is now required to undertake further evidence base work in relation to the overall housing requirement. It is not yet clear what the overall spatial strategy will be, nor is it yet known how the additional evidence base work will inform the Plan's housing requirement. The Brereton Neighbourhood Plan is therefore premature in plan-making terms in that the strategic priorities for the Borough are yet to be determined.

1.3.4 The Neighbourhood Plan seeks to make policy judgements on matters that are yet to be determined through the Local Plan. Furthermore the Brereton Neighbourhood Plan as proposed is inflexible and has been based upon a restrictive approach to growth in the

neighbourhood area. This is contrary to the whole ethos of the National Planning Policy Framework (NPPF/the Framework) and the presumption in favour of sustainable development.

- 1.3.5 Both the Framework, paragraph 16 and 184 and the PPG, Neighbourhood Planning 070, require that the Brereton Neighbourhood Plan must be in conformity with the strategic policies in the development plan for the local authority area. Gladman maintains that the correct construction of those paragraphs within the Framework and PPG is that those local plan policies referred to therein must be extant and up-to-date, following successful examination of an NPPF-era Local Plan. If the Brereton Neighbourhood Plan is progressed to Regulation 15 submission prior to the adoption of the CELPS it will **be contrary to basic conditions 8(2) (a) and (e)**.

1.4 Conclusions

- 1.4.1 The BNP is distinctly anti-growth and seeks to restrict all development outside of tightly drawn settlement boundaries without regard to objectively assessed need, which is contrary to the Government's national policy imperative to *'significantly boost the supply of housing'*¹. **Gladman therefore contends that as a result, the Brereton Neighbourhood Plan proposes an approach which does not comply with either the Framework or PPG. It cannot be appropriate to 'make' the Plan without having regard to national planning policy and guidance, furthermore it will not contribute to sustainable development and will not be in conformity with strategic policies in the Development Plan as these have not yet been determined.**
- 1.4.2 The Brereton Neighbourhood Plan is not sufficiently growth orientated nor is it able to respond rapidly to changes in the marketplace. Gladman reiterates that the proposals through the Brereton Neighbourhood Plan effectively act to restrict all growth by defining tightly drawn settlement boundaries. Gladman contends that an approach such as the one presented directly contradicts the whole ethos of the Framework. For these reasons the Brereton Neighbourhood Plan gives rise to legal flaws and is liable to be subject to judicial review proceedings as it **contrary to basic conditions (a), (d), (e) and (f)**.

¹ §47, NPPF and Gallagher v Solihull MBC [2014] EWCA Civ 1610

2 INTRODUCTION

2.1 Context

2.1.1 These representations are made in response to the current consultation on the Pre-Submission version of the Brereton Neighbourhood Plan, under regulation 14 of the Neighbourhood Planning (General) Regulations 2012. Gladman Developments (Gladman) has land interests at Land off London Road, Holmes Chapel, a site which is adjacent to the built-up area of Holmes Chapel located within the Parish of Brereton. Gladman is actively working to promote the site for residential development.

2.2 Summary of the Brereton Neighbourhood Plan

2.2.1 The Brereton Neighbourhood Plan has been produced by Brereton Parish Council (BPC) and covers the period 2015-2030, it is unclear as to why this varies from the plan period of the emerging CELPS 2010-2030. The below section provides a brief summary of the key elements of the Plan.

2.2.2 The BNP has 5 objectives which are summarised as:

1. Delivering a sensitive housing strategy tailored to Brereton's needs;
2. Providing and improve local facilities;
3. Strengthening and supporting local economic activity;
4. Protect green space, the environment and landscape and support nature conservation; and;
5. Seeking ongoing improvements to transport and digital connectivity services.

2.2.3 The Brereton Parish Area, which is also the designated neighbourhood area for the purposes of the Plan, contains two settlements: Brereton Green and Brereton Heath. These are both identified in the Council's Settlement Hierarchy as 'Other Settlements and Rural Areas'. The CELPS states the following regarding this tier:

*'The remaining settlements have fewer facilities than the Local Service Centres, if any. As a result, people living in these communities generally have to travel to larger centres for jobs, schools, health care and other services. New development in these settlements will help to sustain these local services.'*²

² CELPS Submission Version, March 2014, §8.31

- 2.2.4 The Parish Boundary also abuts the southern boundary of the settlement of Holmes Chapel which is defined in the emerging CELPS as a Local Service Centre (LSC), a sustainable location where *'some modest growth in housing and employment will have taken place to meet local objectively assessed needs, to reduce the level of out-commuting and to secure their continuing vitality. This may require small scale alterations to the Green Belt in some circumstances'*.³
- 2.2.5 Gladman submits that it is inappropriate for the Brereton Neighbourhood Plan to attempt to restrict growth to the south of Holmes Chapel. It is inevitable that, in order to deliver sustainable patterns of development, some housing and other growth will need to occur on land contiguous with the Main Towns, KSCs and LSCs, but outside of their respective parish boundaries. This principle has been accepted by CEC in so far as the Council is proposing strategic sites and in some cases granting planning permission in areas adjacent to settlement boundaries within other parishes on the edges of settlements i.e. Crewe and Congleton. In this context, it is inappropriate for the Brereton Neighbourhood Plan to restrict the required expansion of Holmes Chapel, as the Pre-Submission Plan seeks to do. The consequence of this could undermine the spatial objectives of the emerging CELPS and the core principles of sustainable development.
- 2.2.6 The Plan aims to deliver up to 50 dwellings within the Parish area by the end of the plan period in 2030. This figure is not based on full, objectively assessed needs in accordance with the Framework and therefore cannot be found sound.
- 2.2.7 It is currently proposed in the emerging CELPS that the tier of settlements containing Brereton Green and Brereton Heath, 'Other Settlements and Rural Areas' will accommodate 2,000 dwellings. However the Inspector has made clear in his Interim Views⁴ that further work is required on objectively assessed needs (OAN) and the Council is currently undertaking this additional work during a period of suspension, including a new OAN Report and Employment Growth Report. It is unclear at the present time what effect the additional work will have on the Council's overall housing requirement, however it is likely that the direction of travel will be upwards. The Inspector also stated that there were serious shortcomings with the Council's objective assessment of housing need and further work was required in relation the spatial distribution of the housing requirement⁵. Therefore at this stage, it is unknown what the overall requirement figure will be for the Other Settlements and Rural Areas.

