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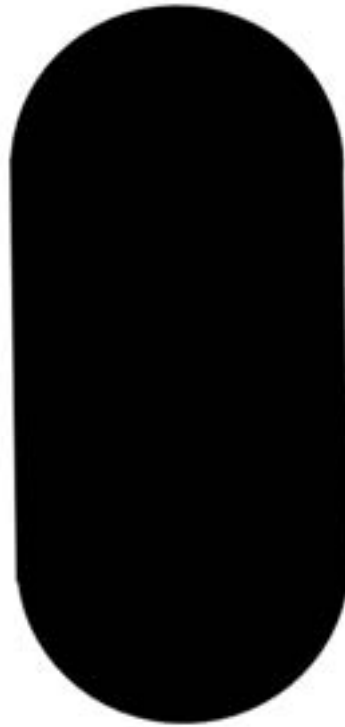
South Staffordshire Local Plan

Examination in Public

Matter 1 – Procedural and Legal Requirements

Boningale Group Ltd

April 2024



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Document Management				
Matter Number	Author		Checked/Approved	
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Revision				

1. Introduction

- 1.1. This response to Matter 1 of the Inspectors' MIQs in respect of the South Staffordshire Local Plan (SSLP) Examination in Public has been prepared by Marrons on behalf of Boningale Group Ltd. Marrons have been instructed to appear at the Examination on behalf of Boningale Group Ltd.
- 1.2. This hearing statement should be read alongside previous representation to the Regulation 19 Consultation submitted by Marrons on behalf of Boningale Homes Ltd and should be considered in the context of support for a plan led system.
- 1.3. Acting on behalf of our clients, Marrons will attend the Matter 1 Hearing Sessions along with Paul Tucker KC and will make further oral submission on behalf of our client. This statement outlines Boningale Group's comments in respect of Matter 1, with responses to the Inspectors' MIQs (Matter 1) set out below.
- 1.4. Boningale Group are a SME local housebuilder and land promoter based in Shropshire and are currently building out a high-quality development at 'Millfields' in Albrighton, in neighbouring Shropshire. They are actively promoting the following sites in South Staffordshire;
 - Codsall South (Appendix A)
 - Hockerhill Farm, Brewood (Appendix B)
 - Coven Road, Brewood (Appendix C)
 - Boscobel Lane, Bishops Wood (Appendix D)
 - Clive Road, Pattingham (Appendix E)
 - Bridgnorth Road, Stourton (Appendix F)
- 1.5. The Hockerhill Farm, Brewood site is subject to a live planning application for up to 100 residential dwellings. The Boscobel Lane, Bishops Wood site is subject to a Section 78 Appeal against the refusal of planning permission for up to 100 residential dwellings and a community shop.
- 1.6. In order to assist the Inspectors, the contents of this submission and the submissions made in respect of other Matters, demonstrate that the submission version of the Plan is not, in our assessment, capable of being found sound, without significant additional evidence and the identification of additional sites to accommodate housing growth over the Plan period.
- 1.7. These submissions reflect the recent position outlined by Housing Minister Matthew Pennycook and the Chief Executive of the Planning Inspectorate with regard to the continued use of 'pragmatism' in the Examination of Plans and the recognition that any fundamental issues or areas of additional work that require a pause of more than six-months in the Examination process, should indicate that a Plan is not capable of

being found sound. As such aligned with the above consideration, in the current context, we do not believe that the Plan is capable of being found sound noting that the degree of additional work we consider to be required to make the Plan sound would likely require a pause in the Examination in excess of 6months.

- 1.8. We consider that the Sustainability Appraisal process is fundamentally flawed, to the extent that it is unlawful, as it does not meet the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 (“the SEA Regulations”). There has been a failure to consistently and robustly consider reasonable alternatives contrary to Regulation 12 and Schedule 2, paragraph 8. As such we do not consider that the Plan is capable of being found sound.

