

**Regulation 16 Consultation
on the Submitted Leigh and Bransford Neighbourhood Plan
RESPONSE FORM**

Under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012, Leigh and Bransford Parish Council has submitted the draft Leigh and Bransford Neighbourhood Plan to Malvern Hills District Council. In accordance with Regulation 16, Malvern Hills District Council would like to invite comments from organisations and individuals on the Neighbourhood Plan.

This consultation runs for six weeks from Friday 8th April to 5:00pm on Friday 20th May 2022.

If you wish to comment on the draft Leigh and Bransford Neighbourhood Plan **please complete and return this form no later than 5:00 pm on Friday, 20th May 2022 to:**

Email: policy.plans@malvern hills.gov.uk , or by

Post: Planning Policy, Malvern Hills District Council, Planning Services, The Council House, Avenue Road, Malvern, Worcestershire, WR14 3AF.

The personal information you provide on this form will be held and processed in accordance with the requirements of the Data Protection Act 2018 and the General Data Protection Regulation 2018.

Please note that your name and comments will be made publicly available when displaying the outcome of this consultation and cannot be treated as confidential. Any other details, including signatures, private telephone numbers and email addresses will not be published on the Council's website, but the original representations with personal details redacted will be published. Your details will be retained in order for us to validate your comments. We will use these details to notify you of the progress on the Leigh and Bransford Neighbourhood Plan. If you do not wish to be notified of the progress of the Neighbourhood Plan please let us know by ticking the appropriate box at the end of this response form.

Please fill in your details in the boxes below:

Full Name:

Organisation (if applicable): Lone Star Land

Address (including postcode):

Telephone number

Email address

Please state which part of the draft Neighbourhood Plan (i.e. which section, objective or policy) your representation refers to (please use a separate form for each representation):

Please see attached letter and appendices to be read together.

Please use the space below to make comments on this part of the Neighbourhood Plan.

Please see attached letter and appendices to be read together.

Please use a separate form for each representation.

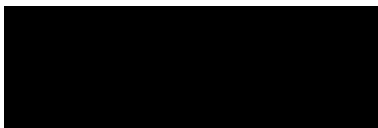
Future Notification

Please state whether you would like to be notified of the decision on the Neighbourhood Plan proposal:

Yes

No

Signature .



Date 20.05.22

Thank you for completing this form.

Planning Policy
Malvern Hills District Council
Planning Services
The Council House
Avenue Road
Malvern
Worcestershire
WR14 3AF

Sent via email to: policy.plans@malvernhills.gov.uk

Friday 20th May 2022

Dear Sir or Madam,

Thank you for consulting us on the Leigh and Bransford Parish Neighbourhood Plan. Lone Star Land (LSL) is promoting land off Leigh Sinton Road (SHELAA site CFS50640) for residential development and community uses through the review of the South Worcestershire Development Plan on behalf of Leigh Sinton Farm (Walter Beard).

For reference, comments were submitted to [REDACTED] of Leigh and Bransford Parish on 15th October 2021 for the Regulation 14 Leigh and Bransford Neighbourhood Plan. It does not appear that our comments have been taken into account as even simple errors which were highlighted by ourselves do not appear to have been addressed.

Our comments relate to 12 policies in the draft plan. For reason that will be set out, we consider that the Draft Plan does not meet the Basic Conditions and therefore cannot be Made without modification.

Our comments will relate to:

- Highways
- Strategic Gap
- Housing Allocation
- Housing Site Analysis
- Protection provided by the SWDP
- Map Commentary
- Parking Response
- Public Transport
- Local Green Space
- Landscape and Key Views
- Infrastructure and Moving Around
- Site Assessment Criteria

These responses are evidenced by and to be read along side these appendices:

1. Worcestershire's LTP
2. SWDP Significant Gap Appraisal
3. Incola Report
4. MEC Highways Note
5. Potential Key Views
6. Listed Building Photograph
7. Malvern Hills Photograph 1
8. Malvern Hills Photograph 2
9. LSL Original Proposals
10. Cotswold HEA
11. Landscape Statement
12. Forge Fields Legal Case

Basic Conditions

In order to be made, Neighbourhood Plans must meet the 'basic conditions'. The basic conditions are:

- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
- b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.
- c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.
- d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.
- e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
- f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.

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

Paragraph: 065 Reference ID: 41-065-20140306

Revision date: 06 03 2014

Paragraph 3.11 Transport and Moving Around

This paragraph sets out some of the issues currently experienced with transport within the Parish. These are typical of rural areas. Paragraph 105 of the NPPF notes that; "...opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision making.

