



# Local Plan

## Local Plan Partial Update (LPPU) Regulation 19 and Sustainability Appraisal

Representations  
on behalf of  
the Duchy of Cornwall

Ref: CP0003

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Client: Duchy of Cornwall

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## Document Control

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For and on behalf of Copperfield L&P Ltd

Revision	Date	Notes	Prepared	Approved

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## 1. Local Plan Partial Update (Regulation 19)

1. These representations are prepared on behalf of the Duchy of Cornwall. They follow on from representations made in May 2020 and February 2021 to the Local Plan Policies Review as well as the June 2020 and October 2020 Call for Sites exercises.
2. As has been previously explained, the Duchy of Cornwall owns land to the west of Bath, some of which is located around the A4 economic and transport corridor. As such the Duchy of Cornwall has an interest in the proposed Local Plan Partial Update and would welcome the opportunity to work with BaNES to help deliver its response to the need for new communities for local people, in a balanced manner. Through the Duchy of Cornwall's development and land management experiences, they believe they can support the stated environmental objectives such as, responding to the Climate Change Emergency and the Ecological Emergency that BaNES has declared.
3. These representations cover the relevant sections of the consultation document, with a focus on the policies that relate to communities housing and environmental matters. They also address the Sustainability Appraisal (SA) where relevant.

### Scope of the LPPU

4. The adopted BaNES Core Strategy is now 7 years' old and is based on evidence that is even older which bring into question whether, as a whole, it is fit for purpose and whether the scope of this particular review meets the necessary expectations of the National Planning Policy Framework? Whilst a partial plan review can be helpful, in this case under pinning elements such as climate change and the ecological emergency as well as the NPPF are materially different, which leads to the conclusion a full review is necessary for the plan to be sound.

### Responses to the Schedule of proposed Changes

#### "After para 5"

5. It is noted that the proposed changes refer to the need in the NPPF2021 to review a plans every five years and to update policies. Whilst any kind of review that brings a development plan up to date is welcomed, it is important that it does not mislead users especially in circumstances where only part of the plan is seeking to be brought up to date. In this case the housing, employment and distribution policies which are key to supporting sustainable new development are out of date, but the review does not address these topics.
6. It is therefore difficult to understand how BaNES can rationalise the scope of this review in line with paragraph 33 of the NPPF and Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulation 2012? BaNES has yet to present evidence to show why this review should not address necessary changes in housing and economic need and therefore how the LPPU process is compliant with Regulation 10A and will produce an up to date Local Plan?

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7. This is important for two reasons:
  - The completion of this limited review could be misread by plan users as having created a fully up to date plan, which it is plainly not with regard to housing and the economy.
  - There is every possibility that the review will create a development control focused plan that is inconsistent with the strategic needs of BaNES, resulting in more confusion for plan users.
8. The underlying issue is that the current BaNES plan provides a combined strategic and non-strategic planning function. Until the SDS is published and adopted, and a Part I local plan is produced, the LPPU will continue to contain out of date strategic policies. It is very difficult to see how the local plan examination process can or should find this plan sound when read as a whole, given the narrow scope of review?
9. To address this the Duchy of Cornwall suggests a full review is carried out or those parts of the plan which are no longer up to date including addressing overall housing and economic need to create a sustainable plan which addresses social and economic matters in addition to the current focus on environmental matters. It is all three strands together that deliver a sustainable community.

#### **After para 56**

10. Proposed paragraph 56a highlights that BaNES accept the LPPU contains strategic housing policies that need updating for areas where there is a Neighbourhood Plan. What is not clear is how this can be achieved when the overall housing requirement is out of date and equally needs updating, but hasn't been in the LPPU?
11. Moreover, the plan period established by the proposed LPPU is only 7 years from adoption. As the LPA has confirmed it performs a strategic planning function and thus it is not clear how the plan achieves the requirement of paragraph 22 of the NPPF2021, which is to produce a plan for a minimum 15 years from adoption?
12. Anticipation of the West of England's SDS and the production of a subsequent Part 1 Local Plan unfortunately does not make the LPPU consistent with national policy on its own merits.
13. It appears the plan is inconsistent with national policy in this regard and therefore is unfortunately unsound. A LPPU which addresses a 15 year time period from adoption and is either strategic or non-strategic could potentially pass the test of soundness.

