

# **Catshill and North Marlbrook Neighbourhood Plan 2016-2030**

**A report to Bromsgrove District Council**

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## **Executive summary**

I was appointed by Bromsgrove District Council on 16 April 2021, with the agreement of Catshill and North Marlbrook Parish Council, to carry out the independent examination of the Catshill and North Marlbrook Neighbourhood Plan.

The examination was completed solely on the basis of the written representations received, no public hearing appearing to me to have been necessary. I made an unaccompanied visit to the area covered by the Plan on 10 May 2021.

Catshill lies between the edge of the Birmingham conurbation and the expanding town of Bromsgrove. While the strategic planning context is somewhat uncertain at the present time, it seems likely that the Parish will be required to accommodate additional housing during the period of the Neighbourhood Plan, and that this will involve some rolling back of the Green Belt boundary, which is currently drawn up hard against the urban edge. A key element of my examination is how these matters are dealt with in the Plan's policies.

I have concluded that, subject to a number of recommendations (principally for changes to the detailed wording of some policies, but also involving the removal of background material on housing and treating it as an appendix), the Catshill and North Marlbrook Neighbourhood Plan would meet the basic conditions, and consequently am pleased to recommend that, as modified, it should proceed to referendum.

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*\* Note: The Plan's policies are numbered and grouped under three broad headings, as shown above. My report includes a recommendation that each policy includes a brief title to make it easier to refer to, and for convenience I have included my suggested titles in this list and in the body of the report.*

## Introduction

1. This report sets out the findings of my examination of the Catshill and North Marlbrook Neighbourhood Plan (CNMNP or NP), submitted to Bromsgrove District Council (BDC) by Catshill and North Marlbrook Parish Council in January 2021. The Neighbourhood Area for these purposes is the same as the Parish boundary.
2. Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to help local communities shape the development and growth of their area, and this intention was given added weight in the National Planning Policy Framework (NPPF), first published in 2012. The current edition of the NPPF is dated June 2019, and it continues to be the principal element of national planning policy. Detailed advice is provided by national Planning Practice Guidance on neighbourhood planning, first published in March 2014 and updated from time to time.
3. The main purpose of the independent examination is to assess whether the Plan satisfies certain “basic conditions” which must be met before it can proceed to a local referendum, and whether it is generally legally compliant. In considering the content of the Plan, recommendations may be made concerning changes both to policies and any supporting text.
4. In the present case, my examination concludes with a recommendation that, subject to the modifications set out in my report, the Plan should proceed to referendum. If this results in a positive outcome, the CNMNP will ultimately become a part of the statutory development plan, and thus a key consideration in the determination of planning applications relating to land lying within the area covered by the Parish.
5. I am independent of the Parish Council and do not have any interest in any land that may be affected by the Plan. I have the necessary qualifications and experience to carry out the examination, having had 30 years’ experience as a local authority planner (including as Acting Director of Planning and Environmental Health for the City of Manchester), followed by over 20 years’ experience providing training in planning to both elected representatives and officers, for most of that time also working as a Planning Inspector. My appointment has been facilitated by the independent examination service provided by Penny O’Shea Consulting.

## Procedural matters

6. I am required to recommend that the Catshill and North Marlbrook Neighbourhood Plan either
  - be submitted to a local referendum; or
  - that it should proceed to referendum, but as modified in the light of my recommendations; or
  - that it not be permitted to proceed to referendum, on the grounds that it does not meet the requirements referred to in paragraph 3 above.
7. In carrying out my assessment, I have had regard to the following principal documents:
  - the submitted CNMNP and certain post-submission addendums
  - the pre-submission version of the Plan
  - the Consultation Statement (December 2020)
  - the Basic Conditions Statement (December 2020)
  - the Strategic Environmental Assessment and Habitats Regulations Assessment Screening Determination (July 2020)
  - the representations made to the CNMNP under Regulation 16
  - selected policies of the adopted Development Plan for the area

- relevant paragraphs of the NPPF
  - relevant paragraphs of national Planning Practice Guidance.
8. I carried out an unaccompanied visit to the Plan area on 10 May 2021, when I looked at the overall character and appearance of the Parish, together with its setting in the wider landscape and those areas affected by specific policies or references in the Plan. Where necessary, I refer to my visit in more detail elsewhere in this report.
  9. It is expected that the examination of a draft neighbourhood plan will not include a public hearing, and that the examiner should reach a view by considering written representations<sup>1</sup>. In the present case, a request for a hearing was made by agents Avison Young on behalf of St Philips Ltd, on the grounds that this would be the most appropriate mechanism to evaluate the objections they raise to certain elements of the Plan. I disagree with this assessment: the arguments are set out very clearly in the written representations (and indeed several of the key points are also made on behalf of other interests). Consequently, I have concluded that no public hearing is required.
  10. I have addressed the policies in the order that they appear in the submitted Plan. My recommendations for changes to the policies and any associated or free-standing changes to the text of the Plan are highlighted in ***bold italic print***.