³ CELPS Submission Version, March 2014, §8.30

⁴ Appendix 1, Inspector's Interim Views §69

⁵ Appendix 1, Inspector's Interim Views §80

2.2.8 Further to this, no evidence base work has been carried out to determine the level of growth that can be accommodated in each of the identified Other Settlements. It could be the case that due to constraints in other parts of the Borough, i.e. Green Belt, some settlements may need to take more growth than others. Brereton Green has a relatively high level of services in comparison with some of the other settlements in this tier, therefore it may need to take additional growth. It is simply not yet known how much growth will need to be accommodated for in the Parish area, therefore it is an inappropriate time to prepare a Neighbourhood Plan.

2.3 Structure of Representations

2.3.1 This representation is structured as follows:

- National Policy
- Assessment against the National Planning Policy Framework
- Assessment against Planning Practice Guidance
 - Neighbourhood Planning
 - Viability
 - Strategic environmental assessment and sustainability appraisal
- Conclusions

2.4 Neighbourhood Plan Preparation

2.4.1 Gladman would like to remain involved throughout the preparation of the Brereton Neighbourhood Plan and therefore request to be added to the consultation database. Gladman wish to take part in the hearing session(s) of the examination of the Neighbourhood Plan.

3 NATIONAL POLICY

3.1 National Planning Policy Framework, Planning Practice Guidance & the Basic Conditions

3.1.1 The National Planning Policy Framework (NPPF/the Framework) sets out the Government's planning policies for England and how these are expected to be applied in respect of plan-making and decision-taking: NPPF paragraphs 1, 6 and 13. In doing so it sets out the requirements for the preparation of neighbourhood plans and the role they must play in meeting the development needs of the local area. The requirements set out in the Framework have now been supplemented by the Neighbourhood Plan section of Planning Practice Guidance (PPG). The provisions of the Framework and the PPG are mandatory material considerations for the purposes of basic condition 8(2)(a).

3.1.2 Before a Neighbourhood Plan can proceed to referendum it must be tested against a set of Neighbourhood Plan Basic Conditions, set out in paragraph 8 (2) of Schedule 4b of the Town and Country Planning Act 1990 (as amended). This is also underpinned in PPG at paragraph 065 of the Neighbourhood Planning Chapter, the basic conditions are as follows:

(a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order.

(b) Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order.

(c) Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order.

(d) The making of the order contributes to the achievement of sustainable development.

(e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).

(f) The making of the order does not breach, and is otherwise compatible with, EU obligations, and

(g) Prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.

3.1.3 It is clear from the Framework and PPG that Neighbourhood Plans must conform with national policies (basic condition (a): "appropriateness") and up-to-date strategic policy requirements (basic condition (e)) set out in an adopted Local Plans. Neighbourhood Plans must take a positive approach to facilitate new development, these should not be used as a constraint to restrict growth going forward in the plans strategy.

3.1.4 **Gladman considers that the Brereton Neighbourhood Plan in its current form fails to comply with various key paragraphs of the Framework and PPG as well as failing to meet basic conditions (a), (d), (e) and (f)** which will be addressed throughout this representation. If the Parish Council fails to heed this advice and attempts to progress to examination, the Brereton Neighbourhood Plan should be found to have failed the basic conditions and work produced will be a waste of both the Parish Council and local planning authority's time and resources. It is Gladman's view that the Brereton Neighbourhood Plan is fundamentally flawed and requires substantial amendment and reconsideration of the policies before progressing any further.

4 ASSESSMENT AGAINST THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

4.1 Introduction

4.1.1 This section of the representation is structured around key paragraphs from the Framework and highlights how Brereton Neighbourhood Plan, as proposed, does not conform with the Framework and consequently has not met the basic conditions. Please note that our emphasis has been added to these quotes.

4.2 Key sections of the Framework

Paragraph 14

4.2.1 *“At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.*

For plan-making this means that:

- *Local planning authorities should positively seek opportunities to meet the development needs of their area;*
- *Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:*
 - *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *Specific policies in this Framework indicate development should be restricted...”*

Response:

4.2.2 The pre-submission plan is inconsistent with paragraph 14 of the Framework, and is therefore in conflict with Basic Conditions (a), (d) and (e). The residential settlement boundary defined by Policy HOU2 on Key Maps C20a and C20b provides no flexibility to provide for situations of undersupply of market housing in the Borough. Gladman considers this approach is fundamentally contrary to the presumption in favour of sustainable development as outlined in paragraph 14 of the Framework.

