

**Burghill Neighbourhood Development Planning
Replies from the Qualifying Body (QB) to the set of Examiner's Further
Questions – November 2018**

The Examiner's text setting out her Further questions is repeated below with the same paragraph numbers as identifiers. The QB's answers to the Further questions are set out below the Examiner's Further questions in italics and in text of a different colour. The QB also provides an introduction on background information regarding Tillington.

Background to current development in Tillington against draft NDP allocations and recent planning permissions:

In the draft NDP site Nos:10 and 25 are identified as potential development areas with a total number of 14 dwellings (Table page 37 para: 6.1.26). However, recently planning permission has been granted for 4 dwellings on highway frontage land between The Bell public house and the Tillington Business Park (PA Ref: 180985). This 4 dwelling project is on land that is part of Site No 8 in the draft NDP. This contribution of 4 dwellings effectively reduces the overall housing requirement in Tillington in the draft NDP to just 10 dwellings in total from the 14 recorded in the document.

It should be noted that in granting planning permission Ref: 180985 that the LPA considers Tillington to be an appropriate and sustainable location for development in line with Policies RA1/RA2 in the Development Plan. In the comprehensive officer's report, prior to the making of its delegated decision on the planning application, the LPA dealt thoroughly with the delivery of sewage disposal options, highway visibility and connectivity for pedestrians along the C1095 public highway between the permitted development site and Whitmore Cross. The delivery of these matters is also dealt with in the conditions attached to the planning permission.

Significantly, there is a pre-commencement Condition No 10 which links with Condition No 5 related to access and visibility. These conditions require works that are both within and outside the boundary of the planning application site and they read as follows:

- Condition No 5: The development shall be carried out strictly in accordance with the approved plans (drawing nos. 16/800.02 & 16/800.01D), except where otherwise stipulated by conditions attached to this permission. Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and highway safety and to comply with Policies MT1 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.*
- Condition No 10: Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 63 metres in each direction (as per approved plan 16/800.01D) along the nearside edge of the adjoining carriageway. The centre line of the translocated hedgerow shall be set 1m behind the splay or footpath and nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above. Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.*

Inspection of the relevant drawing: 16/800.01D shows proposed highway works and

continuity of the footway across part of the frontage of The Tillington Business Park.

On the matter of foul and surface water drainage the officer's report and delegated decision are competent in describing the possible problems and dealing with their solution through planning conditions. The relevant conditions read as follows:

- *Condition No 6: The reserved matters application (this meaning the first reserved matters application that includes layout) shall include a detailed scheme for the disposal of sewage and surface water to serve the development hereby permitted. No development shall commence until the submitted details have been approved in writing by the local planning authority and the approved scheme shall be fully implemented prior to the occupation of the dwelling to which it relates. The scheme shall include, but not be limited to:*
 - 1) *Percolation testing undertaken in accordance with BS6297. If this proves that percolation is not a viable option, an alternative foul drainage strategy should be provided.*
 - 2) *infiltration testing results for surface water in accordance with BRE365 and confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice;*
 - 3) *A detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event, and no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change;*
 - 4) *sufficient on-site attenuation storage to ensure that site- generated surface water runoff is controlled and limited to agreed discharge rates for all storm events up to and including the 1 in 100 year rainfall event, with an appropriate increase in rainfall intensity to allow for the effects of future climate change;*
 - 5) *Demonstration of the management of surface water during extreme events that overwhelm the surface water drainage system and/or occur as a result of blockage;*
 - 6) *Confirmation of the proposed authority responsible for the adoption and maintenance of the proposed drainage systems;*

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- *Condition No 7: Surface water will be managed through an appropriate soakaway system or Sustainable Drainage System (SuDS) within each individual Plot, or for the whole development on land under the applicant's control, as appropriate. Prior to commencement of any construction full details of proposed surface water management scheme or schemes shall be approved in writing by this Local Planning Authority. The scheme(s) shall be maintained hereafter as approved unless otherwise agreed in PQA Page 3 of 9 writing by the Local Planning Authority. Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2 and SD3.*

- *For each individual plot developed Foul Water will be managed through an individual Package Treatment Plant discharging to a soakaway drainage field on land within the legal control of that plot. The PTP and soakaway drainage field installed shall be maintained hereafter unless otherwise agreed in writing by the Local Planning Authority. Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan Core Strategy (2015) policies LD2 and SD4.*

It can be seen from the above information, together with the officer's report and delegated decision, that in terms of deliverability the LPA has thoroughly assessed the development potential of this zone and its required infrastructure provision. It has acted appropriately in attaching relevant planning conditions to ensure that infrastructure matters concerning highways, access and drainage are submitted, agreed and delivered as part of the project.