#### **Paragraphs 90 and 90a**

14. The Duchy of Cornwall supports carbon zero development and policies that seek to achieve it. However, there is little evidence even at this advanced policy formulation stage about how this may impact 'whole plan' viability and thus delivery of development? The introduction of carbon reduction measures will have a financial impact as has been outlined in the Duchy of Cornwall's

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representations to earlier consultations. It is an essential part of balancing the varying obligations on development that the result is viable and thus deliverable.

15. It is not clear later in the LPPU how the modelling work carried out by Currie Brown in December 2018 which establishes 3 policy options (with a preference for option 1) aligns with proposed LPPU policy SCR6? Moreover, there does not appear to be any 'whole plan' viability work to consider the impacts of other policy expectations on top of those already sought in the current local plan such as increased accessibility standards.
16. At the moment this element of plan making has no proportionate evidence base to support proposals that go above and beyond both new building regulations and the Future Homes Standard being applied in 2025.
17. The Duchy of Cornwall is not objecting therefore to the imposition of higher standards but suggests that to establish a sound and deliverable plan, BaNES should carry out a whole plan viability assessment including the proposed changes.

#### **Paragraph 99b**

18. Whilst the Duchy of Cornwall notes the importance of a transition towards carbon zero development, paragraph 99b adds a layer of confusion for plan users. It indicates the need to achieve carbon neutrality by 2030, but the recognises that the Core Strategy targets in this regard cannot be reviewed through the LPPU. It then cross-refers back to the Core Strategy explaining its requirements represents a minimum level and then sets out an energy metric to achieve.
19. It seems on the one hand the premise of the LPPU is to amend the development plan to address climate change and achieve carbon neutrality by 2030 but on the other hand it cannot specify anything other than what is presented in the Core Strategy. This raises a question about whether the scope of the LPPU is effective especially considering concerns over addressing development needs over a meaningful and proper plan period?
20. The Duchy of Cornwall would very much like to see BaNES prepare a plan that comprehensively addresses social, and housing needs alongside responding to the climate emergency. However, the LPPU does not appear to fully address either, making it difficult to rationalise its consistency with national planning policy as well as the production of a clear development plan for users.

#### **Policy CP3**

21. The Duchy of Cornwall is pleased to see that policy CP3 acknowledges the importance of landscape setting and impacts on the Bath World Heritage Site. It is however questioned whether the wording in criterion c) is consistent with national policy? Whilst the sentiment appears to be represented in criterion c), proposals need to be more than 'informed' by a heritage assessment. The assessment of any heritage impact must follow the NPPF2021 and the legal requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990. Paragraphs 201 and 202 of the NPPF2021 set specific (and different tests from the LPPU) to be

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met where harm is caused to the significance of a heritage asset. For example, the emerging policy does not highlight there are two policy heritage tests which require different planning balances to be achieved depending on the level of harm. It is therefore suggested that the last section of policy CP3 is re-worded to reflect the specific nature of the NPPF or alternatively cross refer to it.

22. Criterion F is also of some concern given that appears to prevent the delivery of renewable energy as part of development schemes where community profit share or social community benefit is not achievable. This seems at odds with the primary objective of responding to the Council's climate change emergency policies. This criterion appears to discourage investment in renewable technology and may run counter intuitive to being consistent with national planning policy. The Duchy of Cornwall would welcome a plan that encourages community ownership and profit share especially when this aligns with the social values of development organisations, but this should not be at the expense of delivering the primary objective of the plan which is a move to deliver carbon neutrality.
23. For the LPPU to be sound in this regard, amendments are therefore suggested to heritage and community benefit clauses including:
  - Using the NPPF definitions of assessing heritage harm and benefit.
  - Encouraging community ownership and profit share of renewable energy sources on development sites rather than requiring it.

