

## APPENDIX 2

### Highclere Castle Estate Enabling Development

#### Consultation Comments (Public bodies etc.)

		Comments	BDBC response
		<b><u>Highclere Parish Council</u></b>	
1	a	<p>1. The Parish Council recognises the importance of the Highclere Estate as part of our National Heritage and agrees that the integrity of the Estate should be preserved. It is therefore desirable that the fabric of the Castle and other buildings of historical merit forming the Estate are repaired and thereafter maintained for future generations.</p> <p>2. The Parish Council recognises that the ED procedure is one way in which the Estate can achieve the objectives of 1 above. However it does have strong reservations about the proposal, as follows.</p>	Noted.
1	b	i. The Parish Council does not want to see in effect a "blanket" framework agreed to allow planning applications to be considered for development activity in an area within an AONB where development is generally considered unsustainable. Furthermore the Parish Council is nervous about allowing the planning applications that would flow from this procedure being processed in the normal way. For the ED to be accepted, all of the sites for development and sale should be identified at this initial stage and ideally their suitability agreed with the local community. Outline planning applications could be prepared on those sites to further satisfy local concerns.	Each planning application would be considered on its merits against the 7 English Heritage criteria which form part of the draft policy. Public engagement in the selection of sites can be secured through the adoption of the policy but in the absence of a policy will be encouraged (see section 15 of amended draft policy). To properly assess the impact a development proposal will have a full (and not outline) planning application will be required.
1	c	ii. Ongoing access to Highclere Park for members of the local community and the public at large is essential. We believe that as the local community will suffer a reduction in local amenity due to any development that will take place due to the extraordinary provisions of ED, it must be able to fully enjoy what it has allowed to be safeguarded.	Noted, as part of any enabling development public access would be enhanced. This would be secured through a legal agreement (see section 16 of the policy).

		<b>Comments</b>	<b>BDBC response</b>
1	d	<p>iii. The Parish Council requires comfort that certain planning guidelines and requirements of BDBC with regard to some elements of permitted development, including for example minimum car parking standards and provision for Social Housing will not be strictly applied when determining any planning applications that are generated should the ED be accepted.</p> <p>One suggestion on the way forward is to approach the application for ED in a slightly different way. This would be as follows:</p> <ol style="list-style-type: none"> <li>1. Delay the current timescale to allow the process outlined below.</li>   <li>2. Set up a "working group" to include all local stakeholders, including <ul style="list-style-type: none"> <li>- members of relevant Parish Councils</li> <li>- members of the local community</li> <li>- representatives of other local groups(e.g. Highclere Society)</li> <li>- the Carnarvon family</li> <li>- BDBC, and</li> <li>- other appropriate affected groups or individuals</li> </ul> <p>This working group should be chaired by somebody impartial, preferably with planning or property development experience, and who does not live in any of the affected Parishes.</p> <p>The above working group should work together to identify all sites that may be suitable for development.</p> </li>   <li>3. Development proposals should be prepared for each suitable site to include type and scale of development and development guidelines. It could be taken further and outline planning applications prepared.</li> </ol>	<p>These normal requirements are likely to be set aside in this instance (see paragraph 14.1.4 of amended draft policy).</p> <p>Public consultation on the principle of enabling development is now complete and the process needs to move on to the next stage</p> <p>Agreed. Community engagement, as broadly outlined in points 2 – 6, could be secured through the policy and otherwise will be encouraged (see section 15 of amended draft policy). However, this would be the next stage i.e. after a decision on adopting any policy framework, but before any formal application(s) for planning permission.</p>