2. Whether the Council has complied with the relevant procedural and legal requirements.

Relevant Policy Context

1. **What is the relevant version of the National Planning Policy Framework for this examination and why?**
- 2.1. The SSDC is being prepared during a time of considerable legislative and national policy reform, with a revised National Planning Policy Framework (NPPF) having been published in December 2024.
- 2.2. The transitional arrangements set out in the NPPF 2024 state that *‘for the purpose of preparing local plans, the policies in this version of the Framework will apply from 12 March 2025 other than where one or more of the following apply: the plan has reached Regulation 19 (pre-submission stage) on or before 12 March 2025 and its draft housing requirement meets at least 80% of local housing need; . . .’*.
- 2.3. The Written Ministerial Statement (WMS) "Building the Homes We Need" issued by Deputy Prime Minister Angela Raynor on July 30, 2024, emphasises the importance of each local authority having a development plan in place. It also states that plans at an advanced stage of preparation (Regulation 19) can continue to be examined, unless there is a significant discrepancy between the Plan and the new local housing need figure, in which case authorities are asked to rework their plans to account for the higher figure.
- 2.4. It is noted that the Publication Version of the Local Plan which is subject to this Examination, was the second version of the Plan to be subject to Regulation 19 consultation. It is confirmed within the Publication Plan that this was as a direct result of the Government having published an updated NPPF in December 2023 and the Council having made a decision to update the Plan to reflect the changes within the NPPF23, including a reduction in the number of Green Belt sites being put forward for release and allocation.
- 2.5. As with the NPPF 2024, transitional arrangements were included in NPPF 2023, which would have allowed the Council to progress a Plan, including additional Green Belt sites under the provisions of NPPF 2021.
- 2.6. It is therefore curious to note that the Council have exercised the transitional arrangements within the latest version of the NPPF 2024, which happens to seek to significantly boost housing delivery, mandates housing requirements, strengthens the duty to cooperate, acknowledges that Green Belt boundaries should be reviewed where necessary and introduces the concept of Grey Belt, but opted not to do so previously when NPPF 2023 was released.

- 2.7. Whilst we acknowledge that under the transitional arrangements set out within NPPF 2024, Examining the Plan under the provisions of NPPF 2023 is allowed, it is noted that much of the evidence base relates to national policy dating back to NPPF 2021. In failing to have regard to NPPF 2024 and indeed the very clear national mandate to boost housing, without exceptions, the Council are not taking a proactive approach to planning for housing and will be required to commence an immediate review and will face a significant and rapid upturn in the level of housing to be planned for.
- 2.8. Simply planning for the lowest requirement does not support the national narrative and drive to turbocharge housebuilding and support the wider economy.

Plan Preparation and Scope

2. Has the Plan been prepared in accordance with the latest adopted Local Development Scheme?

- 2.9. It is noted that the Publication Version of the Local Plan was submitted for Examination on 11th December 2024. This was one day ahead of publication of the revised NPPF 2024. The September 2023 LDS indicates at Appendix 2 that submission of the Local Plan was not expected until January 2025. Therefore, it could be argued that submission of the Plan was brought forward, notwithstanding the transitional arrangements, ahead of the introduction of the new Framework and as is evidenced by the changed position adopted with regard to viability evidence and affordable housing, was submitted ahead of being fully ready for Examination in Public.

3. Have the relevant notification, consultation, publication and submission requirements been met in line with the Regulations and Statement of Community Involvement?

- 2.10. For the Council to answer.

4. What measures were taken to engage with the occupants of properties within proximity to proposed allocations?

- 2.11. For the Council to answer.

5. What plans will be retained and what plans will be superseded following adoption of the submitted Plan?

- 2.12. For the Council to answer.

6. Does the Plan clearly distinguish between strategic and non-strategic policies? Are strategic policies limited to those necessary to address the strategic priorities of the area and any relevant cross-boundary issues?

- 2.13. We do not consider that the Plan as submitted, sufficiently identifies which policies are considered to be strategic in nature. Indeed, we only note reference to policy DS4 as being strategic. We recommend a minor modification that would include identification of strategic policies through the simple inclusion of the words strategic policy in brackets after the policy number and name would assist with this issue.
- 2.14. This would ensure that all stakeholders and particularly statutory and neighbouring authorities could focus their time and resources on the appropriate and key policies only.

7. Is the scope of the Plan primarily focused on supporting planning activities, rather than matters that are beyond the control of the planning system?

- 2.15. For the Council to answer.

8. In terms of existing and proposed Supplementary Planning Documents (SPD):

- a. Please provide their title, scope and timescales for adoption?
SST/ED9
- b. What is the intended relationship of each of the SPDs with specific policies in the Plan?
- c. Is this relationship clear and appropriate?
- d. Are there any elements of the SPDs that should be contained within policy?