4.2.3 The Parish Council should seek to deliver housing when the opportunity arises in accordance with paragraph 14 of the Framework. However, at no point does the BNP seek to allocate land for future residential development and is distinctly anti-growth.

Paragraph 16

4.2.4 *"The application of the presumption will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should:*

- *Develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;*
- *Plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan; and*
- *Identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed."*

Response:

4.2.5 The Neighbourhood Plan seeks to make policy judgements that have yet to be determined through the Local Plan. Furthermore, the BNP as proposed is inflexible and has been based upon a restrictive approach to growth. This is contrary to the whole ethos of the Framework and the presumption in favour of sustainable development and could undermine the strategic objectives of the emerging CELPS by restricting the growth of Holmes Chapel.

4.2.6 Both the Framework, paragraphs 16 and 184 and the PPG ID 41-070, require that the Brereton Neighbourhood Plan must be in conformity with the strategic policies in the development plan for the local authority area. Gladman maintains that the correct construction of those paragraphs within the Framework and PPG is that those local plan policies referred to therein must be extant and up-to-date, following successful examination of an NPPF-era local plan. If the Brereton Neighbourhood Plan is progressed to submission prior to the adoption of the CELPS it will be contrary to basic conditions 8(2) (a) (d) and (e).

Paragraph 17

4.2.7 *"Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should:...*

- *Be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up to date and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;...*
- *Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then*

meet the housing, business and other development needs of an area and respond positively to wider opportunities for growth..."

Response:

Gladman submit that the BNP fails to set out a positive vision for the future of the area but instead seeks to constrain development. The restrictive nature of policies and objectives in the Neighbourhood Plan provides no flexibility to provide for situations of undersupply of market housing in the Borough. This approach is contrary to the Framework §14 and §21.

- 4.2.8 Gladman submits that without allocating land for residential development, the BNP will act to have a negative effect on the viability and vitality of the local area and may result in a decline in essential facilities within the Parish. Gladman recommends that when sustainable opportunities for growth present themselves, the Parish Council should give full regard to the sustainability credentials associated with development in this location.

Paragraph 47

- 4.2.9 "To boost significantly the supply of housing, local planning authorities should:

- Use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;
- Identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;
- Identify a supply of specific developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15;..."

Response:

- 4.2.10 The CELPS Submission Version (March, 2014) contained an overall housing requirement of 27,000 dwellings for the plan period 2010-2030. The Inspector, in his Interim Views, expressed major concerns with the evidence behind the Council's proposed housing requirement; mainly that it did not reflect OAN as required by the Framework. The examination of the CELPS has been suspended for a period of 6 months for the Council to

carry out additional evidence base work on various aspects of the Plan, including the OAN. Therefore the implications of the additional work on the housing requirement are not yet known, however it is understood that the housing requirement will inevitably increase.

4.2.11 If the housing requirement is to increase, the Council will have to identify additional sites to accommodate this growth. Sites on the edges of identified sustainable settlements, such as Holmes Chapel, will be required to meet this need and it is not the place of the Brereton Neighbourhood Plan to restrict this growth.

4.2.1 The BNP should be aspirational and growth oriented in line with the key objectives of national policy, especially the requirement under paragraph 47 of the Framework which seeks to significantly boost the supply of housing. Where, as in Brereton, a plan is constructed solely around policies which seek to constrain the total supply of housing within the neighbourhood plan area. Paragraphs 14, 16, 47, 49 and 184 are principal policy considerations for the purpose of the assessment of basic condition 8(2)(a).

Paragraph 49

4.2.2 *"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites."*

Response:

4.2.3 Housing applications should be considered in the context of the presumption in favour of sustainable development, as such all housing applications should be considered in this light. The restrictive policies in this Plan, such as Policy HOU01 provide no basis for allowing sustainable development to take place.

Paragraph 156

4.2.4 *"Local planning authorities should set out the **strategic priorities** for the area in the Local Plan. This should include strategic policies to deliver:*

- *The homes and jobs needed in the area:..."*

Response:

4.2.5 The BNP should seek to meet the strategic priorities for the area in the Local Plan, this is in accordance with basic condition 2(a). However, it is not yet known what the strategic priorities for CEC will be as the Plan is still under Examination and the further work the Council is undertaking may lead to significant changes being made to the emerging Plan.

Therefore it is reiterated that this is not an appropriate time to prepare a Neighbourhood Plan.

- 4.2.6 The BNP needs to be flexible as it may be the case that once the Council has completed its additional evidence base work on its OAN, additional housing growth may be attributed to this tier of settlements.

Paragraph 157

- 4.2.7 *"Crucially, Local Plans should:*

- *Plan positively for the development and infrastructure required in the area to meet the objectives, principles and policies of this Framework;...*
- *Allocate sites to promote development and flexible use of land, bringing forward new land where necessary, and provide detail on form, scale, access and quantum of development where appropriate;..."*

Response:

- 4.2.8 The BNP in its current form fails to plan positively for the development and infrastructure needs of Brereton in line with the objectives, principles and policies of the Framework. The BNP is based on an anti-growth strategy which is inconsistent with the objectives, principles and policies in the Framework.

Paragraph 158

- 4.2.9 *"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."*

Response:

- 4.2.10 CEC is yet to finalise the additional evidence base work that it has been working on in respect of the CELPS. The Parish Council claims to use the CELPS's evidence base to inform the Neighbourhood Plan, however as the Inspector has found the evidence base to be flawed, the BNP cannot be based on an adequate and robust evidence base. For instance, it is not yet known what the outcome of the Council's additional work on OAN will be. A Neighbourhood Plan produced prior to the publication of this cannot be found to have been prepared in accordance with the guidance in the Framework.