		<b>Comments</b>	<b>BDBC response</b>
		<p>4. The value of, and impact of, development of each site should be determined to rank the sites in order of priority for development to reach the required financial sum to repair and maintain the fabric of the Estate buildings.</p> <p>5. All of these activities should be done with regular consultation with the local residents and the working group will seek to achieve broad agreement to the development sites.</p> <p>6. Once the sites have been "agreed" then they will be included in the ED document, with outline planning applications if appropriate - and this becomes the framework adopted to achieve the funds required.</p>	<p>Sites cannot be specified in the policy document as this would be equivalent of allocating land for development without going through the proper planning processes.</p>
2	a	<p><b><u>Burghclere Parish Council</u></b></p> <p>Following the Public Meeting held in Burghclere on 15<sup>th</sup> November 2008, whilst the Parish Council would like to support Highclere Castle, it feels that due to the lack of detailed information of the proposed development i.e. details of properties, location, quantity and style, we are unable to support the proposed ED policy at this time.</p>	<p>Noted. See paragraph 1.3 of the amended draft policy which explains that the policy is about the need for enabling development, not how the development might be delivered.</p>
3	a	<p><b><u>Kingsclere Parish Council</u></b></p> <p>Kingsclere Parish Council have considered the application and understand Highclere Castle's need for development to fund repairs.</p> <p>This council is supportive of this work and has no objections to the plans as given.</p>	<p>Noted.</p>
4	a	<p><b><u>Pamber Parish Council</u></b></p> <p>Pamber Parish Council has considered the document . In general, members supported the proposal as long as very strict checks and balances are imposed.</p> <p>It was stressed that this should be a 'one-off' development and should not set a precedent for developments elsewhere.</p>	<p>Noted. This policy would not set a precedent for any other site. See paragraph 1.5 of the amended draft policy.</p>

		Comments	BDBC response
5	a	<p><b><u>South East England Regional Assembly</u></b></p> <p>Policy BE6: Management of the Historic Environment of the Secretary of State's Proposed Changes to the draft South East Plan states that, "<i>when developing planning frameworks and considering applications for development consent local authorities and other bodies will adopt policies and support proposals which support the conservation and where appropriate the enhancement of the historic environment and the contribution it makes to local and regional distinctiveness and sense of place</i>". Highclere Castle Estate comes within the definition of regionally significant historic features and sites within the South East. Therefore we consider that the council's draft policy document supports regional policy objectives for the historic environment.</p>	Noted.
6	a	<p><b><u>CPRE North Hampshire District</u></b></p> <p>It has been suggested by some residents who are well aware of the requirements for an Enabling Agreement that the Highclere Estate has not submitted a full and compliant case. Whilst we are not qualified to comment on that suggestion, we do seek assurance from the Council that it is satisfied that all the conditions for an Enabling Agreement have been or will be met before the Agreement is entered into. The Council will, of course, wish to ensure that this is so, because otherwise it might face a legal challenge.</p>	Currently there is no 'agreement'. However, officers consider that the Highclere Castle Estate has made a full case which justifies the need for enabling development. How that development is to be delivered is yet to be examined. All 7 English Heritage criteria will have to be met if enabling development is to be granted.
6	b	<p>We welcome the assurance given at the meeting that if development were permitted in order to raise such funds, then the Council would put in place controls to ensure that the proceeds from development were used solely for building repairs.</p>	The benefits of enabling development would be secured through a Section 106 Agreement.
6	c	<p>As at this stage it is the principle of whether development should be allowed that is being debated, no indication has been given of where such development might be. This uncertainty is naturally causing much concern among the residents of Highclere and Burghclere.</p>	These concerns have been noted. The next stage would be review the selection of sites; it is intended that the community be consulted at that stage.