Given the concerns set out in this paragraph, it is surprising that there is no reference to the Active Travel Route proposed between Leigh Sinton and Malvern by the Worcestershire Local Transport Plan - LTP4. https://www.worcestershire.gov.uk/downloads/file/9024/worcestershire_local_transpo_rt_plan_4_2018-2030_-_adopted_2017

It should also be noted that reliance on private transport is becoming less unsustainable due to the introduction of electric vehicles. These vehicles, (both cars and bicycles) are gaining popularity and CO2 emitting vehicles will be phased-out by Government legislation.

See Appendix 1 – Worcestershire Local Transport Plan 4 (2018 – 2030) – Adopted 2017

Policy LB/H/5 - Significant Gap

While we respect that there is a significant gap policy in place between Malvern and Leigh Sinton in the current SWDP, we question the details that has gone into assessing the boundary accurately. It is our view that the Neighbourhood Plan should review the detailed boundary of the Significant Gap to ensure that any land included within this policy designation is actually needed to be designated in order achieve the aim of the policy.

SWDP Policy SWDP2 D states that **"Development proposals should ensure the retention of the open character of Significant Gaps."** The reasoned justification sets out at paragraph 8 that; **"The purpose of maintaining these gaps, which either serve as a buffer or a visual break between rural settlements...The designation helps to maintain a clear separation between smaller settlements and urban areas in order to retain their individual identity."**

The South Worcestershire Authorities have commissioned an Appraisal of the Significant Gaps as part of its evidence based for the SWDP Review. As noted by the SWDP

Significant Gaps Appraisal, there is no policy support for a significant gaps policy in the NPPF. It is, however, a commonly held planning principle that individual settlements should remain separate. The 'SWDP Review Significant Gaps Appraisal' notes that the policy is more restrictive than Green Belt policy, which allows for various types of appropriate development which can reduce openness to a degree. Therefore, it is very important that only land required to fulfil the purpose of the Significant Gap policy should be covered by it.

The SWDP Significant Gaps Appraisal poses a series of questions. One is - **“Is the extent of the SG necessary? Could physical openness and visual openness be maintained/achieved with a reduced gap?** In the case of Leigh Sinton, the Significant Gaps Appraisal states; **“Retain with the possible exception of a few discrete land parcels on the edge of Leigh Sinton should they be needed i.e. allocations in either the SWDPR or Leigh Sinton Neighbourhood Plan.”** It is our contention that much of the land to the south of Leigh Sinton does not need to be protected as both the physical and visual separation can be maintained with a reduced gap. This point is underlined by the shape of the southern edge of the built up boundary to the village - there are a number of fields that could be developed that would, as a matter of fact, not bring the village closer to Malvern. This is demonstrated by the Incola Significant Gap report submitted with these representations.

It cannot be correct that land is retained in a Significant Gap when the land is not needed to achieve the purposes of the Significant Gap policy given the very restrictive nature of this policy. The only relevant consideration in determining which land should be covered by the Significant Gaps policy is whether or not it is necessary to maintain a clear separation between the smaller settlement and the urban area.

As the SWDPR Significant Gaps Appraisal notes, there is no reference to this type of policy in the NPPF. The only similar policies relates to the Green Belt. Given that is it analogous to Green Belt policy, it is worth considering the advice in paragraph 140 of the NPPF. This states that, if it is necessary to restrict development primarily because of the importance of the open character of a village makes to the openness of the Green Belt, it should be included within the Green Belt. However, if the area needs to be protected for other reasons, other means should be used such as normal development management policies. A similar principle should apply to the Significant Gaps policy, due to its highly restrictive nature and specific planning purpose. If land is genuinely required to maintain a clear separation between the settlements, then it should be protected by the Significant Gaps policy. If it is not, then it should be protected by normal development management policies that protect the countryside.

It is clear that our clients land off Leigh Sinton Road, (SHLAA site CFS0640) which has been promoted to this plan and the SWDP Review for development and community facilities, is not needed to maintain the Significant Gap between Leigh Sinton and Malvern. This is **not** only the conclusion of the Incola report but it is also the conclusion of the consultants appointed by SWCs to appraise the Significant Gaps for the SWDP Review. It is noted that the SWDP Review Significant Gaps Appraisal does not form part of the evidence base for the Neighbourhood Plan. This is a serious omission.