#### **After paragraph 107 and policy SCR6**

24. The Duchy of Cornwall fully supports sustainable construction for residential buildings, but finds paragraphs 107 (criteria a- f) confusing given earlier statements about the LPPU not revising the Core Strategy position on zero carbon? The policy seems to suggest that due to uncertainty regarding the Future Homes Standard and the local plan pursuing carbon zero, a new energy metric will be applied to all new development.
25. First and foremost, there is no evidence base for the energy metric to support the emerging policy in its current form. This means there has not been any meaningful viability testing or delivery testing of the metric which is imposed through emerging Policy SCR6. In addition, it again raises confusion about what standards BaNES is applying through its LPPU and whether they remain consistent with the Core Strategy or other national policies?
26. The rigidity of the policy has the potential to render many developments undeliverable especially within urban areas such as the Bath World Heritage Site. There will be instances where for example, roof mounted PVs will impact upon its heritage setting and yet will be a requirement of Policy SCR6? It is noted elsewhere in the plan that some flexibility is given to the use of PVs in the World Heritage Site and this should be reflected in Policy SCR6.
27. The paragraph addressing major residential development appears to ensure that all development is zero carbon, yet earlier parts of the LPPU (proposed paragraph 99b) indicates

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the scope of the emerging plan does not extend to this extent. Whilst the Duchy of Cornwall supports the achievement of carbon zero, it is difficult to rationalise the function of the LPPU and how it is consistent with other parts of the development plan and national policy? Unfortunately, it seems to fail the test of soundness in this regard. For the plan to be found sound:

- Either the LPPU becomes a full replacement plan as opposed to a partial update and addresses carbon zero or
- The plan achieves a consistent policy requirement on the matter across all policies of the LPPU and other BaNES development plan documents.

### **SCR8 Embodied Carbon**

28. The Council has yet to publish an evidence base to support the delivery and viability of development when achieving 900kg/sqm of embodied carbon. Prior to examination, it is important that BaNES provide the evidence to support the delivery of this part of the plan to ensure it is justified. The work carried out by Currie Brown in December 2018 does not appear to address this specific point.

### **Paragraphs 132a-132d and policy SCR9 electric vehicles**

29. The Duchy of Cornwall is pleased to see that amendments have been made to the strategy on EV charging points, specifically recognition that this is an evolving matter. However, the approach to then make the detail part of a separate SPD is concerning. It is important that the LPPU sets a base level standard of provision as has been set out in previous representations. Moreover, that base level needs to be realistic, something that was not the case during earlier consultation exercises.
30. For the plan to be justified and sound, the LPPU should be more specific and highlight the circumstances where, fast (7kW-22kW Mode 3), or rapid (43kW-50kW) chargers may be sought, having regard to the energy requirements of a development and the availability of local electricity grid capacity. It is noteworthy that previous consultations recognised that grid capacity may be an issue in some locations and the suggested flexibility is supported. At present, Mode 3 (7kW) charging with a universal socket is aligned with current battery sizes and technology and it is suggested that this is adopted in the short-term.
31. BaNES should also be mindful that the Department of Transport held a consultation on Electric Vehicle Charging in Residential and Non-Residential Buildings in October 2019. It set out the Government's preferred option to introduce a new functional requirement under Schedule 1 of the Building Regulations to provide for electric vehicle charging points. The consultation indicated that one charger per dwelling rather than one per parking space should be sought. This is reflective of the continued needs to discourage private car travel in favour of other modes.

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32. The Duchy of Cornwall therefore supports the provision of infrastructure to enable a transition to electric vehicles, but first and foremost, the LPPU should be focusing housing and employment growth where other forms of transport (walking, cycling and e-bike), are most useable. This is best achieved through a proper review of the spatial strategy, which is currently absent.
33. Whilst the delivery of electric vehicle charging points is an important step towards carbon neutrality, it is also important that housing delivery remains viable when considered alongside all other S106 obligations. The current cost of adding a 7kW charger is around £1,000 per dwelling and this should be built into the whole plan viability model.
34. Regarding the on-cost of upgrading of the power grid, the Government's consultation set a threshold at £3,600 per dwelling. The emerging BaNES Core Strategy Review should reflect the outcome of the Government research.