		<b>Comments</b>	<b>BDBC response</b>
6	d	We appreciate that, were development to be allowed, planning applications would have to be submitted for each site and the normal procedures would be followed. Thus there would be opportunities for objections to be lodged and, hopefully, there will be full consultation. CPRE believes that the sooner the sites chosen are identified, the better. This would remove the uncertainties and allow people to focus on the merits or demerits of the proposals.	Agreed.
6	e	The Highclere Estate is in the North Wessex Downs AONB and is a sensitive area for development. We understand that there are a number of SINC sites in the neighbourhood. There must be a presumption against development in such areas.	All constraints will be taken into account in assessing the impact of any specific proposal.
6	f	Whilst any development in the countryside has to be considered very carefully, this is particularly so in the open Downland of Highclere. However the CPRE does not consider it appropriate to object to the proposal in principle. Rather, it gives notice that it will rigorously monitor the planning applications when they come forward, to ensure that any development is in a suitable location, blends into the environment, is not bulky or dense, is of good design and does not overlook neighbouring properties.	The CPRE will be able to comment further once a planning application is submitted. Care will be taken to minimise the impact any development has on the countryside.
7	a	<p><b><u>The Ramblers' Association</u></b></p> <p>This proposal is of interest to us as public access is one of the specific topics upon which comment is invited. There is very little public access to the high quality landscape of the Highclere Castle Park and its surroundings. The lack of such access causes problems for the walking public in that the County's public rights of way network is disrupted in this area by the almost exclusively private nature of the park and the Estate that surrounds it.</p>	The intention is to improve public access should any enabling development be granted and this would be secured through a Section 106 Agreement which would run with the land (i.e. not be lost with a change of ownership). It would be premature to negotiate the details of access at this stage but these comments will be taken into account at the relevant juncture. It should be noted that there are public rights of way and other 'permissive' paths within the Estate and many have access to the park when attending events etc.

	Comments	BDBC response
	<p>We would wish for new public rights of way to be created which would allow for the quiet enjoyment of the historic landscape, including views of the historic buildings. These rights of way should connect with the existing rights of way network that surrounds the park.</p> <p><b>Beacon Hill</b> – The Estate includes Beacon Hill open access area. This was designated as ‘Open Country’ under the Countryside and Rights of Way Act 2000 (the CROW Act). However, there is only one existing access point from a public road and there are very few access points across fences which divide the area. Beacon Hill affords excellent views across the entire Estate and the historic park. New paths have been identified which would enable far more of the public to enjoy Beacon Hill as park of longer walks. These are detailed below. Additionally it is essential that public access to this ‘Open Country’ is made permanently secure (such access is open for review every 10 years) and that gates are added to open up the whole of the area to the public.</p> <p><b>Hampshire Downs Countryside Access Plan</b> – Hampshire County Council has drawn up a ‘Rights of Way Improvement Plan’ for this area of North Hampshire. This is another CROW Act requirement. They have titled it the ‘Hampshire Downs Countryside Access Plan’ (CAP). As part of the public consultation for the CAP, they have identified new routes for public rights of way that would enhance walking and the enjoyments of the countryside. These are numbered and shown on a map associated with the CAP.</p> <p>There are three routes identified as part of the CAP consultation.</p> <p><b>Path 1 (CAP route 9314 – Burghclere Parish)</b> – A new link from the SE corner of the Beacon Hill Public Access area at OS grid ref 4625 5619 along Estate roads east, north, west under the A34 and south to join Burghclere footpath 33 at OS grid ref 4653 5628. Together with FP 33 it provides a direct link from the Wayfarers Walk recreational route to the landmark Beacon Hill. It also allows circular walks over Beacon Hill via Old Burghclere, including one which also includes the nearby Ladle Hill Public Access area.</p>	