#### A brief picture of the neighbourhood plan area

11. The Parish of Catshill and North Marlbrook lies on the south-western edge of the main metropolitan area of Birmingham, about 3km to the north-east of Bromsgrove town centre. At the time of the 2011 census, the population was recorded as 6,858.
12. The Parish is bounded to the west and south by the M5/M42 motorways, and the busy A38 runs through the eastern part of the village, separating the main settlement of Catshill from the small residential element of Marlbrook. A key factor influencing the scope and content of the Neighbourhood Plan is the fact that the boundaries of the Green Belt, as presently drawn, are hard up against the existing urban area. One important effect of this is to maintain strategic gaps between Catshill and Lydiate Ash, to the north, and the expanding Bromsgrove to the south.
13. The built-up areas of the village are characterised by a wide variety of housing types, served by roads which are often narrow and winding. There is a considerable amount of post-war housing, much of which takes the form of culs-de-sac of varying length. It is also noticeable that there are very few areas of open space to relieve the density of urban development (although there are some fine views of the surrounding rolling countryside to be had from a number of locations).
14. Local employment is provided in the small shopping centre, spread along the western part of Golden Cross Lane, together with some offices, a hotel/spa and a small business park next to the M42/A38 junction. There are three schools, a doctors' and dentists' surgery, five churches and a number of pubs (one of which has recently been converted into a small Co-op). Other small-scale, commercial activity takes place on the southern fringes of the Parish. Community facilities are concentrated in the Meadow Road area, close to the shops and schools.

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<sup>1</sup> Paragraph 9(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

## The basic conditions

15. I am not required to come to a view about the “soundness” of the Plan (in the way which applies to the examination of local plans); instead, I must principally address whether or not it is appropriate to make it, having regard to certain “basic conditions”, as listed at paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The requirements are also set out in paragraph 065 of the relevant Planning Practice Guidance. In brief, all neighbourhood plans must:
- have regard to national policy and guidance (Condition a);
  - contribute to the achievement of sustainable development (Condition d);
  - be in general conformity with the strategic policies in the development plan for the local area (Condition e);
  - not breach, and otherwise be compatible with, EU obligations, including human rights requirements (Condition f);
  - not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
  - comply with any other prescribed matters.
16. The CNMNP Basic Conditions Statement (BCS) is a comprehensive document which explains the background to the preparation of the Plan, including the statutory requirements, before setting out how each of its policies sits with relevant paragraphs of the NPPF and relevant policies of the Bromsgrove District Plan (BDP). This is followed by an analysis of the degree of conformity with the wider objective of contributing to sustainable development in terms of economic, social and environmental factors. The BCS finally concludes that the Plan has had proper regard to appropriate EU regulations.

## Other statutory requirements

17. A number of other statutory requirements apply to the preparation of neighbourhood plans, all of which I consider have been met in this case. These are:
- that the Parish Council is the appropriate qualifying body (Localism Act 2011) able to lead preparation of a neighbourhood plan;
  - that what has been prepared is a Neighbourhood Development Plan, as formally defined by the Localism Act; that the plan area does not relate to more than one Neighbourhood Area; and that there are no other neighbourhood plans in place within the area covered by the plan;
  - that the plan period must be stated (in the case of the CNMNP, this is 2016 to 2030; however, this is not made explicit in the title ***and I recommend that this is done in the final version***); and
  - that no “excluded development” is involved (this primarily relates to development involving minerals and waste and nationally significant infrastructure projects).
18. A screening report is required to determine whether a neighbourhood plan needs to be accompanied by a Strategic Environmental Assessment (SEA), under the terms of the Environmental Assessment of Plans and Programmes Regulations 2004. It is the qualifying body’s responsibility to undertake any necessary environmental assessments, but it is the local planning authority’s responsibility to engage with the statutory consultees.
19. An SEA Screening Assessment was published by BDC in July 2020. In it, they conclude that the NP

will not have any significant environmental impacts, and therefore that an SEA is not required. The same applies in relation to the Habitat Regulations. Full details of the considerations which support the determination are set out in the statement, and I have been given no reasons to question any of the conclusions reached. They are supported by Natural England, Historic England and the Environment Agency, as statutory consultees in the process.

20. It is a requirement under the Planning Acts that policies in neighbourhood plans must relate to “the development and use of land”, whether within the Plan area as a whole or in some specified part(s) of it. I am satisfied that this requirement is generally met.

## **National policy and guidance**

21. National policy is set out primarily in the NPPF, a key theme being the need to achieve sustainable development. The NPPF is supported by Planning Practice Guidance on neighbourhood planning (PPG), an online resource which is continually updated by Government. I have borne particularly in mind the advice in the paragraph 041<sup>2</sup> of the PPG that a policy in a neighbourhood plan should be clear and unambiguous, concise, precise and supported by appropriate evidence.

## **The development plan and the present strategic planning context for the area**

22. Basic condition e) requires neighbourhood plans to be in general conformity with the strategic policies in the development plan for the local area: this clearly means the *adopted* development plan. However, I bear in mind the advice at paragraph 009<sup>3</sup> of the PPG which says: “Although a draft neighbourhood plan or order is not tested against the policies in an emerging local plan, the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.”
23. The principal element of the current development plan for the area is the Bromsgrove District Plan 2011-2030, adopted in January 2017<sup>4</sup>. Relevant policies establish the settlement hierarchy for the district, which identifies Bromsgrove as the main town (to be expanded), six “large settlements” (of which Catshill is one), where specific sites are identified to contribute towards meeting the district’s housing needs; followed by 17 small settlements. Paragraph 8.47 of the LP refers to the one site in Catshill selected for development, noting that it had already been completed. The NP is designed to align with the end-date of the Local Plan. It does not make any additional allocations of land for housing.
24. Bromsgrove is required to identify enough land to build 7000 new homes by the end of the BDP period (2030). While some progress has been made towards that target, the LP recognises that further housing land will need to be identified in the District after 2023, with the assumption that most of this will be found in or adjacent to the six large settlements, including some that is currently within the Green Belt. This has clear implications for Catshill, since virtually all of the open land outside the existing built-up area lies within the Green Belt.
25. A review of the BDP, with an end-date of 2040, commenced in 2018. Anticipating this, adopted Plan Policy BDP3.1 commits the Council to a full review of the Green Belt within the district as one of the steps which need to be taken to identify additional housing land. This review is therefore a

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<sup>2</sup> PPG paragraph 041. ID:41-041-20140306

<sup>3</sup> PPG paragraph 009. ID: 41-009-20190509

<sup>4</sup> this is the formal title of the Plan, but it is perhaps more commonly known simply as the “Local Plan” (or LP). I have used both references in this report.

key component in informing the roll-forward of the Plan (alongside other important matters such as the appropriate response to the revised “Standard Method” for determining housing need and the changing situation within the wider Birmingham Housing Market Area). Paragraph 8.2.5 of the NP tells us that BDC have identified three specific parcels of land relevant to the Parish whose boundaries will fall within the scope of the review.