- 2.16. For the Council to answer.

Sustainability Appraisal

9. In terms of the Sustainability Appraisal:

- a. Is the methodology applied robust?

- 2.17. The Regulation 18 (I) Issues and Options SA Report assessed five options for levels of residential growth and six options for residential distribution. The Regulation 18 (II) SA Report set out the appraisal of seven spatial options, as identified in the Spatial Housing Strategy and Infrastructure Delivery document. The Regulation 18 (III) SA Report included an assessment of 40 draft Development Management (DM) 'direction of travel' policies, 11 draft strategic policies and 317 reasonable alternative

- sites. The SA report also set out the preliminary reasons for selecting and rejecting reasonable alternative sites.
- 2.18. The Regulation 19 SA Report (2022) included a summary of the SA process and the assessment of 55 LPR policies and proposed allocations, as well as 48 new/amended reasonable alternative sites for housing and employment use. The updated Regulation 19 SA Report (2024) again included an updated summary of the SA process. The SA Report set out the assessment of the LPR policies and allocations (some of which had been amended since the 2022 Regulation 19 stage) as well as additional reasonable alternatives which have been identified since the previous stage: 11 new/amended reasonable alternative sites for housing and employment use; two additional residential growth options; and two additional spatial options.
- 2.19. As such, a total of 5 different assessments have been undertaken and have been prepared in varying policy contexts. The ability of stakeholders to follow the process and to assess consistency in scoring and methodology is not straightforward.
- 2.20. The various assessments produced by the Council, in our view, reflect and have to a degree been pre-determined by, the policy context at the time of the assessment, including and most significantly, the Council's changing stance and position in regard to unmet need and Green Belt.
- 2.21. Overall, in regard to the distribution of growth the below options have been considered;
- Spatial Option A – Maximise Open Countryside release.
 - Spatial Option B – Prioritise Green Belt land release in areas of lesser Green Belt harm.
 - Spatial Option C – Carry forward existing Core Strategy strategic approach to distribution.
 - Spatial Option D – Maximise sites in areas identified in the Greater Birmingham Housing Market Area (GBHMA) Strategic Growth Study
 - Spatial Option E – Address local affordability issues and settlements with the greatest needs.
 - Spatial Option F – Give first consideration to Green Belt land which is previously developed or well-served by public transport.
 - Spatial Option G – Infrastructure-led development with a garden village area of search beyond the plan period.
- 2.22. It is noted that the Council have considered residential distribution options against 12 consistent criteria. However, and whilst acknowledging a degree of change in scoring between progressive assessments is reasonable further to new evidence, we are

surprised to see the degree of change in regard to scoring of the likely impacts of the identified options as demonstrated in the extracts from the Council's reports below;

Table 1: Summary of SA Scoring from Issues and Options SA

Residential Spatial Distribution Option	SA Objective											
	1	2	3	4	5	6	7	8	9	10	11	12
	Climate Change Mitigation	Climate Change Adaptation	Biodiversity & Geodiversity	Landscape & Townscape	Pollution & Waste	Natural Resources	Housing	Health & Wellbeing	Cultural Heritage	Transport & Accessibility	Education	Economy & Employment
Option A	+	-	-	-	-	-	++	+	-	++	++	++
Option B	-	-	-	-	-	-	++	-	+	-	-	+
Option C	+	+	-	-	-	-	++	++	+	++	+	+
Option D	+	+	-	-	-	-	++	++	-	++	++	++
Option E	-	+	-	-	-	-	++	++	-	++	++	++
Option F	-	-	-	-	-	+	+	-	-	-	-	-

Table 2: Summary of SA Outcomes form Regulation 18(II) SA

Spatial Option	SA Objective											
	1	2	3	4	5	6	7	8	9	10	11	12
	Climate Change Mitigation	Climate Change Adaptation	Biodiversity & Geodiversity	Landscape & Townscape	Pollution & Waste	Natural Resources	Housing	Health & Wellbeing	Cultural Heritage	Transport & Accessibility	Education	Economy & Employment
Option A	-	-	-	-	-	-	+	-	-	-	+	-
Option B	-	-	-	-	-	-	++	-	-	-	++	-
Option C	-	-	-	-	-	-	++	-	-	-	++	+
Option D	-	-	-	-	-	-	++	-	-	+	++	+
Option E	-	-	-	-	-	-	++	-	-	+	++	+
Option F	-	-	-	-	-	-	++	-	-	+	++	+
Option G	-	-	-	-	-	-	++	-	-	+	++	++