This Significant Gap boundary should be looked at in detail within this Neighbourhood Plan, and redrawing of the area of detailed land parcels, especially in light of recent development which have been granted in the significant gap and the evidence that was

concluded in the significant gap appraisal completed by SWDP as part of their review. It has been demonstrated with the consent of the Bromford scheme that development can be allowed within the significant gap without affecting the core Policy SWDP2 D as it does not compromise the retention of the open character of the significant gap.

Documents submitted with response to LB/H/5

Appendix 2 - SWDP Review - Significant Gaps Appraisal Appendix 3 - Incola - Significant Gap Review

Policy LB/H/6 – Housing Site Allocation

We object to the allocation of this site as the site appraisal is flawed. While the site is in the draft SWDP, there are objections and this draft allocation has not been subject to independent examination. Therefore, little weight can be given to that factor.

In term of the detailed site assessment, it is flawed for the following reasons;

- Leigh Sinton is not a Category 3 village but a Category 2 village in the SWDP. Objections have been made to the downgrading of the village Category 3 in the SWDP Review. The identification of Leigh Sinton as a Category 2 village is a strategic policy in the SWDP and this Neighbourhood Plan cannot be in general conformity with the SWDP tests out that the village should sit in a different part of the District settlement hierarchy. This fails to meet basic condition 'e' as it is in conformity to the adopted development plan. Therefore this status should not be taken forward within the proposals as the downgrading of Leigh Sinton as a settlement have not been tested at examination, as a result the Category 2 village has to be carried forward into this NDP.
- Safe access onto a public highways. No highways assessment has been provided or referred to in the evidence base. A Technical note produced by MEC for LSL is submitted with these representations which questions whether this site can achieve a suitable access. There is reference to the need for a signalised junction. This would disrupt traffic along this arterial route as well as cause harm to the setting of the listed buildings opposite the site. This would not be in general conformity with SWDP policy 21 ix or comply with NPPF paragraph 110 b) which both require safe access to sites for all users.
- The proposed allocation is separated from these amenities within the village such as the Primary School, pub, shop and takeaway by the A4103 which acts as a considerable barrier to sustainable movement. The development proposals will introduce additional vulnerable road users to the A4103 most noticeably primary school children and their carers who will likely be accompanied by younger sibling show may be push chairs accessing Leigh and Bransford Primary School by crossing the busy Worcester to Hereford A road. (**See MEC technical note Appendix 4**). The NDP assessment also comments in the summary that there are 'Possible access issues' yet continues to allocate the site without assessing whether this site can be accessed safely. Policy SWDP21 it states that developments should maximise opportunities for pedestrian and cycle linkages to local services and should generally be accessible for all users, including those with disabilities. This

reflect policy in the NPPF 112. At the very least some form of signalised junction or crossing will be required as a minimum but there is no evidence that such a control is desirable or feasible from either a highway perspective or a heritage perspective.

- The NDP's own assessment identifies that the site will have a detrimental impact on heritage and archaeology. The site forms the setting of Grade II listed buildings. There is no heritage assessment in the evidence base as to the degree of harm that would be caused to the setting of these designated heritage assets. As noted above, the traffic lights needed for the junction will worsen the harm to the setting of the heritage assets. Input has been sought from MHDC senior conservation officer concluded that '...a lower level of less than substantial harm could result.' If development is permitted in this location. Therefore noted that there will be harm to the heritage assets if development is allowed. There is therefore a potential conflict with the development plan policies that protect heritage assets.
Furthermore there is a fundamental legal issue that needs to be addressed. Case law *R (Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin)*, (Appendix 12) the existence of the LSL site, which does not affect the setting of any heritage assets, is a material consideration that the Council is required to have regard to in making the allocation. As this is a matter of law this should be taken into account when considering housing allocations within the emerging NDP.
- There has been no consideration of the landscape impact of the development, particularly given the significant impact that will inevitably result to users of PROW 582(c) which bisects this site. This is not in general conformity with SWDP policy 25 or the NPPF paragraph 174.
- The site allocation has not taken into consideration the key views from PROW 582(c) if following criteria from the key view assessment (Appendix E) there would be high level of key views from several points along the route. It is a fundamental principle that the evidence base must be prepared fairly consistently. A key part of this is to apply the methodology in a consistent fashion. This has not happened in this case; a plan that is based on flawed evidence based cannot meet the basic conditions.

