

Land at Edgeworth House  
Mr M Else  
Richard Butler  
September 2016



**SUBMISSION OF FINAL  
COMMENTS  
EDGEWORTH HOUSE,  
NORTHCHURCH**

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# Table of Contents

<b>1.0</b>	<b>Introduction</b>	<b>1</b>
1.1	Site and Situation	1
<b>2.0</b>	<b>New Information</b>	<b>2</b>
2.1	Flood Risk Evidence	2
2.2	SHLAA references to site	2
<b>3.0</b>	<b>Response to Questions, Issues and Matters</b>	<b>3</b>
3.2	Accordance with NPPF	3
3.3	Flexibility of Policies	4
3.4	Test of reasonable Alternatives	4
<b>4.0</b>	<b>Conclusions</b>	<b>6</b>
<b>Appendix 1</b>		
FLOOD RISK NOTED IN PROPOSALS MAP 2004		
<b>Appendix 2</b>		
FLOOD RISK MAPS UPDATED JULY 2016		

## 1.0 Introduction

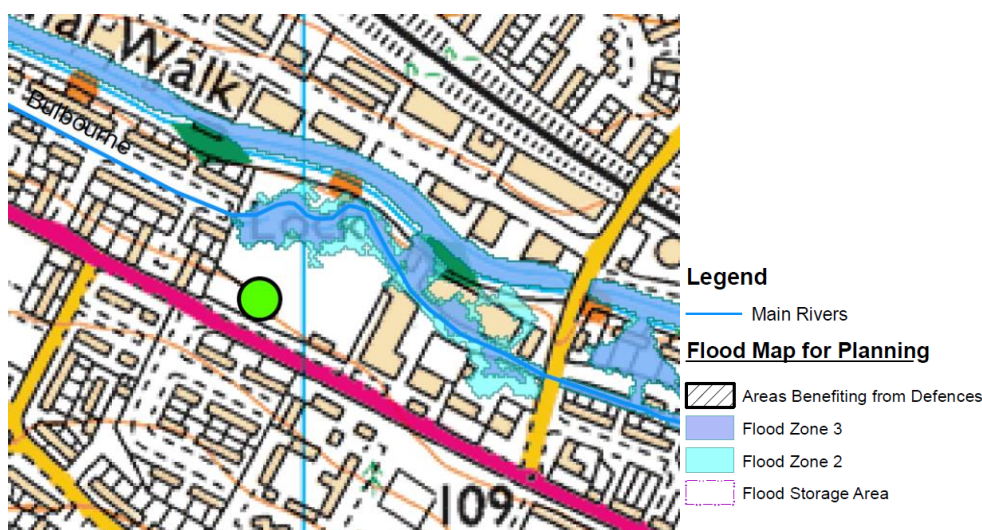
### 1.1 Site and Situation

- 1.1.1 These representations are made with regard to land at Edgeworth House. The site comprises a Listed Building and associated ancillary buildings located on High Street, Northchurch.
- 1.1.2 The site includes the private garden to the rear of Edgeworth House, which are extensive in size and include a section where the river Bulbourne crosses the site; the southern boundary abuts the Grand Union Canal.
- 1.1.3 The garden comprises approximately 1.6Ha of private garden. There is no public access to this land, and there has not been in the past.
- 1.1.4 The site has a very good frontage onto the High Street, with three existing access points.
- 1.1.5 Through the Site Allocations related to the Core Strategy, Dacorum Borough Council have sought to designate the site as Open Land.
- 1.1.6 My client and other interested parties have made objections to this proposal through various stages of the consultation.

## 2.0 New Information

### 2.1 Flood Risk Evidence

- 2.1.1 The Environment Agency has undertaken flood modelling investigation work across the Gade and Bulbourne and representatives were on site during 2015. The outcome of this work has very recently been made available, and there are some significant updates to note with regard to the flood risk applicable to the site. The plan in Appendix 1 shows the Strategic Flood Risk considered by the Local Authority and noted in the 2004 Local Plan.
- 2.1.2 The updated data set obtained by the Environment Agency has been obtained, and the accurate representation of the Flood Zones in appendix 2 of this document. An abstract of the plan is provided below for ease of reference:



There is a clear reduction in the area of the site that are subject to Flood Zone 2 and 3.