		<b>Comments</b>	<b>BDBC response</b>
		<p><b>Path 2 (CAP route 8673 – Highclere Parish)</b> – A new link from the Estate road (with public access rights) south-east of the church starting at OS grid reg 4439 6015, then south-west on Estate track to Highclere Footpath 502 at OS grid ref 4463 5993. This creates a direct link across Highclere Park from Highclere Village eastwards to join in path network in Burghclere. It also creates a circular walk with the park, starting from Highclere Village.</p> <p><b>Path 3 (CAP route 10273 – Burghclere Parish)</b> – A new link from Beacon Hill public car park at OS grid ref 4635 5761 south along Estate road to connect with Path 1 (CAP 9314) at OS grid ref 4637 5635. This provides a circular route from the car park enabling visitors to walk the entire length of the Beacon Hill Public Access area with having to climb the hill twice (Path 1 is an essential component to complete the circular walk).</p> <p>The Ramblers Association strongly supports the creation of these new paths, and believes that they would go some way to improving access to the high grade landscape of the park and its surroundings. However, we would also wish to see further new pedestrian routes identified which would allow the public closer views of the historic park itself and the historic buildings contained within it.</p>	
8	a	<p><b><u>The Environment Agency</u></b></p> <p>We do not comment upon the economic viability or justification for ED projects, particularly as this policy so far does not inform the location of specific sites or indeed specific policies with respect to development in the area. Where we have not commented on certain sections, we have no comments.</p>	Noted.
8	b	<p><b>Section 3 – the principles of enabling development</b></p> <p>Whilst the document goes some way to highlighting public loss, there is no mention of environmental drawbacks and loss. Any environmental harm should be appropriately mitigated through the use of either planning obligations or planning conditions. As such, environmental issues should also be appropriately considered.</p>	The need to balance the impact on the landscape, biodiversity etc is now emphasised in the policy (see paragraph 14.1.2 of the amended draft policy). Such aspects will be appropriately considered at the planning application stage when potential impact can be properly understood and assessed.

		Comments	BDBC response
8	c	<p><b>Section 14 – Delivering the Enabling Development, The Future Process</b></p> <p>We agree that development should be directed to the least unacceptable sites in the first instance. Our advice below will help inform you of what we consider to be unacceptable and acceptable.</p> <p>In ruling out unacceptable sites, two principles which should be further established are:</p> <p>Exclusion of land that lies within Floodzone 3 or 2. Exclusion of land that lies within Highclere Park SSSI.</p> <p>locations where appropriate water treatment infrastructure can also be planned should be favoured.</p>	<p>This advice is noted and would be taken into account in considering the selection of appropriate sites.</p>
8	d	<p><b>14.2 Forms of development</b></p> <p>We agree with this hierarchy and our only comment goes so far as to say that any redevelopment will require a Preliminary Risk Assessment to be submitted in accordance with Planning Policy Statement 23 (PPS23). (This requirement is noted later).</p> <p><b>Annex 1</b></p> <p>Although the list is not comprehensive we would like to point out the requirement for a Preliminary Risk Assessment to be submitted in accordance with PPS23 for all redevelopment proposals. We would also like to point out the requirement that for all sites greater than 1 hectare a full drainage strategy is required at the application stage. Both these elements are informed by policy E8 of the Council’s adopted Local Plan.</p>	<p>These various requirements and constraints are noted and would be taken into account at the site selection stage.</p>

	<b>Comments</b>	<b>BDBC response</b>
	<p>We are also particularly concerned with water treatment for all ED on this site. Appropriate sewage treatment infrastructure will need to be put in place to ensure that foul water is not discharged to ground on this site. The environmental impact of increased treated sewage effluent entering surface watercourses will also need to be assessed through an EIA for this ED. The same assessment should also be undertaken for water supply. The requirements of the Water Framework Directive for both groundwater and surface water bodies will need to be taken in to account by the developers when undertaking site selection.</p> <p>A site wide sequential test should also be undertaken to determine those sites that are at lowest flood risk. These sites (if other matters allow) should then be used for development.</p> <p><b>Annex 2</b></p> <p>We consider that National Planning Policy PPS1, PPS9, PPS25 are also relevant to all these developments.</p> <p><b>Guidance – Flood Risk</b></p> <p>As stated above a flood risk sequential test should be undertaken on the whole site, to identify those areas at least risk from all forms of flooding. A large majority of the site lies within floodzone 1 and we will therefore expect all development to occur within floodzone 1. All development proposals on any site greater than 1 hectare will be required to submit a full drainage strategy at the application stage. Furthermore, as this may become a phased ED project, an overall strategy for the whole site should include core principles that address surface water drainage.</p> <p><b>Guidance – Biodiversity</b></p>	<p>Agreed and will be considered in assessing proposals.</p> <p>Noted and will be taken into consideration.</p>