The Examiner's further questions (EFQ) and the QB's answers:

EFQ 1. I have concerns about whether site 10 is deliverable. Paragraph 6.1.28 of the NP states that the deficiencies are not so significant to hinder development. The Site Assessment Report does not state how it is proposed to achieve access to the site and refers to a previous refusal of planning permission on access grounds. Would the LPA and QB seek advice on the Highway Authority's access requirements and consider whether they can be met on this site.

QB's Answer to Examiner's Further question 1:

The questions over the deliverability of site 10 are not dissimilar from those related to the adjacent site on the frontage land between The Bell and the Business Park which has recently been granted planning permission. Any perceived impediments for the delivery of development on site 10 could be appropriately dealt with through pre-commencement planning decisions in line with those imposed on planning permission Ref: 180985.

The draft NDP allocation for Site 10 set out an upper limit of 8 dwellings. There is now an opportunity for a possible reduction in numbers as 4 dwellings have been permitted in Tillington, under planning permission 180985, making a reduced overall requirement for the Tillington zone of 10 dwellings in total down from the 14 dwellings originally set out in the draft NDP.

In terms of the access and visibility the pre-commencement highway conditions for PA:180985 will open up any perceived restrictions in the highway visibility splays in either direction along the C1095. The proposed footway extension shown on Drawing No 16/800.01D will provide part of the much needed pedestrian connectivity across part of the frontage. Furthermore, there is likely to be ample land within the same ownership of site 10 which could be available to provide space for drainage infrastructure.

EFQ 2. What were the reasons for refusing planning permission on site 25 NE of Cherry Orchard, Tillington? Is there any reason to consider that these reasons are insurmountable so as to make the site undeliverable?

QB's Answer to Examiner's Further question 2

Planning permission was not refused for this site (Ref:180094), but the planning application for 10 dwellings was withdrawn by the applicant before its determination date.

At the time of the planning application it was the view of the QB that "The site is suitable for only 6 dwellings as outlined in the BNDP and not 10 dwellings as proposed in the planning application." The QB holds to this view that 10 dwellings are too many for this site and that 6 dwellings would be an appropriate upper limit. There is now an opportunity for a possible reduction in numbers as 4 dwellings have now been permitted in Tillington, under planning permission 180985. This recent contribution makes a reduced overall requirement for the Tillington zone of 10 dwellings in total down from the 14 dwellings originally set out in the draft NDP.

In terms of the access and visibility the pre-commencement highway conditions for PA:180985 will open up any perceived restrictions in the highway visibility splays in either direction. The footway extension will provide part of the much needed connectivity along the C1095 highway frontage.

In terms of drainage, with a reduction in numbers, there is likely to be ample land within the same ownership of site No 25 to provide space for private drainage infrastructure.

EFQ 3. Has any assessment been undertaken to consider the feasibility of sewage disposal and waste water disposal from the housing allocations particularly the two sites in Tillington? Would they have to rely on private sewage treatment plants? In which case how would this satisfy Policy B13 c)? The Environment Agency has also stated that robust confirmation should be provided that development is not impacted by flooding and that there is sufficient waste water infrastructure to accommodate growth.

QB's Answer to Examiner's Further question 3

The two sites in Tillington have similar sewage disposal and surface water attenuation requirements to those associated with planning permission Ref: 180985. For private arrangements the LPA has considered it appropriate that these matters can be effectively dealt with through planning conditions. The QB accepts that this would be a satisfactory method of ensuring developers meet the requirements of Policy B13 c), the recently published Herefordshire Council's SuDS Handbook on both foul and surface water and the overarching requirements of Section H2 of The Building Regulations for private systems.

In the longer term the QB is liaising with parishioners on the options for first time sewerage in the Tillington area. Flyers have been circulated to parishioners and at present the QB is analysing feedback. This matter was also covered in the QB's rebuttal submission to The Examiner, as follows:

Lack of Infrastructure in Tillington:

It has been claimed that the lack of sewerage infrastructure inhibits development to the extent that the selected sites would be unable to proceed.

It is a common occurrence with rural areas that sewage disposal has to be done through private means, either by septic tank or PSTP's with their necessary drainage fields providing tertiary treatment. These installations generally require a 15m spacing from habitable buildings and providing ground absorption rates are adequate and properties not too close the required compliance can be achieved with the constraints imposed by the regulations. These private means of treatment affect the chemical balance of the of the ground and an over concentration of units can cause pollution within the river catchment.