### 2.2 SHLAA references to site

- 2.2.1 The Local Authority have conducted consultation on the draft version of the Strategic Housing Land Availability Assessment (SHLAA) document. Representations were made to this document with regard to the land at Edgeworth House.
- 2.2.2 In light of the representations; the comments within the SHLAA relating to the site were updated in the final SHLAA document. The references to the site are now noted as follows:
- “The site has a number of constraints to development. Extensive garden land. Adjacent to canal and River Gade<sup>1</sup> runs through the site. It contains areas of Flood Zones 3a, 3b and 2, it is within an Area of Archaeological Significance and contains a Listed Building. Site is available for development. The development potential of the site is limited by the listed building and other constraints.”
- 2.2.3 The site is noted in the SHLAA document as suitable and available for development, and accepted by the Council to be able to provide 12 dwellings.

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<sup>1</sup> Note: The River Gade passes through Hemel Hempstead. The document should refer to the River Bulbourne; this is another error in relation to references to the site.

## 3.0 Response to Questions, Issues and Matters

3.1.1 With reference to the documents circulated by the case officer, direct responses are noted to the Questions, Issues and Matters raised by the Inspector.

### 3.2 Accordance with NPPF

3.2.1 The NPPF does not include a specific reference to the term 'Open Land' other than a recognition that 'open land' can perform many functions, such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production, but does not define how Open Land should be recognised or designated. Furthermore, the NPPG does not clarify exactly what defines the characteristics of open land.

3.2.2 The NPPF does include a definition of the term Open Space, and this is detailed as follows:

"All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity." There is a clear focus of sport and recreation on this matter in the NPPF.

3.2.3 A further designation is the identification of Local Green Spaces, wherein local communities should be empowered to protect land that has particular importance to them, and this could include a wider scope of characteristics, such as beauty or wildlife properties; however, paragraph 77 of the NPPF provides the following guidance:

"The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- where the green space is in reasonably close proximity to the community it serves;
- where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- where the green area concerned is local in character and is not an extensive tract of land."

3.2.4 Reference is not made in the exceptions above to private gardens; this is most likely a result of the scenario being very unlikely, or covered by other parts of the legislation.

3.2.5 With regards to the land at Edgeworth House, the land does not represent a facility of sport or recreation, and does not serve the community in accordance with the bullet points of paragraph 77 of the NPPF.

3.2.6 With regards to the Core Strategy; the glossary provides definitions for the following:

#### Open Land

Areas of open space greater than 1 hectare in size that are formally identified on the Proposals Map and protected from development through planning policy.

#### Open space

All types and scales of open land, both publicly and privately owned. Some of this is also protected as 'Open Land.'

3.2.7 There is a clear discord between the NPPF and the Core Strategy when considering the designation of the land associated with Edgeworth House, and clarification is required. The land does not provide facilities for sport and does not constitute a community facility as defined under the Local Green Space designation; therefore the designation of the land would not follow the intentions of the NPPF.

3.2.8 With regard to the Core Strategy designations, the falls more suitably under the term open space than as open land, due to the private ownership and restriction of access.