#### **Policy NE3 Sites Habitats and Species**

35. It is unfortunate that the Duchy of Cornwall is led to object to the first sentence of proposed policy NE3, but it is not consistent with the NPPF2021 and therefore would fail the test of soundness.
36. The NPPF does not prevent development where there is harm to biodiversity, but rather seeks to establish if alternatives could be less harmful in the first instance. There may be circumstances for social or economic reasons why harm may be acceptable and especially where it can be mitigated or compensated for. The NPPF2021 allows for a balanced planning judgement to be taken rather than a blanket moratorium on development. Such an approach would be aligned with the forthcoming Environment Act and the requirement to prove at least 10% net bio-diversity gain can be achieved after the completion of a development.
37. For policy NE3 to be sound it should follow the wording set out at paragraph 180 (criteria a-d) of the NPPF2021.

#### **Policy NE1 Development and Green Infrastructure**

38. The Duchy of Cornwall supports making a link between the provision of green infrastructure and the creation of walking, cycling routes which help underpin a healthy community. It is important however, that in some cases recreation and nature conservation are not always fully compatible. For example, dog faeces is known to lead to soil enrichment which in some circumstances adversely affects nature conservation and green infrastructure. Care therefore needs to be taken not to apply a blanket approach when implementing the proposed amendment to Policy NE1. Perhaps the Core Strategy Review could recognise this in the supporting text?
39. Having regard to the need for policies to be effective for the LPPU to be sound, criterion 1a) of Policy NE1 is not clear about what it seeks to be delivered? The test of demonstrating how development maximises opportunities for functional GI, focusing on the use of nature-based

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solutions to deliver community benefits seems both unclear and potentially undeliverable in the context of other competing requirements that are a necessary part of development. For example, there may be circumstances where functional GI is delivered for the benefit of protected species rather than delivering a community benefit as well. Clearly there is merit in encouraging both aspects, but this may not always be achievable in practice.

40. For the policy to be sound and effective, "*...will maximise*" in criterion 1a) should be replaced with "*...encourages amongst other objectives*".

### **Policy GB2**

41. In the previous set of representations, the Duchy of Cornwall highlighted that it was enlightening to see that BaNES was considering the impact of removing village boundaries which so often prevent sustainable development because of the way a line is drawn on a plan. The Duchy of Cornwall has previously made representations regarding Newton St Loe where development of infill sites would not result in harm to the openness of the Green Belt. Villages like towns and cities need to be given the room to grow in an organic manner to support local services and if possible, enhance them. The approach would not take away the policy controls which ensure that only sustainable development is granted planning permission. Likewise, the approach would support the preparation of neighbourhood plans to select small-scale sites. It is unfortunate and counter intuitive to the Green Belt policy in the NPPF2021 that we now find they are to be replaced with 'defined infill boundaries' which amount to one and the same.

### **Paragraph 349a First Homes**

42. First Homes falls under the Annex 2 (Glossary) definition of affordable housing within the NPPF2021. Whilst clarity is always welcome, the NPPF2021 appears clear regarding First Homes and their contribution towards affordable housing delivery.

### **Policy H7 Accessibility**

43. As with many of the other policies in the Core Strategy Review, the Duchy of Cornwall supports the application of the M4(2) accessibility standards which is becoming an industry standard.
44. It is also noted that the Council is seeking to apply M4(3) standards to all new housing (subject to viability). It is noted that the NPPG (ID 56-008-20150327) only requires this for dwellings over which the Council has housing nomination rights. Therefore, whilst it should be encouraged across all developments, it should only be required in these specific circumstances. This is to prevent many housing schemes suffering viability concerns given that cost increase estimates provided to the Government's Housing Standards Review by EC Harris estimated £15,691 per apartment and £26,816 per house. Again, this is something that should be considered as part of the whole plan viability exercise which is encouraged by national policy.
45. The Duchy of Cornwall therefore suggests that to demonstrate the LPPU approach is sound overall, that BaNES produce a whole plan viability assessment to demonstrate the range of measure it wishes to implement are achievable when added to the current cost of planning

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obligations and requirements. Without a whole plan viability assessment, it is not clear whether the proposals could render more costly urban and brownfield development unviable?

