

should not result in less development than specified in other parts of the development plan which cover the same area.

We further note that Annex A of NPPF states that where neighbourhood plans have already been submitted, the qualifying body may choose to withdraw the plan and update it to take account of this Framework.

Whilst this is a matter for Brereton Parish Council, if the BNP is not with drawn and updated, it risks becoming immediate obsolete in terms of its effectiveness. We expand on this below.

Procedural points

The Levelling-up and Regeneration Act 2023 (LURA) received Royal Assent and became law on 26 October 2023. The provisions of Sections 98 and 99 of the Levelling Up and Regeneration Act (LURA) 2023 came into force on 25 March 2026. This means that the new requirements for neighbourhood plans came into immediate effect at that time, and those parties preparing neighbourhood plans or examining neighbourhood plans should do so in accordance with the new legal requirements.

The new Basic Conditions make it clear that neighbourhood development plans must not result in an authority's development plan providing less housing than it would without the neighbourhood plan.

In the case of the BNP, the Basic Conditions are listed on page 4. These have not been updated since the LURA Regulations came into effect. It is unclear as to whether the BNP has undertaken any assessment as to whether the policies it now advances would meet these new Basic Conditions, within the context of housing growth in Cheshire East.

Page 4 of the BNP states that the document is essentially a review of the previous BNP, noting that one factor triggering the BNP review was the adoption of the Cheshire East Site Allocations and Development Policies Document (SADPD) in 2022 and updated National Planning Policy Framework (NPPF) in December 2024.

We note that the Cheshire East SADPD followed on the Local Plan Strategy Document, adopted in July 2017, and is approaching 10 years old. The SADPD sought to allocate land and did not amend the overall housing growth strategy that was established via the Local Plan Strategy (part 1 Local Plan). In December 2024, the standard methodology was introduced and immediately became the relevant housing requirement for Cheshire East because the strategic policies were already out of date at that point.

Cheshire East Council has accepted that relevant policies that restrict housing growth are out-of-date. Further, the Council accepts that it cannot demonstrate a robust supply of land either over a 5-year period or across the remained of the current plan period. Numerous planning applications and appeals have further ratified the point that the Cheshire East strategy for housing is out-of-date.

Clearly in the preparation of the BNP, the Parish Council recognises this context as far back as December 2024. We further note that the Parish Council is well-aware of the new standard housing methodology, which now stands at 2,530 dwellings per annum, and increase of 41% over the 10-year-old Local Plan Strategy.

Despite this knowledge, the Parish Council has continued to pursue the BNP strategy without any desire to allocate any land. Instead, it seeks to introduce a very onerous and restrictive policy framework that will prevent residential development. It is our submissions that such an approach does not meet the Basic Conditions as noted above.

New Local Plan for Cheshire East

In parallel to the BNP consultation, Cheshire East Council is consulting upon its new Local Plan to cover the period up to 2045. This document provides relevant context of planning and housing growth in Cheshire East. Whilst at an early stage, the **Local Plan Scoping** clearly sets out that the Local Plan for Cheshire will need to address:

- The need to provide for **2,530 dwellings per annum** – which is a 41% increase.
- Greater growth in the rural area, which represents **18% of the population**.
- A full review of the settlement hierarchy.
- The need to consider delivery in **all tiers** of the hierarchy and allocate land in rural centres and villages.
- The need to allocate land where it can support the **vitality of local services**.
- A review of the Jodrell Bank buffer zone.
- The need to meet affordable housing needs.
- Local employment opportunities.

This context represents a change in the growth strategy for Cheshire East. The Local Plan Strategy and Site Allocations DPD chose not to allocate land in service and infill villages. This has proven to be a flawed approach, a fact which underpins the very review of the Local Plan.

The BNP as drafted, does not recognise the role that places like Brereton will need to undertake in delivering the growth. Brereton is an attractive settlement with a degree of local services and a primary school (with falling pupil roll). It is capable of supporting small and medium sized housing schemes. Instead, the BNP contains several, onerous policies that have the effect of limiting practically all SME development projects. For this reason, it does not meet the Basic Conditions tests.