		<b>Comments</b>	<b>BDBC response</b>
		<p>There is a designated Site of Special Scientific Interest (SSSI) present within the boundary of the Highclere Estate. Development should be avoided in this area. Furthermore, a suitable buffer zone should be established between all forms of development and the boundary of the SSSI. An EIA should adequately assess the local impact of any development within the vicinity of an SSSI and where appropriate recommend adequate mitigation. The water quality of any watercourse or groundwater body receiving additional treated sewage effluent will also need to be considered as a part of an EIA. The site lies above zone 3 and zone 2 source protection zones and it will have to be adequately demonstrated that any discharge to ground is needed and acceptable, before it can be permitted. Our comments above relating to the Water Framework Directive are important with regard to the ecological biodiversity of surface watercourses.</p>	<p>Noted and will be taken into consideration.</p>
9	a	<p><b><u>Highclere Society</u></b></p> <p>The Committee of Highclere Society has given very careful consideration to the BDBC Highclere Castle Estate ED Policy. This has included consulting members by running a meeting with speakers from the Castle and Borough Council and undertaking our own consultation survey of all members. Out of 240 members 110 responded of which only 19 supported the Policy as it stands.</p> <p>The committee would like to make clear that the response below does not represent the opinion of any individual member of the committee, whose views were diverse, but represents the majority view of Society members.</p>	<p>Noted.</p>
9	b	<p>The vast majority wanted conditions and commitments on the proposed developments and local benefits to be written into a legally binding policy.</p> <p><b>We do not have the information to know if the Enabling Development case is justified</b></p>	<p>The benefits from any enabling development would be secured through a Section 106 legal agreement (see Section 16 of the amended draft policy).</p>

		<b>Comments</b>	<b>BDBC response</b>
9	c	Concerning the question “Is the Estate maximising income from all sources?”, we do not have access to either the Castle’s or the Council’s accountant’s reports but are inclined to accept that the Estate is well-run. However that is not the same as maximising income, which it is reasonable to expect should take place before locals have otherwise unallowable development thrust upon them.	The Saffery Champness report commissioned by the Council on the financial performance of the Estate concluded that “ <i>The existing businesses are efficiently run and there is little scope for increasing the net income by changing management policies</i> ”.
9	d	Members cannot see why locals, who get no benefit from the Estate, should ‘pay’ by having development imposed upon this unsustainable Parish within an AONB.  Many in Highclere do not trust the two parties to this policy.	The concern is noted. However, the Highclere Estate is considered to be ‘outstanding’ in the national context in heritage terms and enjoyed by many visitors, this must not be overlooked. Every effort would be made to minimise any adverse impact on the local community and landscape while seeking to secure benefits for the public. See paragraph 14.1.2 of amended draft policy.  Enhanced levels of community engagement should engender a greater feeling of trust. The necessary transparent processes of the planning system will be adhered to otherwise any decision would be open to judicial review.
9	e	<b>The Estate</b>  Most members have no contact with the Estate, few have visited or work there, the Highclere gate is a private entrance and local walkers are not welcome. The public entrance is miles away in Burghclere and the Castle is open only a couple of months a year. As a result for most there is no relationship between ‘Parish’ and ‘Estate’. Thus it is not surprising that there is a lack of trust for the ‘unknown’ Estate, it is not personal.	The views of the Society on the relationship between the parish and the Estate are noted. However, there are rights of way across the park, there are permissive paths at certain times of the year etc. Several events which are well attended are also held (some for local benefit such as the church).
9	f	<b>BDBC</b>	