26. NPPF paragraph 66 acknowledges that there are situations where it is not possible for strategic policy-making authorities to provide a neighbourhood planning body with a firm housing requirement figure. In these circumstances, they should provide an indicative figure if asked to do so; however, BDC has not done this in relation to Catshill. In the light of this, the NP Steering Group commissioned AECOM to undertake a housing needs assessment to consider the quantity and type of new housing that might be required over the Plan period. This is part of the evidence base (Appendix 8), and I note that it is accepted that the conclusions reached may well differ from those which will emerge from the ongoing work being carried out in relation to the review of the Local Plan. (There is objection from development interests to the inclusion of this material – and its associated site assessment exercises – which I will return to shortly).
27. The Parish Council clearly appreciate the uncertain and somewhat fluid strategic planning context summarised here, and in my view have responded in a reasonable way by deciding to press ahead with the NP in order to provide a level of local input to the decision-making process in the interim. This approach has, however, attracted some objection. A key question for my examination, therefore, is whether, or to what extent, any of the Plan’s policies might inhibit the ability of the area to meet its wider strategic needs in an orderly and effective manner.

#### **The consultation exercise (Regulation 14)**

28. This regulation requires the Parish Council to publicise details of their proposals “in a way that is likely to bring [them] to the attention of people who live, work or carry on business in the area”, and to provide details of how representations about them can be made. Regulation 15 requires the submission to the local planning authority of a statement setting out the details of what was done in this respect, and how the qualifying body responded to any matters which arose as a result of the consultation process.
29. The Consultation Statement sets out the steering group’s approach to this process from their initial discussions in 2016. It is not necessary for me to chart here all the stages of the subsequent engagement process; suffice to say that I am satisfied that the relevant statutory requirements have been fully complied with, and all those involved are to be congratulated for ensuring that the process of the Plan was not unduly interrupted by the Coronavirus restrictions.
30. I acknowledge the fact that there has been some criticism from developer interests of the detailed accounts of the responses to the Regulation 14 process. It is not within my brief to assess the validity of the concerns expressed, but it is open to the Parish Council to modify the Consultation Statement if they wish, without any further reference to me.

#### **General observations about the Plan**

31. The Plan itself is a very comprehensive document, well laid out and clearly designed to be as useful and accessible as possible. It contains many attractive photographs and clear maps, tables and other illustrative and explanatory material. Each of the policy groupings is preceded by material explaining the wider planning context, and the policies themselves are clearly differentiated from a helpful “justification” section which follows them.



32. After describing the role and scope of neighbourhood plans and the current strategic context for planning in the Parish, there is a summary of Catshill's history, population and social, economic and environmental characteristics. This is followed by material describing the early stages of consultation, which led to the adoption of the following vision statement for the Plan: *"By 2030 the Parish will have sustained and strengthened its community feel through good quality development and community amenities whilst maintaining its distinctive character and environment."*
33. The next part of the Plan document deals with the second stage of the consultation process, which focused on three topic areas. A key element of this was a move towards identifying the scope and suitability for development of 25 sites (all located within the Green Belt); I will refer to the outcome and relevance of this work shortly.
34. Section 3 of the Plan is the policies themselves, grouped under the heads of Housing and Infrastructure, Commerce and Community, and Environment. The policies are preceded by comprehensive "scene-setting", and I will deal with each of them in turn shortly. Suffice to say for the moment that there is a significant amount of material relating to deciding the amount and distribution of housing land, much of which is likely to be overtaken by events as work on the Local Plan review progresses.
35. The Plan document concludes with a short section listing intended community actions which fall outside the remit of development plan policies; another explaining how it is intended to be monitored and reviewed; a list of 13 Appendices (principally forming part of the evidence base for the Plan); and finally, an extensive and useful glossary of terms.

### **Representations received (Regulation 16)**

36. None of the statutory consultees or public bodies who responded (Historic England, Natural England, The Coal Authority, Severn Trent Water, National Grid and Worcestershire County Council) had any adverse observations to make (although STW and WCC had some relatively minor suggestions for modifications to certain policies). Support for the Plan was received from the Dodford with Grafton and Lickey and Blackwell Parish Councils. There were no representations from the general public (other than in relation to one minor issue).
37. BDC officers have worked with the NP Steering Group during the preparation of the Plan. BDC are satisfied that all the statutory requirements have been met. They note that the Parish Council are fully aware of the work being done on the review of the Local Plan/Green Belt, and that this could have implications for Catshill. They consider that the NP offers clear policy guidance for the consideration of planning applications.
38. As indicated earlier, there were several critical representations by agents on behalf of developer/land-owner interests:
  - RPS act for Gleeson Strategic Land who have an interest in land north of Braces Lane, a relatively small part of which is designated in the NP as Local Green Space;
  - Avison Young act on behalf of St Philips Ltd who control land at Stourbridge Road, which is also impacted by Policy ENV4;
  - Turleys act for Redrow Homes Ltd, who are promoting land at Washingstocks Farm through the Local Plan review process; and

- Savills act for the owners of land at Woodrow Lane/Halesowen Road.