Table 3: Summary of SA Outcomes from Regulation 18 (III)

Residential Growth Option	SA Objective											
	1	2	3	4	5	6	7	8	9	10	11	12
	Climate Change Mitigation	Climate Change Adaptation	Biodiversity & Geodiversity	Landscape & Townscape	Pollution & Waste	Natural Resources	Housing	Health & Wellbeing	Cultural Heritage	Transport & Accessibility	Education	Economy & Employment
Option A	—	+/-	+/-	+/-	—	+/-	+	+/-	+/-	+/-	+/-	+/-
Option B	—	+/-	+/-	+/-	—	+/-	++	+/-	+/-	+/-	+/-	+/-
Option C	—	+/-	+/-	+/-	—	+/-	++	+/-	+/-	+/-	+/-	+/-
Option D	—	+/-	+/-	-	—	+/-	++	-	+/-	-	-	+/-
Option E	—	+/-	+/-	-	—	+/-	++	-	+/-	-	-	+/-
Option F	—	+/-	+/-	-	—	+/-	++	-	+/-	-	-	+/-

- 2.23. The degree of change in the assessment of options against the 12 objectives does not suggest that a consistent methodology has been taken throughout the numerous assessments.
- 2.24. Taking option A as a crude example, the first assessment scored a positive against Climate Change and Mitigation. This changed in the second iteration to a strong negative at which it remained. All of the options consistently changed, but it is clear the unless the initial iterations of the SA were fundamentally incorrect, the scoring criteria has been inconsistent.
- 2.25. The Council has chosen Spatial Option I that distributes growth in a way that it considers meets the district's own needs only and provides a limited contribution towards the unmet needs of the GBBCHMA, through sustainable non-Green Belt development and limited Green Belt development in Tier 1 settlements. It is unclear why the Council have opted to review Green Belt boundaries around tier 1 settlements only. It should be noted that settlements in lower tiers can also be inherently sustainable and we at this point refer the Council to the purposes of the Green Belt which very clearly seek to restrict merging of towns and have less onerous restrictions in terms of Green Belt release around towns and villages.
- 2.26. The Council have insufficiently considered the real impact on rural vitality and ongoing viability in restricting growth to such a level in lower order settlements.
- 2.27. 80% of South Staffordshire is located within the Green Belt and in applying a stance that limits Green Belt release in smaller settlements, the Council are putting long term viability of these settlements at risk. The SA completely fails to have regard to this.

- 2.28. This option was tested after the November 2022 Regulation 19 consultation and reflected changes in the NPPF2023 that there is no requirement for Green Belt boundaries to be reviewed or changed when Local Plans are being prepared.
- 2.29. The Council suggest that in addition, the Strategic Growth Study (2018) that the Council's previous spatial option to deliver a 4,000-home contribution to the HMA was based on, was considered out of date. We are however unable to identify an update to the assessment or indeed details as to how the Council has reasonably tested the quantum of unmet need to be provided as is set out in the Publication version of the Plan. We consider this further in our Matter 2 Statement.

b. Is the baseline information upon which the Sustainability Appraisal is based up to date and relevant in terms of its scope?

- 2.30. Aligned with the above, not only is the evidence base underpinning the SA now considerable dated, but the SA itself has undergone several updates.
- 2.31. It is particularly noted that the Appraisal Scoping Report was published in 2017 with work likely to have commenced on the Report in 2016. If the Plan is capable of being found sound, this would result in an evidence base that is more than 10-years old at the point of adoption.

c. How were the appraisal framework objectives of the Sustainability Appraisal derived and how do they link to the individual policies in the Plan?