		<b>Comments</b>	<b>BDBC response</b>
		<p>There is a lack of trust in the Council on planning issues as a result of a long history of it approving applications against local opinion. This has been made even worse by the Council forcing urban standards on developers such as overly high density developments with inadequate parking that are totally inappropriate for a rural area.</p>	<p>The Council always takes account of relevant local views when considering a planning application but if a proposal is within policy cannot always accord with those views. The normal requirements in relation to density are likely to be set aside in this instance (see paragraph 14.1.4 of amended draft policy).</p>
9	g	<p>Having said all this most members are positive about supporting Heritage and would like to see the Estate kept together and in good order.</p>	<p>Noted.</p>
9	h	<p>The Society would like to see more information under the headings below included in a new policy. The way we would suggest it is achieved is by a working party including the Society, the two Parish Councils, our Borough Councillors, Council Officers and the Estate to agree the details of this completely new policy document.</p>	<p>See above (point 1d) with regard to setting up a local panel.</p>
		<p><b>Heads of Agreement:</b></p>	
9	i	<p>1. Specify the sites that could be considered by the Estate for ED</p> <p>(There should be a limit on the number of homes, to say 20 rather than 120, as we do not have the infrastructure to support high numbers.)</p>	<p>See point 1d above.</p>

		<b>Comments</b>	<b>BDBC response</b>
9	j	<p>2. Specify the ways in which the impact on the community will be minimised</p> <p>(Including for example the Council's commitments to accept low density and adequate parking etc and the Estates commitment to high quality design on discreet, if not fully screened, individual plots. We also seek assurance from the Council that once planning permission has been granted, it won't allow the purchaser of land to apply for amendments by any means including appeals. The Estate should give assurances that they will try every other way of raising money with the aim of reducing the amount of ED needed.)</p>	<p>The landscape impact of any development will have to be minimised if all criteria for enabling development are to be met. See paragraph 14.1.4 of the amended draft policy with regard to other requirements such as affordable housing etc. With each future application all criteria for enabling development (including no other subsidy available) will have to be satisfied.</p>
9	k	<p>3. Specify in detail the improved pedestrian access to the Estate</p> <p>(Including for example well publicised interconnected permitted paths, allowing circular walks)</p>	<p>Details of improved public access would be secured in detail through a legal agreement. This would include the requirement to publicise the footpaths etc.</p>
9	l	<p>4. Specify in detail some form of subsidised access to the Castle and Gardens for residents</p> <p>(This might increase overall revenue as it would encourage residents to take full price visiting guests)</p>	<p>This request is noted and would form part of the negotiations around increased public access.</p>
10	a	<p><b><u>North Wessex Downs AONB</u></b></p> <p>It is likely that any development proposals within the Highclere Castle Estate will have implications for the landscape of the North Wessex Downs. There is little recognition of this within the draft policy document, and this element will need thorough consideration at the planning application stage. The Estate lies within the Highclere Lowlands and Heath character area (as identified in the Integrated Landscape Character Assessment (LCA) prepared by Land Use Consultants in 2002). The LCA identifies this as an area of high biodiversity value, where the overall management objective should be to conserve and enhance the quiet secluded character.</p>	<p>Agreed. The need to take into account the protection of the AONB was acknowledged within the first draft of the policy but this is now strengthened (see paragraph 14.1.2 of the amended draft policy).</p>

		<b>Comments</b>	<b>BDBC response</b>
10	b	One of the key principles of ED is that the benefits should outweigh the perceived disbenefits. This is very subjective and hard to assess – for example how can a heritage asset be valued, compared to a landscape asset? The need for any repairs to the listed buildings should not take place at the expense of their landscape setting. It is being argued, in this case, that the listed buildings are an integral part of the landscape.	Agreed.
10	c	The issue of setting a precedent for ED within the North Wessex Downs AONB, is of concern. Although it is accepted that ED has an established national framework, it is, by its very nature, contrary to established planning policy, and must be a last resort, only to be proposed when all other avenues have been explored.	Agreed (see paragraph 1.5 of amended draft policy).
10	d	Although the proposed policy framework is expected by the Council to have a coordinating benefit in considering future proposals at the Estate, it is unclear how this will work in practice. It appears that the development proposals are likely to come forward in a piecemeal fashion over the next 5 years, starting with the 'least worst' location in terms of impact on the landscape, historic environment etc, and continuing until either the required level of finance for the Estate is reached, or the benefits cannot be demonstrated to outweigh the disbenefits.	The concerns in points 10d - e are noted. As a next stage the Estate will be encouraged to engage with the community on the selection of the sites. At this stage the potential impact on the landscape will be taken into account as the landscape impact assessment will form a starting point.
10	e	This makes it very difficult to gauge what the final implications of the future development on the North Wessex Downs are likely to be, and this is of concern. Some types of development – for example conversion and change of use, are likely to have less of an impact on the landscape than new development. It would be preferable for the Highclere Castle Estate to clearly set out at the outset what development they expect to take place over this timescale, where this will be located, and an indication of what the financial benefits are likely to be. This would enable the full implications of the proposals to be properly considered at the outset.	