*The approach of the Neighbourhood Plan to the housing issue*

39. In different ways, all these agents criticize the Plan for failing to give sufficient weight to the need for additional housing to be identified, as a context for the specific sites which they are promoting for release. Although not all of them raise precisely the same issues (nor do they always agree on the action which needs to be taken to address them), the following general points are made:
- the opportunity to change the existing Green Belt boundaries has not been taken;
  - the material seeking to identify housing need is superfluous, given the fact that the NP makes no specific allocations of housing land and the likelihood that the Local Plan review will indicate a need for a substantial increase in the district-level requirement; and
  - there are flaws in the site assessment processes which produced rankings for the various sites considered by both AECOM and the Parish Council itself, and so they should not be used to inform the LP review.
40. These various concerns effectively suggest either that the Plan is premature and should await the outcome of the Local Plan/Green Belt review processes; or that there is a case for the NP to release some sites from the Green Belt now - or at the very least that it should identify certain land to be particularly favoured (and perhaps designated “reserve” sites, as suggested by RPS) as an input to the LP review.
41. In my opinion, none of these conclusions is necessary, for a number of reasons. Firstly, as already noted, basic condition e) requires the NP to be in general conformity with the strategic policies in the *adopted* development plan for the local area. I have been given no evidence to suggest that this might not be the case so far as the housing context is concerned. Similarly, it is clear that the NP has had regard to “the reasoning and evidence informing the Local Plan process” in its approach to framing its own policy objectives at the same time as the review of the LP is under way.
42. Nothing here suggests that the NP is under any obligation to conduct an independent review of the Green Belt, or to consider removing any specific sites from it. In any event, this would be a partial, ad hoc exercise with no account being taken of the wider picture which it is clearly the job of the District Council to progress, and to which they are committed. For that reason, it is likely to be seen as flawed in principle. I come to that conclusion notwithstanding the terms of NPPF paragraph 135 (quoted by RPS): “ ... *Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans*”. The key word here is “may”; as RPS themselves acknowledge, this merely means “that it is within the remit” of the CNMNP to make such changes.
43. I understand the suggestions that, given the ongoing work to establish the wider strategic context for Bromsgrove, the NP need not (or even *should* not) attempt to determine questions of housing need itself nor, as a corollary, reach any conclusions about the consequences for specific sites. While there appears to be nothing in terms of national policy or advice which would discourage this, I have some sympathy with the view that it serves little purpose in the present circumstances. I do not see any evidence, as has been hinted in some representations, that this approach is a device to constrain further housing provision within the Parish; but I accept that it is right to question its utility.

44. Both the housing requirement and guidance on its preferred spatial distribution during the period of the NP are matters which will soon be resolved through the Local Plan review. This will mean that conclusions on each of these matters reached as a result of the AECOM exercises and the Parish Council's own work in this regard will be superseded (although not necessarily altered). The Parish Council clearly recognise that dynamic. I see no reason why the work which has been done locally should not be treated as an informed contribution to the LP process; however, I have sympathy with the view (expressed, for example, by RPS) that it would be preferable for it to be published as a separate document.
45. I am aware of representations querying some conclusions of the site assessment exercises. However, unless it is clear that there was some basic flaw in the approach taken, it is beyond my brief to adjudicate in any disagreement about the specific judgements reached. In any event, given the status of these exercises in the final content of the NP, limited weight is likely to be given to them should any of the sites concerned be the subject of a planning application. (I will comment later on the conclusions reached in relation to Local Green Spaces – see under Policy ENV4).
46. Having considered the representations concerning the way the NP deals in principle with the housing issue, ***I recommend that all the contextual material be separated from the Plan itself and attached to it as an appendix, with the suggested title of "Housing Requirement Position Statement". This relates principally to the following sections:***
- ***paragraphs 6.8 and 6.9/Figure 4;***
  - ***paragraphs 6.15 and 6.16 and the accompanying table showing all the sites considered;***
  - ***paragraphs 8.4.1 to 8.5.14 inclusive.***
47. ***In substitution, the following paragraph should be inserted after paragraph 8.3.3:***
- "Appendix .. details the methods adopted by these studies and their outcomes. It is not intended that the conclusions reached should substitute for the ongoing work being carried out by the District Council on housing need or the extent of Green Belt within the District, rather that they should be seen as contributions to those exercises. The policies in this Neighbourhood Plan are not directly impacted by any of the detailed conclusions reached by the studies referred to".***
48. ***In addition, consequential minor amendments should be made to other paragraphs of the Plan as necessary.***
49. I see no reason in principle why the results of the work done to identify the *mix* of housing required should not be retained in the Plan document itself. This relates primarily to the content of sections 8.6 to 8.8 inclusive, which deal with the type and size of dwellings, affordability and tenure, and which are designed principally to support Policy H2.
50. It is convenient here to refer to concerns expressed by both RPS and Savills to suggestions in the Plan that development of large sites is to be discouraged (eg at paragraph 6.6, point 3). The view is that it is only larger schemes that are capable of generating the infrastructure (both physical and social) that would be needed to ensure a sustainable approach to development. I understand the point (and it is something which the itself Plan recognises – see Appendix 7, paragraph 4.4) but do not see that the few comments that are made about this in the Plan would inhibit in principle a positive approach being taken to such schemes. In any event, none of the Plan's policies (as opposed to supporting material) have anything to say on the matter - and indeed it would be premature for it to do so, since it is the Local Plan which will determine the scale and broad location of new development in Bromsgrove. In the interim, the principles set out in Policies H1-

H4 will provide sufficient guidance to enable consideration of any planning applications which might come forward.