### 3.3 Flexibility of Policies

- 3.3.1 The policy implications of an Open Land designation is that Core Strategy Policy CS4 applies with regards to the following text: "In open land areas the primary planning purpose is to maintain the generally open character. Development proposals will be assessed against relevant open land policies." Saved Policy 116 would also be applicable; the text of the policy is noted, "Open land forming part of the urban structure will be protected from building and other inappropriate development... Proposals to develop on other open land in towns and large villages will be assessed on the basis of the local contribution the land makes to leisure facilities, townscape, visual amenity, nature conservation and the general environment."
- 3.3.2 The policies would apply a restriction to development, however, this would conflict with comments made by the Council when considering the Edgeworth House site in the SHLAA.
- 3.3.3 The SHLAA, provides a clear indication that the site has capacity for approximately 12 units, it is not clear that policy CS4 and Policy 116 would have appropriate flexibility to facilitate development on the site. With this regard, there is a clear conflict with designating the site as Open Land and future development proposals that could come forward under the new Local Plan.
- 3.3.4 The SHLAA makes allowances for the constraints applicable to the site; listed building, flood risk and arrives at an appropriate level of 12 units, using only 25% of the site area. The Open Land Designation would apply an additional restrictive policy that is not necessary or justified, and has limited flexibility in working with future proposals.
- 3.3.5 The concerns with regard to the inflexibility of the policy is highlighted in paragraph 7.9 of the Site Allocations Background Issues Paper (June 2015) (SABIP); "There is a presumption against removing the designation of Open Land to enable future development of any sites." The paragraph concludes with the sentence, "The Council consider that there is sufficient flexibility within the above mentioned development plan policies to ensure that development is not entirely precluded from sites designated as Open Land," however there is little within the policy to positively direct how development can successfully be achieved on such sites and how the aforementioned flexibility should be applied.
- 3.3.6 With regard to the suitability of the designation, paragraph 7.12 of the (SABIP) reinforces the point made at 4.3.4 above, "...In addition, other statutory designations may be a reason not to allocate additional land, such as TPOs, Listed Buildings or Conservation Areas, where on balance with the reasons for protecting open Land, such designations may unnecessarily restrict development for alternative reasons." This is especially relevant to the Edgeworth House site; there are applicable constraints that will suitably control future development with the additional constraint of Open Land, especially then site does not perform an Open Land function.

### 3.4 Test of reasonable Alternatives

- 3.4.1 The Site Allocations Document proposes few new allocations of Open Land, a total of 25 sites were considered across the borough in the 2015 SABIP, and 5 were assessed as suitable for allocation. Edgeworth House represents the only site of 5 within Berkhamsted to progress.
- 3.4.2 It is clear from the level of dismissed sites that the criteria to meet for a site to be brought forward for allocation as open space is high.
- 3.4.3 As noted in the SABIP, the criteria included a size threshold of 1ha; the consideration of proposed uses of the site; and built form.
- 3.4.4 Edgeworth House is referenced in a number of documents forming the evidence base for the Core Strategy and associated DPD documents. There is a marked inconsistency in how the Local Authority has considered the site and various conclusions drawn relating to Edgeworth House. These are documented below:
- 2006 - SHLAA documents notes the site as appropriate for circa 11 dwellings under site BW/9.

2008 – Open Space Study notes that the opportunity could be taken to include part of the Edgeworth House site closest to the canal as open land.

- 2013 – Core Strategy – Defines open land as areas greater than 1Ha. The Edgeworth House Garden closest to the canal measures only 5700sqm. The other land in the gardens of Edgeworth House is added to achieve the 1Ha threshold.
- 2014 – The site background issues papers consider the site and make the following comments, “The green space here forms the back garden of the dwelling and not appropriate to allocate as Open Land. Site also affected by watercourse and floodplains, meaning scope for development may be restricted. 1.6 ha.” This conclusion would note that the site should not be allocated as Open Land.
- 2015 – The site background issues papers, notes the following comments in relation to the site, “The green space here forms the back garden of the dwelling and extends 1.6Ha. Site affected by watercourse and floodplains, but land contributes to urban form, would extend the existing green/ corridor/ Open land associated with the canal and enhances the character of the listed building.” The previous comments from the 2014 study are simply dismissed with very limited explanation other than, an error was made.

3.4.5 The inconsistency in the comments noted across the assessments highlights the lack of justification for the proposed designation, and lack of real technical input into the assessment.

3.4.6 The assessments provide a reasonable identification of the positive elements of the site; the open nature at the northern edge close to a water environment of high habitat value; the absence of built form and the presence of trees that contribute to the other urban environment. However, the assertion in the assessments is that the Open Land allocation will form an extension of open land; provide a buffer between residential and employment uses; and enhance the setting of the listed building are false. The designation to open land will make no change to these matters. The habitat of the canal green corridor will not be extended; it is already there.

3.4.7 The protection of habitat; setting of the listed building and protection of TPO trees will be maintained through planning control. Furthermore, the exclusion of garden land from the definition of previously developed land in the NPPF reinforces this position; protection from unsuitable development, and focus to maintain important landscape features is ensured.