#### **Paragraphs 581-617a Travel and Policy ST1**

46. The Duchy of Cornwall supports the proposed changes to travel policies, which include requiring development to be located where they are close to opportunities for travel by alternatives to the private car. However, it seems the LPPU is not re-examining the spatial strategy to enable this to take place. This appears to be a missed opportunity and one which is inconsistent with establishing a sound and consistent plan.
47. As has been said throughout this response, there is a need to review the spatial strategy now in light of both the Climate Change and Ecological Emergencies that have been declared since the Core Strategy was adopted.
48. Liveable neighbourhoods are a key component of Duchy of Cornwall schemes and are wholeheartedly supported. However, the proposed policy does not appear to address the need to support the introduction of mixed uses to reduce the need to travel. Moreover, the Core Strategy Review does not explore the advantages of reviewing the dated 2014 spatial strategy (as explained throughout these representations).

#### **Paragraphs 618a-621, Policy ST6 and Policy ST7**

49. Again, as with many aspects of the proposed revisions to the LPPU, those made to Policy ST6 (Interchange Hubs) are supported. They encourage a move towards multi-modal transport interchanges (including e-bike/ scooter hire etc). The issue, however, that runs through the plan, is the misalignment with dated spatial strategy which is not proposed to be reviewed. A root and branch review is still needed to help improve the effectiveness of the proposed new infrastructure which, by necessity, needs to encourage shorter travel distances to make alternative transport modes convenient and practical.

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## 2. Sustainability Appraisal

50. The Duchy of Cornwall has not commented on the detail assessment process that BaNES is undertaking, or the criteria used within the Sustainability Appraisal at this stage. However, in terms of the assessment method, it is not clear what approach has been taken to explore reasonable alternatives, including alternative sites and strategies.
51. If the LPPU does not address the spatial strategy elements that are raised in these representations, then at the very least it should explore how different approaches to site selection have been considered which are consistent with the current spatial strategy.
52. It appears from the limited information within the SA that little account has been taken of the range of sites presented to BaNES as part of the recent Call for Sites exercises described at the beginning of these representations.
53. For the LPPU to be justified, it must be demonstrated how reasonable alternatives have been properly considered throughout the plan-making process. This is set out in the NPPG, which explains:

***“The sustainability appraisal needs to consider and compare all reasonable alternatives as a plan evolves...”*** [NPPG ID 11-018-20140306, Copperfield emphasis]

54. The Interim SA does not appear to make any reference to reasonable alternatives, which is unfortunately not consistent with the guidance. One of the issues raised during the Joint Spatial Plan (JSP) Examination was a lack of proper consultation and consideration of reasonable alternatives against which to test the proposals. It would be unhelpful for all if this plan were to suffer the same issue. As such it is suggested that reasonable alternatives are properly and fully considered. From a housing and community perspective, one such alternative is land West of Bath (**Appendix A**), which is known to the Council and has been submitted as part of the latest Call for Sites exercise. The Duchy of Cornwall would welcome dialogue with the Council about how meeting some of the housing and community needs in this location would align with emerging policy changes and would represent an appropriate part of the Council’s development strategy.