## The policies

51. Unless otherwise stated, I have concluded that, subject to any recommendations, each of the Plan's policies satisfies the basic conditions. I have therefore not made that point separately under each policy head.

## Housing and infrastructure policies

### Policy H1: Criteria for major new housing development

52. This policy seeks to establish criteria for the acceptability of major new residential schemes (10 or more dwellings), the first two being either that the site is released from the Green Belt after the GB/LP review or that it is "brownfield" land within the existing urban area. Given my view about how the strategic issue should be handled, and the support in the NPPF (for example at paragraph 117) and in Local Plan Policy BDP2.1a) for priority to be given to brownfield development, ***these two criteria are superfluous and I recommend that they be deleted.*** This in no way dilutes the substantial weight to the protection of Green Belt land which is currently afforded by national and local policies. My recommendation would also deal with concerns expressed by Avison Young about the absence of any reference to the "very special circumstances" test.
53. The remaining five criteria deal with the need to ensure that existing gaps between Catshill and Bromsgrove Town, and North Marlbrook and Lydiate Ash are maintained; that impacts on highway safety and the road network are minimised; that sustainable access arrangements are made; that visual impact is considered; and that, where possible, landscaped links are made to the Green Infrastructure Network.
54. If my over-arching recommendations in relation to housing are accepted, ***I further recommend that the first three paragraphs of the justification to Policy H1 are deleted and relocated to the new appendix.***

### Policy H2: Housing mix in major new developments

55. Work on the Plan included a housing needs assessment (HNA) carried out by AECOM that (as well as considering the overall figures) concluded that the limited supply of smaller homes within the Parish was contributing to a decline in the resident population of younger adults, including those with families. Other deficiencies identified included social housing tenure and homes for older people. Policy H2 supports a mix of housing types in schemes of 10 or more dwellings, including sufficient affordable housing in line with the District Council's targets. As I have previously explained, I have taken the view that the conclusions of the HNA exercise in respect of the desirable *mix* of housing need not be dealt with in the same way as those relating to the overall *numbers*.
56. RPS and Savills are concerned about the way the policy is expressed. I agree with a number of the points they make, in particular that, as currently worded, it might be taken to require all schemes of 10 dwellings or more to meet all four of the criteria a) to d) – although I doubt if that was the intention. In addition, the policy requires proposals to be "consistent with the findings of the AECOM HNA assessment or subsequent studies". If taken literally, this would be an over-prescriptive approach which would unreasonably constrain consideration of specific schemes on

their merits.

57. ***I recommend that the preamble to Policy H2 be reworded thus: “New residential development in the Parish of more than 10 dwellings will be supported where it provides a mix of housing types, tenures and sizes, in a way which broadly reflects the findings of the AECOM Housing Need Assessment or subsequent studies. In particular, schemes that would provide some or all of the following will be supported in principle:”***
58. Savills also are concerned about AECOM’s suggestion that bungalows are needed to cater for older residents; however, I am not required to consider the detailed content of the HNA to this extent, and my last recommendation should enable sufficient flexibility in the development management process to avoid over-prescription.

### **Policy H3: Design principles**

59. This policy sets out nine design principles which development proposals are required to have “considered and applied”, with reference in particular to the Catshill and North Marlbrook Design Guide (prepared for the Parish Council by AECOM), in combination with BDC’s High Quality Design Supplementary Planning Document (SPD) (2019).
60. While there will undoubtedly be room for variation in the way these principles are applied “on the ground”, they represent an agenda which will provide the necessary guidance for developers. RPS consider the Design Guide itself to be overly prescriptive and not as “concise and positive” as advised by Planning Practice Guidance<sup>5</sup>. Savills have broader concerns about the use of design codes. Having looked at the document, I have some sympathy with some of these comments. However, Policy H3 properly restricts itself to requiring regard to be had to the identified principles; the weight to be given to specific provisions in the Guide will be a matter for detailed interpretation as part of the normal development management process.

### **Policy H4: Windfall sites**

61. Policy H4 supports the principle of development within the existing built-up areas of the Parish, so long as four broad criteria are satisfied. These are designed to ensure that the existing character of the area is respected, and in their own terms are reasonably expressed. The justification to the policy, however, goes further by saying that schemes should “comply with the design and layout requirements of the District Council’s SPD... and the AECOM Design Guide”.
62. Development Plan policies should not suggest (or give the impression) that guidance is effectively mandatory and so must be *complied* with. ***I recommend that the justification to Policy H4 be reworded: “Proposals for small-scale housing developments in the urban part of the Parish will be treated positively providing they respect the existing character of the area and have regard to the design and layout guidance as set out in the District Council’s ‘High Quality Design Supplementary Planning Document (2019)’ and the AECOM Design Guide”.***

### **Policy H5: Extensions and alterations to properties**

63. This is a very general requirement for extensions and alterations to fully take into account the characteristics of the existing building.