Documents submitted with response to LB/H/5

Appendix 4 - MEC Technical Note

Appendix 6-8 - Photographs

Assessment of Site off Leigh Sinton Road (now removed from NDP)

This paragraph states that one reason for SWC's choice of preferred site was that it provided the opportunity for community facilities. However, Leigh Sinton Farm site (SHLAA site CSF0640) also offers the opportunity for community facilities at a site that has a much less landscape impact, is not within the setting of any heritage assets, and has a proven safe access, with the acceptance of a haul road in this location. As mentioned

previously pertaining to the *(Forge Field Society) v Sevenoaks DC [2014] EWHC 1895 (Admin)*, (Appendix 12) where the legal evidence demonstrates that there is a need to consider sites that do not impact on the effect of a Listed Heritage Asset. In this case there is another site available which has no impact on heritage assets therefore should be selected.

Protection of the SWDP is out of date

This paragraph notes that the NPPF affords some protection to Neighbourhood Areas where the neighbourhood plan contains policies and allocations to meet its identified housing requirements. The protections offered in paragraph 14 of the NPPF only apply to neighbourhood plans that are less than 2 years old.

It should be noted that the housing supply in the SWDP Review relies on some very large urban extensions and two new settlements. Developments at this scale are difficult to deliver in line with the trajectories envisaged when they are conceived. The SWDP review plan also proposes to manage the housing supply situation on a SWDP wide basis: so for example, under-delivery at the Throckmorton New Settlement in Wychavon could be made up for within Malvern Hills.

We are aware of a number of neighbourhood plans that have sought to maintain control of where further housing goes should the wider District fall into position of not being able demonstrate a five supply of housing land. This is prudent and allows for some control over where any further housing if required whether the 'tilted balance' is engaged because of out-of-date housing policies . Therefore, we consider that the NDP should to identify a reserve housing site for this eventuality. Examples of where reserve housing sites have been included in Neighbourhood plans can be found within the made neighbourhood plans of Wellesbourne and Shipston on Stour in Stratford-on-Avon District.

Map Commentary

- Map 2: Map does not show consented and built development on A4103 by Bromford Homes (Bluebell Walk) therefore incorrect Development Boundary. (Map is out of date)
- Map 3: Does not show the Bromford development site which should not be included in the significant gap (Map is out of date)
- Map 3a: (as above) Does not show the Bromford development site which should not be included in the significant gap (Map is out of date)
- Map 4: Does not include the consented and built out Bromford site within the Existing Development Area (Map is out of date)

Policy LB/D/2 - Parking

It states that all developments will comply with Worcestershire County Councils Streetscape Design Guide 2020. This document has not been independently examined and despite numerous valid objections on the grounds of place-making and design, the document was adopted as supplementary guidance by Worcestershire County Council. This guidance will have a particularly negative impact on design. This is because the Streetscape Design Guide does not count garages as parking spaces even if oversized garages are provided. This conflicts with National Policy. The examiner of the Eckington NDP (Wychavon) advised that modifications to that NDP needed to be made in order to comply with national policy, and meet the basic conditions. She stated **‘To not count garages as car parking spaces would be likely to result in widespread parking areas possibly to the detriment of well planned and designed places. Although the County Council’s Streetscape Design Guide (2018) indicates garages are not included in any calculation as they are often converted or used for storage, little local justification for this element is put forward.’** Ann Skippers October 2019.

Since that time, and since the publication of the Streetscape Design Guide, the NPPF has been revised and National design guidance issued which have strengthened design policies. Reference to the Streetscape Design Guide should be deleted from this policy as it does not comply with national policy

Paragraph 5.2.4 – Public Transport

This paragraph sets out some the issues currently experienced with transport within the Parish. These are typical of rural areas. Paragraph 105 of the NPPF notes that; “...opportunities to maximise suitable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision making.

Given the concern set out in this paragraph, it is surprising that there is no reference to the Active Travel Route proposed between Leigh Sinton and Malvern by the Worcestershire Local Transport Plan - LTP4.

It should also be noted that reliance on private transport is becoming less unsustainable due to the introduction of electric vehicles. These vehicles, (both cars and cycles) are gaining popularity and CO2 emitting vehicles will be phased out by Government legislation. Indeed policy LB/IRLCE/3 proposes that each new dwelling where parking is provided will require an electric vehicle charging point. Although this does not mean that everyone who purchases a property will necessarily have an electric vehicle, yet encourages households to do so making the use of travel by car more sustainable and eco-friendly. In time everyone will have an electric vehicle.

The conclusion that significant development will not be sustainable in terms of transport will not be valid in the near future.

Policy LB/E/2 Local Green Spaces

Our client owns the proposed local green space at the Orchard adjacent to Kiln Lane. This allocation is supported.