Paragraph 159

4.2.11 *"Local planning authorities should have a clear understanding of housing needs in their area. They should:*

- *Prepare a Strategic Housing Market Assessment to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries...*
- *Prepare a Strategic Housing Land Availability Assessment to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period."*

Response:

4.2.12 The BNP fails to have a clear understanding of the housing needs of the area. Gladman questions why the Parish Council would pursue a Neighbourhood Plan at this time when there is so much uncertainty surrounding the future of the CELPS. The examining Inspector found that the Council had not undertaken a robust OAN Assessment. The Council does not yet have a proper grasp of what the actual OAN for the Borough is, and as the Parish Council is reliant on CEC's evidence, it cannot possibly know what the actual housing needs for the area are.

Paragraph 184

4.2.13 *"Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. **The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.** To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies." (Emphasis added)*

Response:

4.2.14 The Parish Council is required to ensure that the Neighbourhood Plan is in general conformity with the strategic policies of the Local Plan. The CELPS is not yet adopted and is currently undergoing Examination. As the Council is carrying out additional evidence base work, it is not yet known what the implications of this will be on the strategic policies contained with the emerging Plan. This further emphasises why it is inappropriate at the current time to prepare a Neighbourhood Plan when there is so much uncertainty

surrounding the emerging CELPS. The BNP cannot therefore be considered able to meet basic conditions (a), (d) and (e).

5 ASSESSMENT AGAINST PLANNING PRACTICE GUIDANCE

5.1 Introduction

5.1.1 This section of this submission is structured around the requirements set out in various sections of the Planning Practice Guidance (PPG) and highlights how the Brereton Neighbourhood Plan has not met these requirements or the Basic Conditions. Please note that our emphasis has been added to these PPG references.

5.2 Neighbourhood Planning

Paragraph: 004 Reference ID 41-004-20140306

5.2.1 *"A Neighbourhood Plan should support the strategic development needs set out in the Local Plan and plan positively to support local development as outlined in paragraph 16 of the National Planning Policy Framework..."*

Response:

5.2.2 Gladman does not believe the vision or policies as currently drafted will achieve a positive planning framework as required by paragraph 004 of the PPG. On the contrary, they are designed with a negative vision to impose a constraint without ascertaining need.

Paragraph: 005 Reference ID 41-005-20140306

5.2.3 *"Must a community ensure that its neighbourhood plan is deliverable?
If the policies and proposals are to be implemented as the community intended a neighbourhood plan needs to be deliverable. The National Planning Policy Framework requires that the sites and scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened."*

Response:

5.2.4 There are no housing or employment sites identified in the BNP, only sites which have already been approved planning permission or are under construction in Brereton Heath. The proposed village boundaries, for both Brereton Green and Brereton Heath, constrain all other development, and no robust evidence has been provided to show that any further significant development will take place within the proposed boundary.

Paragraph: 009 Reference ID 41-009-2010306

5.2.5 *"Can a Neighbourhood Plan come forward before an up to date Local Plan is in place?"*

Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan.

A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. A draft Neighbourhood Plan or Order is not tested against policies in an emerging Local Plan although the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.

Where a neighbourhood plan is brought forward before an up to date Local Plan is in place the qualifying body and local planning authority should discuss and aim to agree the relationship between policies in:

- *The emerging neighbourhood plan*
- *The emerging Local Plan*
- *The adopted development plan*

With appropriate regard to national policy and guidance...

The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflict between policies in the neighbourhood plan and those on the emerging Local Plan...

Response:

- 5.2.6 As previously mentioned in respect of paragraph 184 of the Framework, it is not yet known what the strategic priorities for Cheshire East will be. The examining Inspector has found substantial flaws with the Plan's evidence base. The additional work the Council is currently undertaking may point towards a different strategy, therefore there is no Plan at an advanced enough stage for the BNP to align itself with. It would be more appropriate to progress the Neighbourhood Plan once the CELPS has been adopted.

Paragraph: 040 Reference ID 41-040-20140306

- 5.2.7 *"What evidence is needed to support a neighbourhood plan or order?
While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no 'tick box' list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in the Order.*

A local planning authority should share relevant evidence, including that gathered to support its own plan-making, with a qualifying body..."

Response:

- 5.2.8 The BNP does not provide a robust and credible evidence base on which to plan for the development needs of the settlement. It relies heavily on draft policies contained within the emerging Plan and some of the evidence base documents which the Inspector has raised concerns with.

Paragraph: 042 Reference ID 41-042-20140306

- 5.2.9 *"Can a neighbourhood plan allocate sites for development?
A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria."*

Response:

- 5.2.10 BPC has not considered locations for housing growth but has relied upon sites contained within the Council's SHLAA. The justification to Policy HOU02 on page 32 of the Plan states that a review of sites within or partially within the Parish of Brereton was undertaken, including large sites on the edges of the three service centres adjoining Brereton: Holmes Chapel, Congleton and Sandbach. The justification goes on to state that there were sufficient permissions in these locations to accommodate the housing needs of Brereton. However no detailed objective assessment of housing need has been carried out for the Brereton Parish area. Notwithstanding this, the sites identified on the edges of the above settlements have been identified to meet the needs of the specific settlement, not the needs of Brereton Parish. It is inevitable that sites will be required on the edges of these settlements that will fall under different parishes, however these are required to meet identified needs for each settlement. Further sites will be required to accommodate the needs of the Parish on top of those identified on the edge of the main settlement as the Parish has its own need separate to that of the larger settlements.