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<sup>5</sup> Paragraph 005 Ref: 26-005-20191001

## Commerce and community policies

### Policy COM1: Golden Cross Lane local centre: fast-food units and restaurants

64. Policy COM1 targets a specific issue, referred to in the justification paragraph, which is that over 50% of the units within the Catshill local centre are said to be in use as fast-food or restaurant businesses. The policy bluntly states that “proposals for further ones will not be supported unless a new outlet replaces an existing one”, on the grounds that this is needed to protect the existing retail offer and discourage trips to other centres. I have not been able to find anything substantive in the evidence base which explains how the policy was arrived at – the issue was hardly mentioned in Appendix 2, which deals with the results of the consultations with business interests.
65. I have considerable sympathy with the general aims of a policy designed to support an area’s local centre, but there are difficulties with COM1: firstly because its relationship with the Local Plan is not clear and secondly because it needs to be reconsidered in the light of recent changes to the Use Classes Order.
66. The BCS says that Policy COM1 is in conformity with Local Plan Policy 25.6. This only deals with hot-food takeaways (at that time falling within Use Class A5, but now *sui generis* – ie, in no class, or in a class of its own) and seeks to prevent concentrations of this use exceeding 5% of units within a centre (other provisions apply). It is therefore difficult to understand how these two policies are to be taken together, especially since the NP policy includes restaurants (and presumably cafes) whereas the LP policy does not. Even without this element of difference, it is not clear how the NP policy would be any more effective in achieving the stated aims than LP Policy 25.6. The partial duplication would be confusing both to the public and decision-makers. Moreover, cafes and restaurants are not generally considered to be harmful in terms of strategies for regenerating local shopping centres (although the NPPF is silent on the matter).
67. In any event, these uses now fall within the same Class (E) as a wide range of other high street uses, including shops. This means that the change of use of a shop unit to a café or restaurant is beyond planning control; and while an application would still be required to change from a shop to a takeaway, this must severely limit the ability of the policy to achieve its stated aims.
68. ***I recommend that Policy COM1, together with its justification, be deleted.***

### Policy COM2: Golden Cross Lane local centre: design of shopfronts and external areas

69. This policy requires proposals for new or replacement shopfronts in the local centre to “accord with the principles” set out in the Design Guide. This formulation is entirely appropriate since it does not require compliance with specific elements of the Guide. The seven particular aspects of design that are highlighted by the policy are also expressed with suitable flexibility, as is the support which is given to unifying and improving the appearance of the open areas associated with existing shops. As a minor point, ***I recommend that the title of the policy reflect the inclusion of this latter element.***<sup>6</sup>

### Policy COM3: Support for existing business uses

70. Policy COM3, in part, covers similar ground to Policy COM1 in that it is intended to provide what support is possible to the existing businesses in the Parish, including shops. The policy and its justification sensibly recognise the limitations here, but there is nothing that need be the subject

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<sup>6</sup> As can be seen, I have adopted this change for the purposes of my report.

of any recommendation.

#### **Policy COM4: New start-up businesses**

#### **Policy COM5: Homeworking**

71. Policy COM4 is a straightforward statement of intent to encourage local enterprise where there would be no adverse impact on the living conditions of neighbouring occupiers or on highway safety. COM5 is similar and relates specifically to homeworking, which would be supported “provided the activity is subordinate to the primary use of the building”. However, homeworking would not necessarily require planning permission (as is noted in the justification to the policy); one of the usual tests being whether or not the primary use of the premises would continue to be residential. The caveat is therefore likely to be redundant, and the policy itself would be of no effect if no material change of use is involved. ***I recommend that the policy be reworded: “Proposals involving homeworking which require planning permission will be supported in principle, providing the activity will not adversely affect the living conditions of neighbouring residents”.***

#### **Policy COM6: Retention of community facilities**

#### **Policy COM7: Enhancement of community facilities**

72. Between them, these two policies set out broad criteria designed to protect community facilities and to support their enhancement. The facilities themselves are not defined or identified in either policy, but six buildings are listed in paragraph 9.3.1<sup>7</sup>, four of which are connected with churches, the others being the village hall and a social club. For clarity, the facilities should be listed in the policies. In addition, the reference to the Use Classes Order is not entirely helpful. For these reasons, ***I recommend that Policies COM6 and COM7 be replaced with the following.***

##### ***“Policy COM6: Retention of community facilities***

***The community facilities listed below will, wherever practicable, be retained unless it can be demonstrated that a facility is no longer economically viable or that an equivalent or enhanced facility will be provided on the same site or in a more appropriate location:*** [Follow with the list of buildings set out in paragraph 9.3.1].

##### ***Policy COM7: Enhancement of community facilities***

***Proposals to enhance the facilities listed in Policy COM6 will be supported providing ...”*** [then continue policy as currently worded].

#### **Environment policies**

#### **Policy ENV1: Green infrastructure network**

#### **Policy ENV3: Enhancement of blue/green corridors**

73. I have taken these two policies together because they cover similar ground, although the differences between them are not readily apparent. ENV1 is designed to ensure the integrity of the key “green” assets of the Parish and to enhance their value by improving links to them. ENV3 also deals with improving environmental links, although the reference is to “blue/green corridors”. The Green Infrastructure Network to which these objectives relate is said to be shown on the Policies Map (Figure 14): however, the key to this does not include the terms “green infrastructure

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<sup>7</sup> This paragraph says that the facilities concerned are shown on “figure 3”; however, there are two figures showing the location of services and facilities in the Parish, 3a and 3b, and only 3a seems to show the assets referred to in the policies. There is a need for this cross-referencing to be clarified.

network” or “blue corridor”, and so it is not a straightforward matter to understand which features shown on the map are parts of the strategic network for the purposes of the policies. In addition, three “potential new green corridors” are shown on the Policies Map, which are said to relate to Policy ENV3, but there is no mention of them either in the policy or its justification.