- 2.32. For the Council to answer.

d. How were the options considered through the Sustainability Appraisal for the following: i. The overall scale of housing and other growth ii. The broad distribution of development across the District iii. Potential allocation sites iv. Individual policy approaches

- 2.33. We consider the SA to be fundamentally inadequate and legally non-compliant. As detailed in our previous submissions, listed above, we consider that the SA fails to adequately test reasonable strategic options and specific sites.
- 2.34. The exercise required of the Council that would necessitate consideration, at the same level of depth, for all reasonable alternatives as the preferred option, the Plan review must evaluate the entire spectrum of reasonable alternatives, including additional Green Belt release and meeting the 4,000 dwellings unmet need figure previously identified and seemingly dismissed without reasonable or justified

evidence, beyond a desire to not review Green Belt sites outside of Tier 1 settlements. The settlement hierarchy's detailed site allocation alternatives must be thoroughly evaluated, and this has simply not happened, with sites located within the Green Belt having been disproportionately disregarded and scored incorrectly in the SA testing.

- 2.35. As such, it appears that the Council's chosen strategy has been pre-determined with further testing of reasonable alternatives seemingly dismissed to enable them to reach their currently adopted position.
- 2.36. The scoring of the SA should take into account the advantages of early site delivery and the delivery of community benefits, and it should be acknowledged that the delivery of community infrastructure is essential for attaining the SA's goals. As drafted the SA fails in this regard.

e. Is the assessment of the likely effects of the Plan's strategy, policies and allocations adequate? Is the scoring against the Framework objectives reasonable?

- 2.37. We do not consider that the scoring of the likely effects of the Plan against the Framework's objectives is reasonable. Indeed, we consider that the principle objective of the Plan, to protect the Green Belt, is in itself, directly contravenes the longstanding objective to boost housing and fix the housing crisis, but also results in a degree of pre-determination of the spatial options within the SA that does not reflect current or indeed previous Frameworks provisions.
- 2.38. We note that in the Regulation 19 SA 2024, there appears to be a clear conflation between a site's location within the Green Belt and landscape sensitivity. Indeed this is reflected in criterion 6 of the residual adverse effects, where impacts on sensitive landscapes and the West Midlands Green Belt is considered together. The Council will very much be aware that Green Belt is a policy designation and unlike most landscape designations, does not necessarily mean that a site has any particular landscape value. In considering these elements in combination, the Council have clearly failed to assess sites, particularly Green Belt sites against the Framework.

f. Is consideration of reasonable alternatives and reasoning for rejecting alternatives clearly justified?

- 2.39. Notwithstanding the fact that we consider that the Council has failed to robustly consider all reasonable alternatives consistently, and without political influence, namely the decision to immediately make a significant U-turn in regard to Green Belt

release upon publication of the NPPF 2023, the Council have also failed to identify separately sites to address the limited unmet need they have agreed to take.

- 2.40. It is essential that not only do the Council identify land to specifically meet unmet needs but reflect the unique requirements for such land that does not seek to mirror the SA assessment undertaken for all sites. For example, additional weight should be placed on the geographical proximity to the area from which the unmet need is arising, and in so doing recognise the environmental disparity through trip generation in instances where unmet need is met in more removed locations. Beyond this, there are also significant social benefits associated with locating displaced residents as close to the area from which they are being displaced. Ensuring that they have easier and regular access to the social support network including family and friends.
- 2.41. Boningale Group Limited are promoting the land at Codsall South for such a purpose. Codsall is strategically located within close proximity of Wolverhampton and the Black Country and has two train stations, both of which provide convenient and regular connections to the area.
- 2.42. Firstly, in regard to this site, despite the site having been put forward for consideration by Boningale as part of the Regulation 19 consultation, it has not been assessed as a reasonable alternative by the Council. One presumes that this is simply because it is located within the Green Belt. However, the site is located within a tier 1 settlement and as such, the Council should have considered it in line with their identified strategy.
- 2.43. We consider it necessary for the Council, as stated above, to undertake a separate exercise to identify sites to meet unmet need, notwithstanding our comments and concerns about the drastic reduction in the contribution to be made by SSDC to unmet need. The Codsall South site should be assessed within any such assessment and we would expect that the geographical proximity to the area of unmet need would be reflected appropriately in the Council's scoring.
- 2.44. The approach taken to assessing sites in line with the proposed strategy is fundamentally flawed. The only other criteria against which a site is assessed are environmental considerations related to air quality, waste management, floods, and sensitivity to landscape and history. There is no opportunity to objectively assess the advantages of a different approach for places that do not currently score highly in terms of distance from facilities, including the provision of strategic infrastructure, such as the provision of a new school, or health and retail facilities.
- 2.45. Further, in assessing sites to contribute to unmet need, detailed within the updated additional SA, there is insufficient recognition of the environmental and social benefits

of locating growth in areas with the greatest physical association with the BCWMCA, especially areas with strategic road and rail links.