Paragraph: 069 Reference ID 41-069-20140306

- 5.2.11 *"What does having regard to national policy mean?
A neighbourhood plan or Order must not constrain the delivery of important national policy objectives. The National Planning Policy Framework is the main document setting out the Government's planning policies for England and how these are expected to be applied."*

Response:

- 5.2.12 The BNP is clearly based on an intention to constrain the delivery of future sustainable development which is contrary to paragraphs 14 and 47 of the Framework and therefore fails to provide a positive approach to plan making.

- 5.2.13 The Framework sets out the Government's goal to significantly boost the supply of housing, the negative approach contained within the Plan is directly counter to this government objective. This is a fundamental flaw of the BNP, failure to have regard to national policy is contrary to the requirements of basic conditions (a) and (d).

Paragraph: 070 Reference ID 41-070-20140306

- 5.2.14 "*Which national policies are relevant to a neighbourhood plan or Order?*

Paragraph 16 of the National Planning Policy Framework is clear that those producing neighbourhood plans or Orders should support the strategic development needs set out in Local Plans, including policies for housing and economic development. Qualifying bodies should plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. More specifically paragraph 184 of the National Planning Policy Framework states that neighbourhood plans and Orders should not promote less development than set out in the Local Plan or undermine its strategic policies.

The content of a draft neighbourhood plan or Order will dictate which additional national policy is or is not a relevant consideration to take into account. The basic condition allows qualifying bodies, the independent examiner and local planning authority to reach a view in those cases where different parts of national policy need to be balanced.

A qualifying body is advised to set out in its basic conditions statement how they have had regard to national policy and considered whether a particular policy is or is not relevant. A qualifying body is encouraged to set out the particular national policies that it has considered, and how the policies in a draft neighbourhood plan or the development proposals in an Order take account of national policy and advice."

Response:

- 5.2.15 Policy HOU02 imposes a restriction that all new housing development shall be located within the settlement boundaries of the two settlements of Brereton Green and Brereton Heath. Gladman considers that this policy actively seeks to constrain housing growth and is contrary to the express terms of the Framework. The Framework lists a number of Core Planning Principles, one of which states:

"Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth".

- 5.2.16 This policy does not allow for this to happen.

5.2.17 The settlement boundaries are tightly drawn around the existing built-up area of each settlement and will act to restrict future growth providing no flexibility. This will limit the ability of the settlements within Brereton Parish to accommodate their share of the number of dwellings attributed to the Rural Areas and Other Settlements once the housing requirement is known. This approach to development is fundamentally contrary to the presumption in favour of sustainable development as outlined in paragraph 14 of the Framework.

5.2.18 The policies in the Neighbourhood Plan do not support strategic development needs but instead seek to limit the contribution that the Parish of Brereton will make towards delivering the objectively assessed housing needs of Cheshire East. The Neighbourhood Plan is in conflict with paragraphs 16, 47 and 49 of the Framework in this regard.

Paragraph: 074 Reference ID 41-074-20140306

5.2.19 *"What is meant by 'general conformity'?"*

When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority should consider the following:

- *Whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with*
- *The degree, if any, of conflict between the draft neighbourhood plan policy development proposal and the strategic policy*
- *Whether the draft neighbourhood plan policy or development proposal provides and additional level of detail and/or distinct local approach to that set out in the strategic policy without undermining that policy*
- *The rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.*

Response:

5.2.20 The implications of the Council's additional evidence base work are not yet known, however it is known that the overall housing requirement is very likely to increase. This may lead to an increase in the overall housing number required to be delivered in the Other Settlements and Rural Areas tier of the hierarchy. If this level of growth is not accommodated for the Plan it will not be in conformity with the strategic policies in the Local Plan. The BNP is based on an approach which restricts sustainable development being delivered therefore it cannot be in conformity with the emerging Plan in its current state.

Paragraph: 078 Reference ID 41-078-20140306

5.2.21 *"What are the relevant EU obligations?"*

A neighbourhood plan or Order must be compatible with European Union obligations, as incorporated into UK law, in order to be legally compliant. There are four directives that may be of particular relevance to neighbourhood planning:

- *Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (often referred to as the Strategic Environmental Assessment (SEA) Directive).
This seeks to provide a high level of protection of the environment by integrating environmental considerations into the process of preparing plans and programmes. It may be of relevance to neighbourhood plans.*
- *Directive 2011/92/EU on the assessment of the effects of certain public and private projects in the environment (often referred to as the Environmental Impact Assessment (EiA) Directive.
*Environmental Impact Assessment is a procedure to be followed for certain types of proposed development. This is to ensure that decisions are made in full knowledge of any likely significant effects on the environment and that the public are given early and effective opportunities to participate in the decision making procedures. It may be of relevance to Neighbourhood Development Orders**
- *Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively). These aim to protect and improve Europe's most important habitats and species. They may be of relevance for both neighbourhood plans or Orders.*

Other European directives such as the Waste Framework Directive (2008/98/EC), Air Quality Directive (2008/50/EC) or the Water Framework Directive (2006/60/EC) may apply to particular circumstances of a draft neighbourhood plan or Order."