New NPPF

Coinciding with the BNP and Cheshire East Local Plan Scoping consultations is the release of the new National Planning Policy Framework. This marks a different approach to Neighbourhood Plans.

Policy PM5 - This Policy stipulates that Neighbourhood Plans need to allocate land for development. It explicitly states:

PM5: Neighbourhood plans

1. **Neighbourhood plans** allow local communities to plan positively for their areas by identifying and addressing community priorities that can be met or supported through the planning system. They should do this by:
 - a. Allocating land to meet the development needs of their designated area, where it is appropriate to do so; and
 - b. Setting out policies which address particular local issues. These should relate to site-specific matters or, where appropriate, may cover wider issues such as the provision of infrastructure and community facilities, regeneration opportunities, design requirements (including design codes), local environmental improvements and the conservation of local heritage assets.
2. The contents of a neighbourhood plan should not result in less development than specified in other parts of the development plan which cover the same area.

Policy PM17 – This Policy requires the examination of Neighbourhood Plans to have regard to national policies *and* advice contained in guidance issued by the Secretary of State. This includes the various national position statements, standard methodology and Written Ministerial Statements supporting the Government’s ambition of building 1,5m new homes by 2029. Relevant extract below:

PM17: Examining neighbourhood plans

1. **Neighbourhood plans** must meet certain ‘basic conditions’ and other legal requirements before they can come into force. These are tested through an independent examination before the neighbourhood plan may proceed to referendum.
2. The basic conditions include consideration of whether, having regard to national policies and advice contained in guidance issued by the Secretary of State (which includes policy PM6(1)(c) in this Framework that development plans should not include policies which duplicate, substantively restate or are inconsistent with the content of national policies for decision-making), it is appropriate for the neighbourhood plan to be ‘made’.

Policy S6 – This policy relates to the weight be attached to Neighbourhood Plans as part of decision-making process. It states that where there is a conflict with a Neighbourhood Plan, the benefits of approving development would be substantially outweighed by the adverse effects, providing that the Neighbourhood Plan contains allocations. Therefore, to be effective in the future. The BNP should consider allocating land now.

The relevant extract is below:

S6: Neighbourhood plans and the presumption

1. For development proposals involving the provision of housing, the benefits of approving development are likely to be substantially outweighed by the adverse effects where a proposal would conflict with a neighbourhood plan, provided the following apply:
 - a. The neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and
 - b. The neighbourhood plan contains allocations to meet its identified housing requirement (see policy HO2).

We further note that criterion b. of Policy S6 1(b) refers to allocations meeting identified housing requirements and a cross reference to Policy HO2. Policy HO2 is relevant because it requires local planning authorities to set a housing requirement figure for designated neighbourhood plan areas. In cases where it is impractical to do this, NPPF requires the local planning authority to set an indicative figure instead. The relevant extract is below, which notes that the neighbourhood plan requirement must be evidenced.

5. In the case of local plans, a housing requirement figure should also be set for designated neighbourhood plan areas, unless it is impractical to do so (because a neighbourhood planning area has been designated at a late stage in the local plan preparation process, or after the plan has been adopted, or in instances where the local plan is out of date; in which case the local planning authority should provide an indicative figure instead). This requirement figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority. Local planning authorities should avoid setting housing requirement figures for neighbourhood planning areas at nil other than where:
 - a. The local plan already meets or exceeds the housing need figure for the neighbourhood planning area; or
 - b. The neighbourhood planning area has a clear and well evidenced need for no additional housing; or
 - c. The constraints within the neighbourhood planning area are so substantial as to preclude any additional housing of any kind from coming forward.

In the case of the BNP, there is a clear need to pause and consider the need to identify local needs and allocate land accordingly. It is a clear case that the Neighbourhood Plan is being rushed through to seek to avoid such provision. However, in doing so, this means that the Basic Conditions are not met, and the BNP will prove ineffective.

Policy submissions

Turning now to the specific policies, we wish to comment as below on several of the specific points in the BNP, in line with the wider and procedural comments above.

Vision statement

The statement on page 5 describes the whole of Brereton parish as a 'Green Gap'. Clearly this is not a credible approach. The Cheshire East Local Plan at Policy PG13 allows for localised Green Gaps to be designated in Neighbourhood Plans **where this is justified and where there an obvious gap needed to maintain local character**.