- 2.46. The SA, notwithstanding the limited notional of what constitutes environmental benefit and harm, fails to sufficiently consider economic and social objectives. The Plan making process, as set out within the SA, does not give sufficient consideration to the socio-economic benefits of delivering housing and employment growth in the most appropriate locations to address unmet need.

10. Have any concerns been raised about the undertaking and/ or outcomes of the Sustainability Appraisal and what is the Council's response to these?

- 2.47. It is clear from the Regulation 19 consultation responses received, that there have been a range of concerns raised about the SA. Indeed, as confirmed in the 'Response to Regulation 19 Consultation' Report it is apparent that a number of respondents have raised concerns relating to the SA.
- 2.48. We have set out above and within our previous representations how we consider that the SA work is significantly flawed in its design and approach. Overall, it is clear that the SA was simply designed to justify the Council's politically preferred approach of not releasing Green Belt land. The flaws within the SA methodology skew the outcome towards one that favours the 'urban intensification only' approach that the Council wanted to take.

11. Have the legal requirements for Sustainability Appraisal / Strategic Environmental Assessment been met as part of the plan preparation process?

- 2.49. No. We do not consider that the Sustainability Appraisal has been prepared in accordance with the SEA regulations. In particular reasonable alternatives, which include additional Green Belt sites in rural areas, such as our client's land interests in Brewood, Bishops Wood, Pattingham, Stourton, and Essington, capable of early delivery to meet housing need as it occurs and existing unmet need, have not been appropriately assessed.
- 2.50. We have no doubt whatsoever that the SA does not adequately assess the effects of the Plan, and in particular the social and economic effects. The SA is not robust, nor is it fair or balanced and so we do not consider it has been prepared in accordance with national policy and guidance.
- 2.51. We consider that the Sustainability Appraisal process is inherently and fundamentally flawed, to the extent that it is unlawful, as it does not meet the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004 ("the SEA

Regulations”). There has been a failure to consistently and robustly consider reasonable alternatives contrary to Regulation 12 and Schedule 2, paragraph 8.

Appendix A - Codsall South

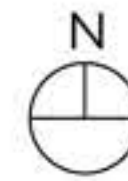
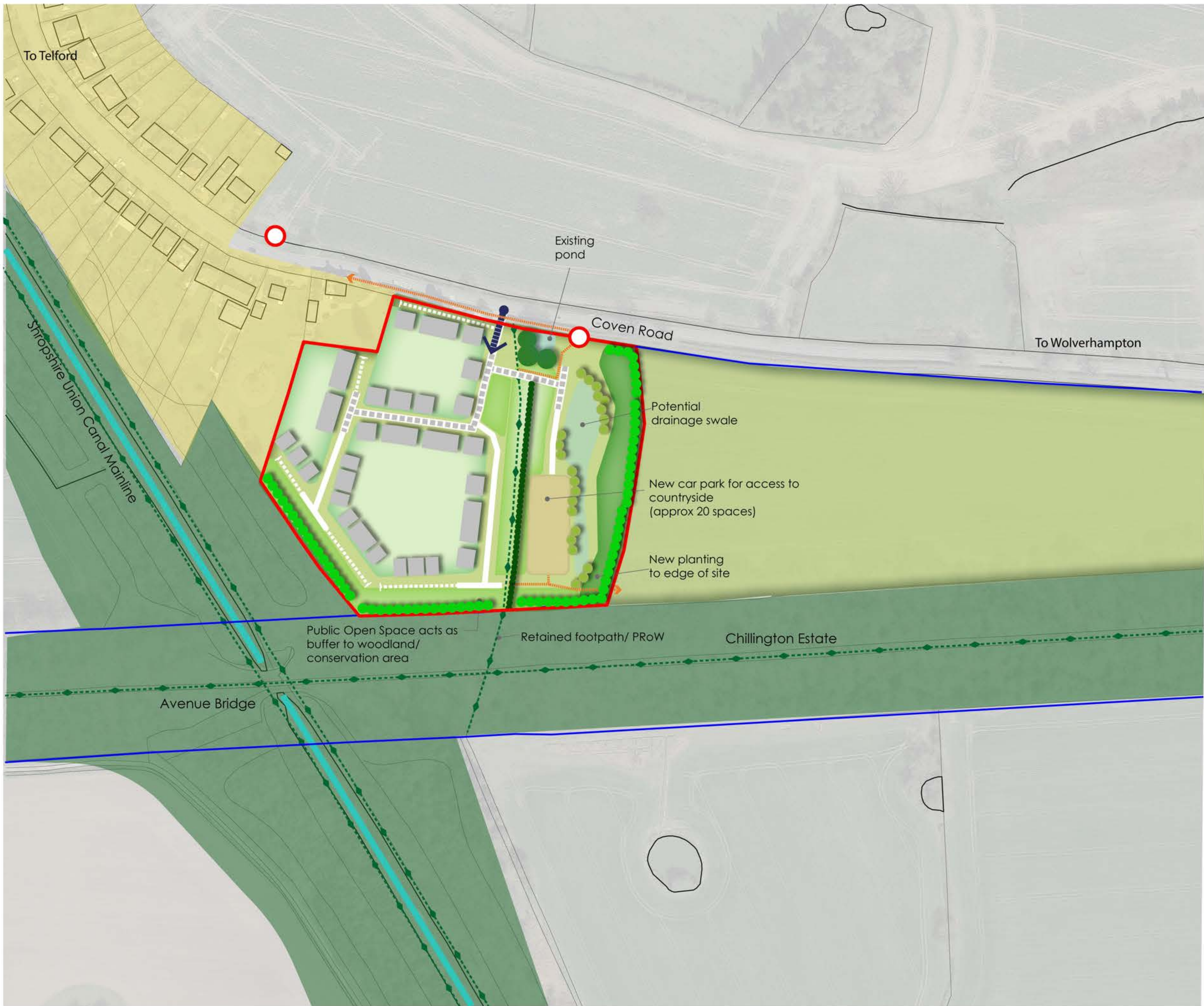