Policy LB/E/3 Key Views

While there is no objection to the key views policy, we have identified an issue with key view (view 3). This appears to be taken from a Private Road off Kiln Lane / Malvern Rise and is therefore not a view from the public realm, This is very misleading as it has not been clearly indicated where the image has been taken from and in commentary mentions public views which this is not. The Key view from this location should be taken from the public open space by the play area within Malvern Rise. It is also our view that, using the criteria in Appendix E there are other key views that should be set out in this plan.



(View taken from Malvern Rise, Included in the Incola Report)

There are views of the Malvern Hills and towards listed buildings from PROW 582C. When looking at Appendix E: Potential criteria for Assessing the Visual Value of Views, a key view has not been identified. Views of the Malverns from public spaces appear to be a key criteria for a Valued View. Views from within or toward Grade II listed buildings are considered to be a High Level of Visual Value. Therefore, there should be additional key views added from the PROW 582(c) looking towards the Malverns and the Grade II listed buildings on the A4103. Clearly this will have significant negative implications for the allocated housing site. (Photos taken on iPhone)



One difficulty is that the NDP refers to a document produced by Environmental, Landscape and Colour Consultancy but this has not been made publicly available, therefore we are not able to examine how these views have been assessed. This document needs to be publicly made available in the evidence base so that the NDP can be properly consulted upon. It is our view that this should be made available to allow accurate consultation. For example, within the “very high’ visual value criteria is one which states “Views in which receptors have a proprietary interest, including people living within residential properties.” This is clearly an unacceptable criterion. The planning system does not protect private interests in this way; it can only protect a view in the public interest. Someone may have bought a house with a view but they did not buy rights across the land over which they have the view. Such a private view cannot be protected by the planning system. Without reviewing the ELC consultancy report, it is not clear whether this ultra vires consideration has played a part in the definition of the Key Views.

Appendix 5 – Potential Key Views

Appendix 6-8 – Photographs of Key Views taken from PROW 582(c)

Policy LB/I/7 – Infrastructure: Moving Around

This policy is supported however there has been no reference made to the Worcestershire’s Local Transport Plan 4 proposal for an active travel corridor. - see LTP4 - South Worcestershire - SWAT9 the Malvern to Leigh Sinton Active Travel Corridor. This scheme will help make the services within Malvern accessible for the residents of Leigh Sinton without the need of a car. It will be suitable for electric bicycles and as normal bicycles and walking, thereby helping to solve many of the problems identified throughout the Plan regarding access to services and facilities. This will dramatically improve the sustainability of this settlement when constructed.

Appendix 1 – Worcestershire’s LTP

Appendix J – Site Assessment (CFSO640) - Now Removed

The assessment of SHLAA site CFS0640 is flawed.

- Leigh Sinton is not a Category 3 village but a Category 2 village in the SWDP. there are objections to the downgrading of the village. It has not yet been reviewed by an examiner therefore cannot be attributed any weight. The NDP should consider the settlement as Category 2, which it is currently.
- Possibly medieval potential, this is untrue. Please see the Historic Environmental Desk-Based Assessment completed by Cotswold Archaeology. This report concluded that there is a low potential for currently unrecorded archaeological remains within the site and that development on this site would result in no harm to the significance of any designated heritage assets through alteration of their setting.
- In regard to the impact on the Grade II listed (former manse) the impact on this heritage asset has been assessed in the Historic Environmental Desk-Based

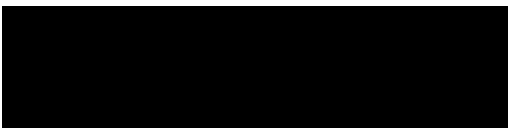
Assessment completed by Cotswold Archaeology and it was concluded that although it is within close proximity to the site, this area has no inter-visibility

- Due to the existent built form. (See report for evidence). This contrast markedly with the assessment of the allocated site in this regard.
- The site would retain the TPO trees that are outside of the potential development area.
- It is mentioned that the site will have a detrimental impact on the significant gap. There is no evidence to support this statement. The detailed policy assessing the significant gap has not been looked at in enough detail to consider its placement and how each area affects the purpose of the policy.
- It is noted that this site would not assist in supporting or delivering identified community infrastructure needs. We promoted this site for development of housing as well as the provision of sports pitches.
- Access to the site. Planning permission was granted for a haul road for the Cala Homes development. This indicated that there is a safe and usable access to the site.

Documents submitted with representations to Appendix H
Appendix Original Proposals (including sports pitches)
Appendix 10 - Cotswold Archaeology - Historic Environmental Assessment Appendix 3 -
Incola - Significant Gap Assessment

We would welcome the opportunity to appear at an examination to debate these points.

Kind Regards,



Land Manager
Lone Star Land