Tillington is approximately 800m from the head of the gravity sewer. Aside from providing for new development, when a developer can requisition a sewer from the service provider though using s98 of the Water Industry Act of 1991, the utility provider will also consider providing for existing development under s101A of the same Act.

Within the Tillington and Tillington Common areas the BPC is aware of pollution problems caused

by the inadequacy of existing private sewage treatment systems. It is also aware that the lack of infrastructure could frustrate the delivery of both extant planning permissions and those permissions which might be granted for selected NDP sites. In attempt to solve these problems the BPC has commenced collating information with a view to making a formal submission to the service provider (Welsh Water). The submission will request the service provider to research the economics of providing first time sewerage to serve existing development. In this assessment the service provider will also anticipate the potential revenue to be derived from proposed sites bearing in mind that the capital cost of any scheme is balanced against this revenue source from connected properties through many years of future use.

EFQ 4. Criterion d) of Policy B1 states that new housing development should not be located adjacent to industrial or commercial activities. However Site 10 lies adjacent to the Tillington Business Park. Are there any businesses on the business park that are likely to create a nuisance to residential use on the adjacent housing site? Are there any planning conditions on the Business Park to control nuisances? Has the QB considered whether residential development on site 10 could impact on the business users on the business park?

QB's Answer to Examiner's Further question 4

The QB takes the view that the activities on the business park would not be incompatible with any nearby residential development as there are no "heavy metal" or manufacturing industries in place. The business park planning permission for a B1 Use Class was granted in 1992 and is defined as: Offices (other than those that fall within A2), research and development of products and processes, light industry being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. The shop on the site, which has a specific planning permission, has a post office counter combined with the normal shop counter. There is also a dwelling with an occupancy condition linked to the management of the business park.

EFQ 5. Has any assessment been undertaken on the solar farm site in terms of impact on the landscape, biodiversity and heritage assets? Have there been any discussions with National Grid about the ease of connectivity of the site to the electricity grid? If this work has not been undertaken I consider that insufficient evidence has been supplied to support the allocation of the site for a solar farm. In the circumstances, I shall propose that the site should not be allocated as such but should be identified in the justification as a potential site with details of the assessments that will be required as part of a planning application.

QB's Answer to Examiner's Further question 5

The QB accepts the Examiner's proposed change that this be identified as a "potential site" for a solar farm. However, the QB notes that this site is a closed landfill where land uses appropriate to its agricultural and rural setting are unlikely to come about. Part of the site is already occupied by a telecommunications mast with its compound and kiosk.

EFQ 6. Is the statement in paragraph 6.1.21 from the Herefordshire Council correct? Could an allowance be made for a number of windfalls based on past delivery rates?

QB's Answer to Examiner's Further question 6

The QB has always been concerned about what would be the appropriate "Windfall Allowance" for housing sites within the parish and has sought advice on this topic from Herefordshire Council.

*At a parish council meeting on the 8 November 2017 The Chairman of the PC reported "That a small group of Parish Councillors and the Clerk had attended a meeting this week with Herefordshire Council (HC), in attendance for HC were; Kevin Bishop (Lead Development Manager), Kevin Singleton (Team Leader Strategic Planning) and Sam Banks (Neighbourhood Planning Team Leader). They offered support and agreed the parish needed to progress with the plan, the parish needed to decide on the most favourable sites, this together with any windfalls that meet the HC Countryside policy RA3-RA5 would suffice our needs, **although the PC were advised not to rely on windfalls.**"*

*At a parish council meeting on the 9 Jan 2018 Ms Samantha Banks (Neighbourhood Planning Team Leader at Herefordshire Council), was welcomed to the meeting by The Chairman. Ms Banks explained the windfalls issue **that these cannot be relied upon for a robust plan.** Members of the public said that with the current number of windfalls the plan was sufficient without adding the preferred three sites. Ms Banks again repeated that windfalls should not be relied upon, adding that the inclusion of the preferred three sites, makes the plan infinitely more robust and more likely to succeed at examination.*

Analysing the above guidance, from its higher authority, the PC has taken the view that it cannot rely on a windfall allowance if it wants to make a successful NDP. There is no doubt that windfalls do arise, but they offer no certainty and to rely on them would place the parish in a vulnerable position in terms of land availability for development.