[Appendix B - Hockerhill Farm, Brewood](#)

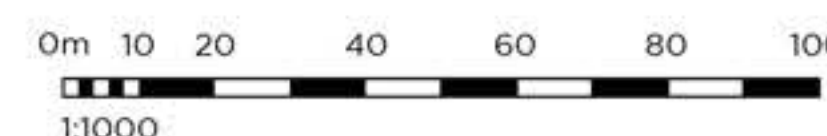


PEGASUS
GROUP

[Appendix C - Coven Road, Brewood](#)



- Site Boundary
- Existing Green Infrastructure
- Existing Settlement
- PROW
- Residential Rear Gardens
- Potential Public Open Space
- Proposed Public Parking
- Potential Drainage Pond
- Potential Vehicular Access
- Potential Pedestrian Access
- Indicative Blocks
- Proposed Primary Access Road
- Proposed Secondary Road
- Shared surface/Private Drives
- Existing Hedgerows/Trees
- Proposed Hedgerows/ Trees
- Proposed Bus Stop
- Proposed pedestrian connection
- New edge with planting



Project
**Coven Road
 Brewood**

Client
Boningale Homes

Drawing Title
Illustrative Plan

Job No. ST5075	Date 23/03/24	Drawn by MRK
Drwng no. SK03	Scale 1:1000 @ A1	Checked DK

[Appendix D - Boscobel Lane, Bishops Wood](#)

Key

Site Boundary

Proposed Vehicular Access

Proposed Pedestrian / Cycle Access

Proposed Residential Blocks

Proposed Local Shop
(Site to include unit and parking / servicing area)

Proposed Primary Route

Proposed Secondary Route

Proposed Private Drive

Indicative Attenuation Basin

Indicative Retained and Enhanced Landscaping

Indicative Play Provision

Indicative Orchard



025m50m75m100m

Status

Final

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Client:

Boningale Development Ltd

Project title:

Boscobel Lane,
Bishops Wood

Drawing title:

Indicative Framework Plan

Scale:

1:2000 (A3)

Date:

January 2025

Drawn by:

JMP

Checked by:

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Drawing no.:

2503213.32.02

Revision:

A

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[Appendix E - Clive Road, Pattingham](#)

SSFF1994 site plan



Keyboard shortcuts Map data ©2025 Imagery ©2025 Airbus, Maxar Technologies Terra

Landstack

[Appendix F - Bridgnorth Road, Stourton](#)

MES191 site plan



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Landstack