Response:

- 5.2.22 BPC has not undertaken a Sustainability Assessment nor has a SEA been completed. The justification for not doing so is contained within the Statement on Sustainability Appraisal and Development which states that:

'Consultation has been undertaken with officers of Cheshire East Council throughout the plan preparation period which has included the need to achieve a sustainable approach to development in Cheshire East and Brereton as part of the Borough. The local community has responded positively in its response to consultation through the plan making period. The recent experience of other communities in Cheshire and elsewhere in integrating a sustainable approach to

*future development of their areas into their neighbourhood plans has enabled the Brereton community to benefit and learn from that experience.*⁶

- 5.2.23 The BNP seeks to constrain delivery of residential development over the plan period and should be tested with significant SEA-level scrutiny. It is appropriate to consider any potential significant effects on the environment that may come about through the implementation of the Plan and also any reasonable alternatives.

5.3 Viability

Paragraph: 005 Reference ID 10-005-20140306

- 5.3.1 *"How should viability be assessed in plan making?*

Local Plans and Neighbourhood Plans should be based on a clear and deliverable vision of the area. Viability assessment should be considered as a tool that can assist with the development of plans and policies. It should not compromise the quality of development but should ensure that the Local Plan vision and policies are realistic and provide high level assurance that plan policies are viable.

Development of plan policies should be iterative – with draft policies tested against evidence of the likely ability of the market to deliver the plan's policies, and revised as part of a dynamic process.

Evidence should be proportionate to ensure that plans are underpinned by a broad understanding of viability. Greater detail may be necessary in areas of known marginal viability or where the evidence suggests that viability might be an issue – for example in relation to policies for strategic sites which require high infrastructure investment.

Response:

- 5.3.2 Neighbourhood Plans should be based on a clear and deliverable vision. However, Gladman is concerned that the BNP is not based on a deliverable vision as it fails to allocate any land for either housing or economic development. Gladman is concerned that the lack of allocations will have a demonstrable impact on the viability and vitality of Brereton. The vision and objectives are not supported by an appropriate scale or range of planned development to ensure the vitality of the community is maintained. If the BNP does not seek to address this issue then this may have significant effects on the local demographics of the area leading to a decline in local services and facilities. In order for the BNP to effectively counter this potential issue and meet its vitality objectives and ensure that a re-

⁶ Brereton Neighbourhood Plan Statement on Sustainability Appraisal and Development pg 4

balance to the demographic market is achieved, the BNP must allow for more growth through the provision of residential development.

5.4 Strategic environmental assessment and sustainability appraisal

Paragraph: 026 Reference ID 11-026-20140306

5.4.1 *"Does a neighbourhood plan require a sustainability appraisal?"*

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal as set out in section 19 of the Planning and Compulsory Purchase Act 2004. However a qualifying body must demonstrate how its plan or order will contribute to achieving sustainable development. A sustainable appraisal may be a useful approach for doing this and the guidance on sustainability appraisal of Local Plans should be referred to.

Response:

5.4.2 Gladman note that the Parish Council has not undertaken a Sustainability Appraisal (SA).

Paragraph: 027 Reference ID 11-027-20150209

5.4.3 *"Does a neighbourhood plan require a strategic environmental assessment?"*

In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a strategic environmental assessment. Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects. This process is commonly referred to as a "screening" assessment and the requirements are set out in regulation 9 in the Environmental Assessment of Plans and Programmes Regulations 2004.

If likely significant environmental effects are identified, an environmental report must be prepared in accordance with paragraphs 2) and 3) of regulation 12 of those Regulations.

One of the basic conditions that will be tested by the independent examiner is whether the making of the neighbourhood plan is compatible with European Union obligations (including under the Strategic Environmental Assessment Directive)."

Response:

5.4.4 The requirement to produce a Strategic Environmental Assessment (SEA) goes to the core compliance of basic condition (f) which requires strict adherence to whether the making of the neighbourhood plan is compatible with the European Union obligations detailed above. Gladman submits that the SA has not been undertaken in accordance with paragraph 027 and the Environmental Assessment of Plans and Programmes Regulations 2004. The BNP is therefore contrary to paragraph 027 of the PPG.

Paragraph: 028 Reference ID 11-028-20150209

5.4.5 "How do you know if a draft neighbourhood plan might have significant environmental effects?

To decide whether a draft neighbourhood plan might have significant environmental effects, it must be assessed (screened) at an early stage of the plan's preparation according to the requirements set out in regulation 9 of the Environmental Assessment of Plans and Programmes Regulation 2004. These include a requirement to consult the environmental assessment consultation bodies.

Each consultation body will be able to advise on particular topics relevant to its specific area of expertise and responsibility, and the specific information that it holds.

Where it is determined that the plan is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment), a statement of reasons for the determination should be prepared. A copy of the statement of the statement must be submitted with the neighbourhood plan proposal and made available to the independent examiner.

The local planning authority, as part of its duty to advice or assist, should consider putting in place processes to determine whether the proposed neighbourhood plan will require a strategic environmental assessment. The qualifying body should work with the local planning authority to be sure that the authority has the information it needs."

Response:

5.4.6 No evidence has been provided as part of the consultation to demonstrate to those consulted whether BPC has fulfilled the terms of this requirement and therefore it has not been possible to establish whether the Directive applies in this instance. The absence of this evidence needs to be addressed and presented for the consultation to be valid and legally compliant. At present, the consultation is being undertaken without crucial evidence to provide an informed response: *R(Moseley) v Haringey LBC* [2014] UKSC 56. It is unclear if Cheshire East Council has even investigated this aspect in accordance with their statutory duty under paragraph 3 of Schedule 4B.