The wording of this part of the BNP appears to promote a notional Green Gap across all of the neighbourhood plan area. This would have the effect of an unjustified, blanket constraint on all development and make it nearly impossible to bring forward development to meet identified needs. Such an approach is entirely contrary to NPPF.

Objectives

We object to Objective 1 as drafted. Brereton has not identified its own housing needs as part of the BNP, nor has it defined what is meant by a 'sensitive' housing strategy. This is ambiguous and there is no such planning terminology elsewhere.

Cheshire East needs are 2,530 dwellings per year and some 18% of the population live in rural areas. We further note that the BNP plan period expires in 2035. The Cheshire East strategy is covering the period up to 2045/46, meaning that the BNP is effectively introducing constraints to the Cheshire East spatial strategy over the next 10 years. The BNP should be delayed until the new Cheshire East Local Plan is adopted.

National guidance is clear that in preparing Neighbourhood Plans, the qualifying body should write to the Council to request evidence as to the anticipate number of homes that are expected to be provided for in each area. It is not clear whether Brereton Parish Council has completed this crucial step.

Housing Policy

The first paragraph on page 7 of the BNP states:

“There is a need for housing development in Brereton Parish to meet the needs of population growth; the reduction in average household size; the housing needs of all of the people of Brereton including the young, the elderly and those on low incomes.”

Clearly this statement implies that the Parish Council does recognise that there are unmet housing needs in Brereton, and, that Brereton has role to play in accommodating such needs. The BNP should set out the outcome of its discussions with Cheshire East Council regarding housing needs to be provided in Brereton, any results of local housing needs surveys, and any evidence as to affordable needs locally.

As noted above, the BNP does not allocate any land for development, contrary to NPPF. Instead, it refers to permitting infill housing within the settlement boundary. There is no

evidence available as to what the infill capacity of Brereton actually is, or information on how many infill permissions have been granted in recent years. We consider that there is practically no brownfield or other land available in Brereton, meaning that there is no opportunity to meet local needs other than allocating additional land outside of the settlement boundary. Brereton Parish Council are fully aware of this yet have chosen not to allocate additional land.

Policy HOUS 02 New Housing Development Outside of Settlement Boundaries provides the BNP policy on housing outside of the defined settlement limit. This policy is restrictive and does not align with NPPF. To comply, the BNP will need to recognise that the policy constraints to housing cannot apply where there is unmet need, or, whether Cheshire East Council cannot demonstrate a 5-year housing land supply. Policy HOUS 02 should be amended accordingly.

Policy HOUS 04 Preservation of existing open spaces and recreational facilities is not a housing policy. It relates to the protection of open spaces and therefore should be removed from this section of the BNP.

Policy ECON 01 Rural Economy is the only policy in the BNP that relates to economic development. This is negatively worded in its first paragraph and does not seek to allocate any land for rural enterprise.

The BNP needs to undertake a wider assessment of local employment needs and design criterion-based policy that supports growth. Without such an approach, there is very limited opportunity for local businesses to grow or diversify.

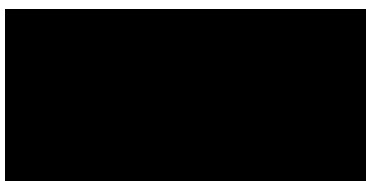
Summary

Our client is an SME developer and welcomes the opportunity to be involved with the preparation of the new Brereton Neighbourhood Plan. As drafted, the BNP does not meet the Basic Conditions tests and is overly restrictive towards development. The notion that Brereton should be a Green Gap is flawed.

The context of Cheshire East's overall development strategy changed over the last 10 years. As drafted, the BNP will result in less development than expected by the emerging Cheshire East Local Plan. It contains no allocations for residential or employment development, contrary to NPPF.

We would be grateful if you would keep us informed as to the progress of the Neighbourhood Plan. As set out in the introduction to these submissions, our client wishes to meet the Parish Council to see if there is agreement as to the scope of a small-scale development project in Brereton.

Yours faithfully,



Dan Mitchell
Partner