An additional statement on behalf of Mrs Vicki Hamilton-Davis
In response to Matter 23 Housing in the Rural Area
Issue 1: Whether the approach to development in the rural areas is justified and positively prepared

This additional statement focuses on the specific issue of the rewording of the Housing Development Boundary (HDB) policy. We contend that as rewritten this policy is not positively prepared and will result in an approach to development in rural areas that is not sustainable.

The alterations to the Housing Development Boundary (HDB) policy has made this an incredibly restrictive policy. This does not reflect the original intention of the policy as drafted. It does not reflect current government guidance in terms of permitted development rights to change the use of employment uses to residential use and to allow the use of agricultural buildings to residential uses that are located on the edge of villages, subject to the relevant conditions. It is also an unsustainable approach to the potential development of sustainable sites.

It is unclear why B&NES has taken a more draconian stance on this policy than the original draft of the policy. The explanatory text contained within the introduction to the Placemaking Plan Housing Development Boundaries Review December 2015 states that HDBs exist to allow small site windfall housing development to come forward. This is seemingly contradicted by the following sentence which states that the HDBs are being reviewed to take into account housing development that has already occurred, committed housing allocations and anomalies. It then states that it is not the purpose to allocate land at the edge of settlements for new housing.

There are a number of issues with this:

- This should not be used as a retrospective and unduly restrictive policy by only amending this to allow what has previously been approved or allocated.
- It does not define what is meant by an 'anomaly'. Does this mean properties and sites that have been excluded that should have been included, which by virtue are highly likely to be located on the edge of settlements?
- Whilst it's agreed that the purpose of an HDB is not to allocate housing, there is no clear reason why properties or sites on the edge of settlements should be specifically precluded from inclusion in an HDB. Inclusion doesn't automatically mean that sites would or could be applicable for future development.

The purpose of an HDB is not just to tightly demarcate the housing area of a settlement, because by virtue of drawing a line around a settlement this will naturally include any other uses within the settlement. It is also to demarcate an area where further small scale residential development is acceptable in relation to existing housing. It is not clear why B&NES considers it unacceptable to allow small scale residential development on the edge of settlements. It is not clear why small scale residential development in this location is more harmful than small scale residential development within any other part of a settlement. Particularly where there are a range of other policies in the Local Plan that can control the impact of development.

Bearing in mind the Government's promotion of sustainable development and the development of previously developed brownfield sites the latest version of the HDB policy seems at odds with this by precluding brownfield sites from HDBs that are situated on the edge of settlements or through the partial inclusion of the area of properties and sites that they consider to be residential curtilage only that are actually viable for residential development. This contradicts the requirements of Part B of Principle 2 which defines HDBs to include land within residential curtilages that are not large gardens or other open areas. As such including all structures with or without planning permission within the curtilage of a property within a HDB.

The Exclusion of Holiday Accommodation

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An alteration to Sub Principle B now specifically excludes holiday accommodation and residential development secured through farm diversification projects on the edge of settlements from within HDBs. This states that these forms of accommodation are not considered as housing.

We disagree with the Council's position that this is not a form of housing and that because of this sites containing this use if situated on the edge of a settlement should be excluded from the drawing of the HDB.

Dwelling houses for both short term lets and permanent residential use fall within a C3 use class. Established case law has confirmed this (*Gravesham BC v. SEE [1984]*). Whilst recent case law has rejected both the premise that a holiday let can never be regarded as a C3 use and that the holiday let use of a residential dwelling must always fall within a C3 use class it is clear that a holiday let must be defined on the basis of how and by whom the property is used to determine whether a material change of use has occurred for it to be considered a commercial leisure use. As such on the basis of fact and degree it can only be argued that a material change of use has occurred from a residential use to a commercial leisure use if the people staying in the property are not using it as a single pre formed household group but came together on the basis of shared interests which resulted in excessive noise, disturbance and or traffic movements above and beyond that associated with a residential use. As such the majority of holiday accommodation will still be categorised as a C3 use, irrespective of whether or not conditions are attached to planning permissions for holiday lets preventing their use as a residential dwelling, because the property is still essentially in residential use.

Sites that include holiday accommodation should be included (as well as farm diversification developments) within HDBs. They tend to form part of larger mixed use sites and it is nonsensical to draw arbitrary boundaries through larger properties and sites. Furthermore the wording only excludes these types of uses on the edge of settlements, which by virtue means that they are acceptable within the centre or just inside what is considered to be the edge of a settlement.

Finally, we are concerned that Sub Principle 3 part D has been included in this latest version of the policy following the first round of reps that we submitted and negotiations were entered into to secure the entire site's inclusion within the Chew Magna HDB. It would appear that this policy has been amended as a direct result of the response taken by officers to the initial reps. This is not considered to be an approach to policy making that has been positively prepared or fully justified.

At no point has the owner of the site ever made a distinction between constituent elements of the site or specifically defined a residential curtilage. This was done solely by officers and predicated on the basis of a red and blue line site location plan submitted for a previous application that dealt only with the structures in the centre of the site. The use of red and blue on a site plan are to demarcate the areas of a site that are covered by an application proposal and any other land within the applicant's control outside the red line application area. The purpose of this is not to create smaller domestic curtilages within a larger site area.