Paragraph: 046 Reference ID: 11-046-20150209

5.4.7 "What do you do if a neighbourhood plan is likely to have a significant environmental effect?
Where a neighbour plan is likely to have a significant effect on the environment a strategic environmental assessment must be carried out and an environmental report prepared in

accordance with paragraphs 2) and 3) of regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004.

Whether a neighbourhood plan proposal requires a strategic environmental assessment, (and if so) the level of detail needed, will depend on what is proposed. A strategic environmental assessment may be required, for example, where:

- *A neighbourhood plan allocates sites for development*
- *The neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan*
- *The neighbourhood plan is likely to have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Local Plan."*

Response:

5.4.8 Gladman recommends that the BNP be tested with significant SEA-level scrutiny.

Paragraph: 029 Reference ID: 11—029-20150209

5.4.9 *"When should a plan maker start producing a strategic environmental assessment?
Where it is determined that a neighbourhood plan is likely to have significant effects on the environment and that a strategic environmental assessment must be carried out work on this should start at the earliest opportunity. This is so that the processes for gathering evidence for the environmental report and for producing the draft neighbourhood plan can be integrated, and to allow the assessment process to inform the choices being made in the plan."*

Response:

5.4.10 The Parish Council should delay further progression of the BNP at this time, until it has undertaken work to assess the significant effects on the environment. This should be taken at the earliest opportunity to assess all options before progressing with the plan further.

Paragraph: 037 Reference ID: 11-037-20150209

5.4.11 *"How should plan-makers develop and refine options and assess effects?
Proposals in a draft neighbourhood plan, and the reasonable alternatives should be assessed to identify the likely significant effects of the available options (Stage c). Forecasting and evaluation of significant effects should help to develop and refine the proposals in the neighbourhood plan.*

Reasonable alternatives should be identified and considered at an early stage in the plan making process as the assessment of these should inform the preferred approach.

This stage should also involve considering ways of mitigating any adverse effects, maximising beneficial effects and ways of monitoring likely significant effects."

Response:

5.4.12 No SEA has been produced in respect of the BNP. A failure to produce an SEA screening assessment at the earliest stage prior to the commencement of Regulation 14 consultation is also a fundamental breach of the requirements for lawful consultation: and the second "Sedley" requirement (approved by the Supreme Court in R(Moseley) v London Borough of Haringey [2014] UKSC 56: the Regulation 14 consultation documentation does not (as it must do) *"include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response."*

5.4.13 At present there has been no ostensible effort to consider the PPG's guidance on the timing of SEA work, that is a major breach of basic conditions (a) and (f).

Paragraph: 038 Reference ID: 11-03820150209

5.4.14 *"How should the strategic environmental assessment assess alternatives and identify likely significant effects?*

The strategic environmental assessment needs to compare the alternatives including the preferred approach, and assess these against the baseline environmental characteristics of the area and the likely situation if the neighbourhood plan were not to be made. The strategic environmental assessment should predict and evaluate the effects of the preferred approach and reasonable alternatives and should clearly identify the significant positive and negative effects of each alternative.

The strategic environmental assessment should identify, describe and evaluate the likely significant effects on environmental factors using the evidence base. Criteria for determining the likely significance of effects on the environment are set out in Schedule 1 to the Environmental Assessment of Plans and Programmes Regulations 2004.

The strategic environmental assessment should identify any likely significant adverse effects and measures envisaged to prevent, reduce, and, as fully as possible, offset them. Reasonable alternatives must be considered and assessed in the same level of detail as the preferred approach intended to be taken forward in the neighbourhood plan. Reasonable alternatives are the different realistic options considered while developing the policies in the draft plan. They must be sufficiently distinct to highlight the different environmental implications of each so that meaningful comparisons can be made. The alternatives must be realistic and deliverable.

The strategic environmental assessment should outline the reasons the alternatives were selected, the reasons rejected options were not taken forward and the reasons for selecting the preferred approach in light of the alternatives. It should provide conclusions on the overall environmental impact of the different alternatives including those selected as the preferred approach in the neighbourhood plan. Any assumptions used in assessing the significance of effects of the neighbourhood plan should be documented.

The development and appraisal of proposals in the neighbourhood plan should be an iterative process, with the proposals being revised to take account of the appraisal findings. This should inform the selection, refinement and publication of the preferred approach for consultation.”

Response:

- 5.4.15 A SA has not been completed for the BNP. Gladman consider it essential to test whether a pro-growth scenario is capable of being delivered in order to meet local and wider area's housing needs. If it is found that a greater proportion of housing can be delivered then the BNP should work towards this figure. A refusal to conduct SEA in respect of the likely significant effects of the plan would amount to an error of law and grounds for quashing the plan in its entirety.