3.4.8 There have not been any substantiated reasons given to how the designation of the site shall contribute to the provision of genuine open land within Berkhamsted.

## 4.0 Conclusions

- 4.1 Edgeworth House does not form an appropriate site for allocation as open land.
- 4.2 The Open Land Policy is not well related to the guidance of the NPPF. This is a general point regarding the policy, but specifically applies to the case of Edgeworth House.
- 4.3 An open land designation does not provide sufficient flexibility to guide development through the plan period.
- 4.4 Existing planning constraints applicable to the site provide the appropriate level of control.
- 4.5 There is insufficient information to demonstrate how the allocation of the site as open land would deliver the expected outcomes and there is a lack of evidence of the consideration of alternatives.
- 4.6 There is also a distinct lack of robust and rigorous evaluation to demonstrate how the conclusion to allocate the site as open land has been reached.
- 4.7 For the reasons noted in this statement and also the previous representations made, there is clearly concern in the validity of allocating the Edgeworth House site as open land. This allocation should be removed from the Development Plan Document.

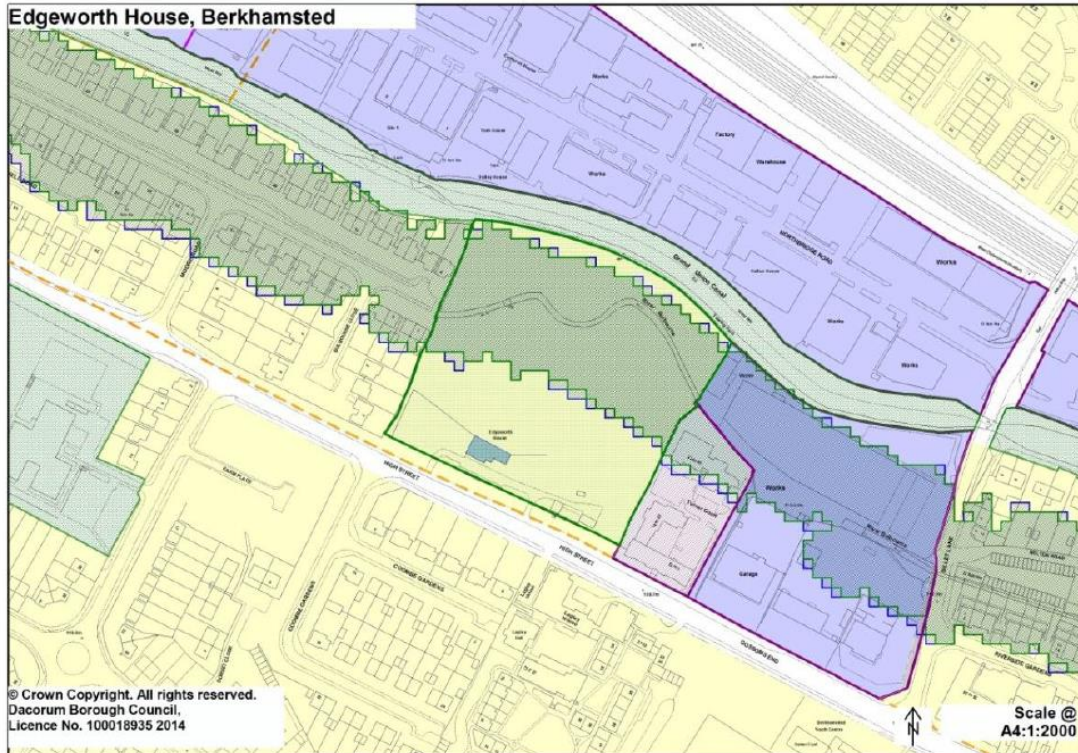


# APPENDIX 1

## FLOOD RISK NOTED IN PROPOSALS MAP 2004

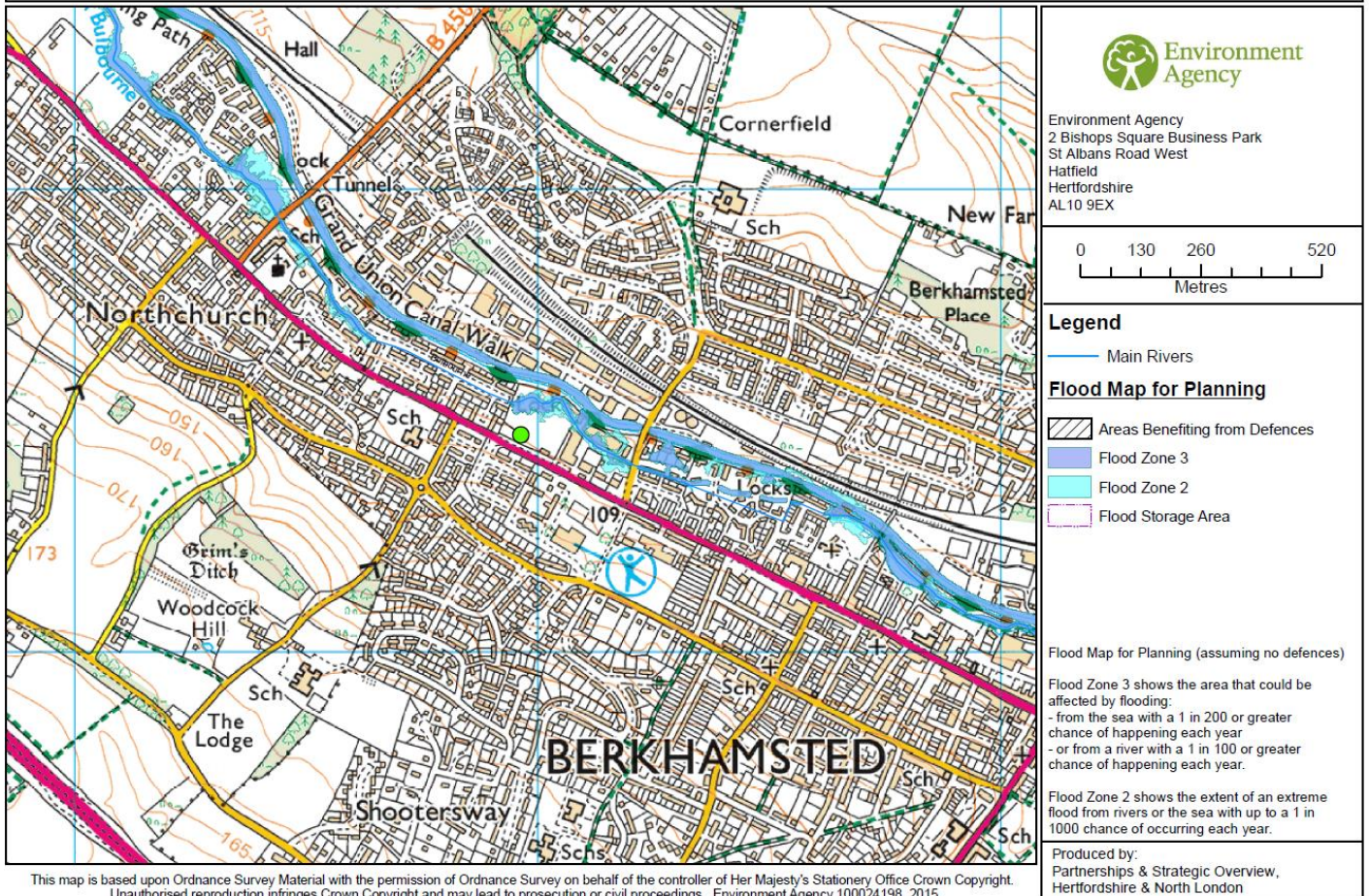
### Edgeworth House, Berkhamsted (OL/5)

#### Proposals Map 2004



# APPENDIX 2 FLOOD RISK MAPS UPDATED JULY 2016

Flood Map for Planning centred on Edgeworth House, 20 High Street, Berkhamstead, HP4 3LS - 22/07/2016 - HNL/17544/MS





BIDWELLS