74. Rather than attempt to interpret the intentions here myself, ***I recommend that the two policies be reworded in a way which removes the difficulties of interpretation to which I have drawn attention. In doing this, it should be made clear that the enhancements referred to in the first sentence of Policy ENV3 will only be sought “where appropriate”. Consequential modifications to the Policies Map will be required (see also my recommendations in relation to Policy ENV4).***

#### **Policy ENV2: Landscaping in major new housing proposals**

75. This policy would require a particular approach to the landscaping of larger schemes (10+ dwellings). I do not agree with Savills’ view that it needs to make it clear that landscaping should not be a matter for consideration as part of an outline application. In practice, this would rarely be an issue anyway, but the local planning authority should have freedom to consider each case on its merits.

#### **Policy ENV4: Local green spaces**

76. Policy ENV4 gives effect to NPPF paragraphs 99-100: *“The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them... Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period. The Local Green Space designation should only be used where the green space is:*

- a) in reasonably close proximity to the community it serves;*
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- c) local in character and is not an extensive tract of land.”*

77. Six areas of land are proposed for protection as local green spaces (LGS), with Appendix 12 (which also deals with the identification of formal open spaces) forming the evidence base for their selection. Both the methodology and the conclusions reached have been the subject of significant objection by developer interests, especially by RPS on behalf of Gleesons (LGS2, land north of Braces Lane) and Avison Young on behalf of St Philips (LGS6, wooded area to the south-east of the M5). Both parties argue that there are flaws in the way the LGS exercise was carried out and that, if their sites remain protected, this would (to different degrees, and for different reasons on the ground) inhibit the development of land in sustainable locations with clear potential to contribute to the housing needs of the area. It would also result in pressure to release other, less sustainable sites.
78. The extent to which it was possible to view these sites from the public realm was somewhat limited, but I was satisfied in all cases that criteria a) and c) of NPPF paragraph 100 are likely to have been met. I do, however, share some of the concerns about the way criterion b) has been considered, especially having considered the detailed analysis by RPS.
79. That said, I consider the more significant issue for my examination is whether there is any point in



seeking added protection for land which lies within the Green Belt (at least for the time being)<sup>8</sup>. This is the case with five of the six sites. Moreover, were the NP to designate all of them as LGS, there must be a risk that the status of some of them would be changed following the conclusions of the Green Belt/Local Plan review. This could well result in some justifiable criticism of the effectiveness and credibility of the local planning system, especially since it could be seen as conflicting with NPPF policy: *“Local Green Spaces should ... be capable of enduring beyond the end of the plan period”*.

80. It would seem unlikely that LGS3, which is not in the Green Belt, and which is surrounded by housing, would be involved in the strategic exercise, and so it could safely be designated for protection under Policy ENV4. I take a similar view of LGS5: only part of this lies within the Green Belt, and it is intimately related to an existing amenity space and a proposed green corridor associated with a recently-completed housing development.
81. Savills ask for clarification of the meaning of the requirement that development should not detract from the openness or special character of a local green space, but I consider this to be a matter which can be adequately addressed if and when a proposal comes forward.
82. For the record, I see no evidence to support the charge (levelled by RPS) that Policy ENV4 is designed to undermine the outcome of the wider housing needs exercise (PPG paragraph 007); nevertheless, my broad reservations remain. Given my observations, ***I recommend that Policy ENV4 be replaced with the following: “The parcels of land shown as LGS3 and LGS5 on the Policies Map are designated as Local Green Spaces to be protected from development. Development that would detract from their openness or special character will not be supported unless it can demonstrate that the benefits of the scheme would outweigh the harm to the Local Green Spaces. Further sites will be considered for protection under this policy following the completion of the Bromsgrove District Plan Review”.***
83. ***I also recommend that a further paragraph be added to the justification to the policy which explains that four other sites were originally considered for inclusion, but that it would be premature to designate them before the completion of the district-level exercise; however, in the interim, they all remain in the Green Belt and so continue to be protected from inappropriate development.”***
84. ***If these recommendations are accepted, Figure 14 (the Policies Map) will require modification. As part of this, I recommend that the term “Green Spaces” in the key be replaced with “Local Green Space”.***

#### **Policy ENV5: Existing open spaces and outdoor facilities**

85. Five areas of formal open space, sports and recreational land are identified and are to be kept free of any development unless there are exceptional circumstances to justify a change, in which case a suitable replacement has to be found.

#### **Policy ENV6: Provision of open and recreational space in major new housing schemes**

86. This policy seeks to ensure that larger housing schemes make adequate provision for open and recreational space “in accordance with policy BDP25 or future standards adopted by the District Council”. This reflects an identified deficit in provision of these facilities within the Parish.

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<sup>8</sup> NPPF paragraph 101 also raises this issue.

87. However, Local Plan Policy BDP25 does not, in fact, contain standards which need to be met by development proposals, although it does set out district-wide targets for the quantity and accessibility of a range of open land assets based on population and travelling time. BDP25.2 then states that *“it will be impractical and inappropriate to deliver all the open space typologies on every site as the quality of sites varies, and enhancement will be based on the conditions of the relevant facilities at the time. Where provision standards are not available, contributions will be negotiated..... ”*. In addition, LP Policy BDP25.3 opposes the loss of existing recreational assets (unless certain criteria are met) and Policy BDP25.4 provides for appropriate compensatory measures.
88. NP Policy ENV6 therefore effectively duplicates these Local Plan policies, while at the same time introducing an unhelpful element of uncertainty. Development schemes coming forward can satisfactorily be considered against the LP requirements; that may result in physical provision being made on-site or off-site, or for financial contributions to be made in lieu, all against the background of the wider picture.
89. For these reasons, ***I recommend that Policy ENV6 be deleted.***

#### **Policy ENV7: Significant views**

90. The Policies Map schematically shows the locations of two important views within the Parish, and Policy ENV7 seeks to protect the outlook and features which contribute to them. ***They are not actually named in the policy, and I recommend that this be done.*** Savills say the policy should say something about the need to avoid sterilising development, but I do not consider this necessary.