5.5 High Court Judgments

Sayers Common Judgment

- 5.5.1 A recovered appeal decision relating to 120 homes at Sayers Common in Mid-Sussex was quashed by the High Court on 1st May 2015. The judge concluded that the Secretary of State had placed too much weight on the emerging Neighbourhood Plan commensurate with its progress in coming to a decision to dismiss the appeal. The judgment is included at Appendix 2.
- 5.5.2 The Inspector had recommended that the appeal be allowed, however the Secretary of State disagreed with the Inspector and dismissed the appeal. The Secretary of State agreed with the Inspector's reasoning that the location for the proposed development was sustainable in all relevant aspects. The sole reason given for the Secretary of State's disagreement with the Inspector that planning permission should be granted was that the proposal conflicted with the emerging neighbourhood plan and was premature in relation to that plan.
- 5.5.3 The Secretary of State attributes 'significant weight' to the draft neighbourhood plan and its identification of housing allocations elsewhere within the parish and to the fact that the

District Council was yet to complete an up-to-date objectively assessed housing needs analysis against which to measure the overall [Neighbourhood Plan] proposals. (§53)

- 5.5.4 In Ground 1 of the judgment, the Claimant submits that the Secretary of State failed to take into account and apply his own policy in relation to the weight to be given to an emerging plan contained in paragraph 216 of the NPPF. Paragraph 216 contains 3 bullet points, the Decision Letter in respect of the appeal only dealt with the first bullet point; it did not deal with the extent to which there were unresolved objections and the degree of consistency of the policies with the Framework. The judgment makes clear that paragraph 216 should be read as a whole.
- 5.5.5 The Hurstpierpoint and Sayers Common Neighbourhood Plan sets a housing cap, similar to the Brereton Neighbourhood Plan cap of 50 dwellings contained in Policy HOU01, despite the fact the OAN in the emerging Plan is being challenged. This relates directly to the BNP as the total number of 50 dwellings outlined in Policy HOU01 is not based on sufficient evidence and is being advanced despite the fact that the overall housing requirement in the emerging CELPS has not yet been determined and is going to increase from that initially envisaged in the submission version of the Plan.
- 5.5.6 In light of the judgment, it would be inappropriate for the Council to place weight on the draft Brereton Neighbourhood Plan in the determination of planning applications and the emerging Plan cannot be relied upon by the Council as a reason to refuse applications.

6 CONCLUSIONS

6.1 Assessment against the Basic Conditions

6.1.1 Gladman objects to the Brereton Neighbourhood Plan in its current form, which is distinctly anti-growth and attempts to resist future growth through a number of policies which seek to constrain the ability of new sustainable development proposals coming forward.

6.1.2 The Brereton Neighbourhood Plan contains a series of flaws not only in its application to local and national policy, but lacks clear robust and up-to-date evidence to support a number of its objectives and policies. Several areas of the Brereton Neighbourhood Plan need to be addressed by a fundamental overhaul to the development strategy, failure to do so will undoubtedly lead to the plan being found unable to meet a number of the basic conditions at Independent Examination.

6.1.3 The Brereton Neighbourhood Plan contains a number of matters which contravene the following basic conditions:

(a) Having regard to national policies and advice contained in guidance issued by the Secretary of State,

- Gladman contends that the strategy as proposed by the Brereton Neighbourhood Plan's vision, objectives and a number of policies, including their supporting text, seek to constrain the delivery of sustainable housing development. This is in direct conflict with the National Planning Policy Framework.
- The Brereton Neighbourhood Plan fails to have any regard to the advice and guidance contained in PPG; Neighbourhood Plans, Strategic Environmental Assessment, Housing Land Availability and Open Space, and Viability.

(d) The making of the order contributes to the achievement of sustainable development

- A number of policies throughout the Brereton Neighbourhood Plan actively seek to constrain the ability for development to come forward and are used as mechanisms to prevent future sustainable development.
- There are no housing or employment allocations identified in the BNP and the plan restricts development to the tightly drawn residential settlement boundaries. This provides no flexibility or contingency and would result in sustainable development being refused. Therefore the BNP will fail to maintain the area's vitality and will not provide housing of a scale to meet localised or Borough-wide needs. This will lead to a

decline in key facilities and essential services and will have a direct impact on the demographic profile of Brereton Green and Brereton Heath.

(e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area (or any part of that area)

- The Inspector has found fundamental flaws in the Council's evidence base which has led to the suspension of the CELPS EIP. The BNP therefore has no strategic context upon which it can be based. Advancing a neighbourhood plan at this stage pre-empts the outcomes of the Local Plan. Therefore there is no sound or up-to-date, adopted local development plan against which the BNP can be prepared against. The Council has recently published its new OAN evidence which points towards 1,800 homes per annum, a greater figure than that contained in the submission CELPS (1,350 dpa). This evidence is yet to be tested and it remains unclear how this will impact upon the proposed housing requirement.

(f) The making of the order does not breach, and is otherwise compatible with EU obligations

- No SA/SEA has been completed in respect of the BNP. At present there has been no ostensible effort to consider the PPG's guidance on the timing of SEA work, that is a major breach of basic conditions (a) and (f). Gladman considers it essential to test whether a pro-growth scenario is capable of being delivered in order to meet local and the wider areas housing needs. If it is found that a greater proportion of housing can be delivered then the BNP should work towards this figure. A refusal to conduct SEA in respect of the likely significant effects of the plan would amount to an error of law and grounds for quashing the plan in its entirety.

6.1.4 Gladman would like to remain involved throughout the preparation of the Brereton Neighbourhood Plan and therefore requests to be added to the consultation database. Gladman wish to take part in the hearing session(s) of the examination of the Neighbourhood Plan.

6.1.5 Please notify us immediately of any steps taken towards a new Plan version and a further Regulation 15 submission.

Appendix 1: Cheshire East Local Plan Strategy Inspector's Interim Views

**Appendix 2: Woodcock Holdings Limited v Secretary of State for
Communities and Local Government and Mid-Sussex District Council [2015]
EWHC 1173 (Admin)**