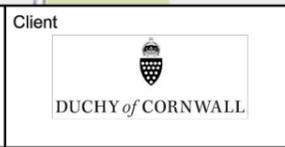
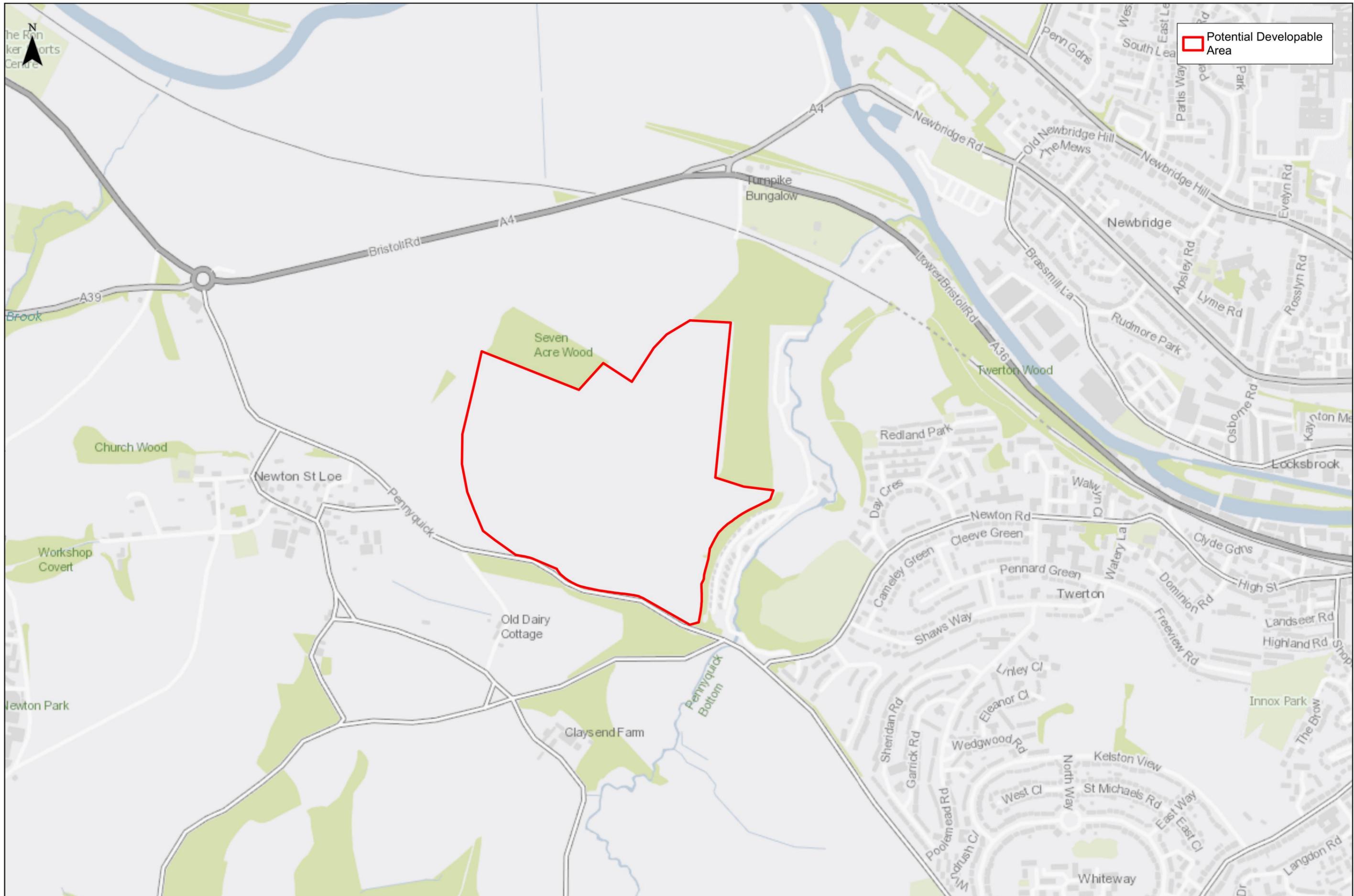


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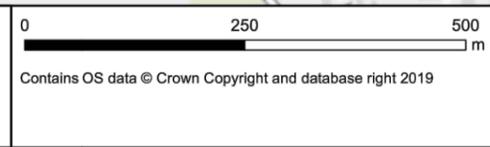
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## Appendix A

Land West of Bath Site Location Plan F01revA, prepared by Stantec



**Land West of Bath**  
Site Location



1:8,000 @ A3	Date: 16/10/2020
Drawn: IB	Checked: SJ
Figure 01	Rev A