#### **Policy ENV8: Sustainable design and construction**

#### **Policy ENV9: Sustainable drainage**

#### **Policy ENV10: Hard surfacing in householder proposals**

91. It is convenient to take these three policies together. The first is a very generalised requirement for the design and construction of new development to aim for a high level of sustainability. It does not, as Savills seem to suggest, require the achievement of zero or very low carbon emissions: a more nuanced explanation is contained in the justification section, which ought to meet the concern that the policy is too onerous.
92. ENV9 requires the provision of sustainable drainage systems to minimise flooding and contribute to the green infrastructure network. The justification to the policy says that this requirement relates to *major* development proposals: ***I recommend that the opening of the policy be reworded to make this clear.***
93. Policy ENV10 discourages the use of impermeable materials where householders introduce hard surfaces for parking (in the circumstances where planning permission is needed).

#### **Community actions**

94. Chapter 11 of the Plan contains a list of actions and projects which the Parish Council supports, in some cases involving collaborative work with other organisations. These are properly differentiated from the land-use policies of the Plan itself.

## Implementation, monitoring, review and revision

95. The Plan concludes (Chapter 12) with a short statement which commits the Parish Council to producing an annual progress report<sup>9</sup>, with a full review of the Plan every five years (or sooner if the circumstances warrant). Savills say this should include specific triggers which would prompt the need for a review, but I see no need for this, given the clear commitment to act appropriately, as the context for the NP changes.

## List of policies

96. The Plan concludes with an easily referenced list of all the policies in the Plan. This is helpful but ***will need to be re-visited in the light of my recommendations.***

## Conclusions on the basic conditions

97. I am satisfied that the Catshill and North Marlbrook Neighbourhood Plan makes appropriate provision for sustainable development, while establishing principles which are designed to accommodate new development in a way which ensures that it is successfully integrated into the existing physical and social context. In particular, I consider that the Plan would generally serve an important and useful purpose in the context of the ongoing review of the Bromsgrove District Plan. I conclude that in this and in all other material respects, subject to my recommended modifications, it has appropriate regard to national policy. Similarly, and again subject to my recommended modifications, I conclude that the Plan is in general conformity with the strategic policies in the Development Plan for the local area. There is no evidence before me to suggest that the Plan is not compatible with EU obligations, including human rights requirements.

## Formal recommendation

98. I have concluded that, provided that the recommendations set out above are followed, the Catshill and North Marlbrook Neighbourhood Plan would meet the basic conditions, and I therefore recommend that, as modified, it should proceed to a referendum. Finally, I am required to consider whether the referendum area should be extended beyond the neighbourhood plan area, but I have been given no reason to think this is necessary.

David Kaiserman BA DipTP MRTPI, Independent Examiner

3 June 2021

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<sup>9</sup> It might be helpful if references in paragraph 12.1 to an annual review be replaced with reference to an annual monitoring report (as in paragraph 12.2) in order to distinguish this from the full review described in paragraph 12.3.

## APPENDIX 1 – SUMMARY TABLE OF RECOMMENDATIONS

Examiner's report paragraph	NP reference	Recommendation
17	Title	<ul style="list-style-type: none"> <li>make Plan period explicit in Plan title</li> </ul>
46-48	Chapter 8: Housing	<ul style="list-style-type: none"> <li>move contextual material on housing requirement to an appendix to the Plan</li> <li>in its place, insert suggested text after para 8.3.3</li> <li>make consequential minor amendments to text as necessary</li> </ul>
52	Policy H1	<ul style="list-style-type: none"> <li>delete criteria 1 and 2 of policy</li> </ul>
54	Policy H1	<ul style="list-style-type: none"> <li>delete first three paragraphs of policy justification and relocate to new appendix</li> </ul>
57	Policy H2	<ul style="list-style-type: none"> <li>reword preamble to policy as suggested</li> </ul>
62	Policy H4	<ul style="list-style-type: none"> <li>reword policy justification as suggested</li> </ul>
68	Policy COM1	<ul style="list-style-type: none"> <li>delete policy and its justification</li> </ul>
69	Policy COM2	<ul style="list-style-type: none"> <li>note suggested policy title</li> </ul>
71	Policy COM5	<ul style="list-style-type: none"> <li>reword policy as suggested</li> </ul>
72	Policy COM6 Policy COM7	<ul style="list-style-type: none"> <li>replace policies with suggested wording</li> </ul>
74	Policy ENV1 Policy ENV3	<ul style="list-style-type: none"> <li>reword policies</li> <li>make consequential changes to Policies Map</li> </ul>
82-84	Policy ENV4	<ul style="list-style-type: none"> <li>reword policy as suggested</li> <li>add further paragraph to policy justification</li> <li>make consequential changes to Policies Map</li> </ul>
89	Policy ENV6	<ul style="list-style-type: none"> <li>delete policy</li> </ul>
90	Policy ENV7	<ul style="list-style-type: none"> <li>name the significant views within the policy</li> </ul>
92	Policy ENV9	<ul style="list-style-type: none"> <li>reword first sentence of policy</li> </ul>
96	List of policies	<ul style="list-style-type: none"> <li>update to reflect the changes recommended above.</li> </ul>