		<b>Comments</b>	<b>BDBC response</b>
10	f	The North Wessex Downs AONB does not have a specific policy for dealing with ED, as all planning proposals are considered on their individual merit. It is likely that the North Wessex Downs AONB will want to make detailed comments on any specific planning applications that are made by the Highclere Castle Estate at the earliest stage possible, and to base our response on the LCA and the policies of the Management Plan. The policies of the current Management Plan that would apply to any planning application in this location are likely to be DP3, DP4, DP13 and DP14.	The North Wessex Downs AONB will be invited to engage with the Estate and the local community at the next stage, and in any case would be consulted on any future planning applications.
10	g	Whether or not the enabling policy framework is adopted by the Council, any planning application in this location will be contrary to national, regional and local policy. As such, any application can be 'called-in' for determination by the Secretary of State.	Agreed, by definition enabling development is outside of normal planning policy.
		<b><u>Natural England</u></b>	
11	a	Natural England would like to see the document recognising the importance that should be afforded to any protected sites such as Sites of Special Scientific Interest (SSSI's) as well as locally designated sites such as Sites Important for Nature Conservation and Local Nature Reserves that lie within and close to the boundaries of the Highclere Castle Estate, and how development proposals could potentially affect these sites.	Request noted and a further text has been added (see paragraph 14.1.2 of amended draft policy). These aspects would be taken into account in detail in considering any specific proposal.
11	b	Natural England would fully expect and would actively encourage the Council to seek to protect and enhance biodiversity of locally important non-statutory sites, as well as those afforded statutory protection, thus making the most of opportunities to network existing semi-natural habitats.	The Council will seek to achieve this through an agreed management plan which will form part of the legal agreement.
11	c	We are encouraged to see that a least impact approach to prioritising development is being considered, at paragraph 14.1.4, and would strongly recommend that this approach is taken forward in order to protect areas with landscape, biodiversity and sustainability sensitivities.	Noted.

		<b>Comments</b>	<b>BDBC response</b>
11	d	We also strongly support the philosophy of maximising the re-use of previously developed land, with the understanding that surveys will need to be undertaken to establish whether biodiversity resources exist on such sites, to avoid potentially adverse impacts of any new development. PPG32 specifically excludes previously developed land which has acquired a rich biodiversity from its definition of brownfield sites.	Noted.
11	e	When engaging in the process of identification of sites for development Natural England would fully expect to see the following points taken into consideration:-	Points 11e - i are noted and will be taken into account when considering the selection of sites and any future detailed proposals.
11	f	The importance of assessing landscape capacity to absorb and shape urban extension, being informed through the use of Landscape Character Assessment and Landscape Impact Assessment that is being carried out (paragraph 12.2)	
11	g	Fully embrace the opportunities to integrate green infrastructure within urban extensions, maximising the social and environmental benefits of a well defined and managed rural-urban interface;	
11	h	We recommend that everyone should have an accessible natural greenspace within 300 metres (or five minutes walk) of their home; at least one accessible 20 hectare site within 2 kilometres of home; at least one accessible 100 hectare site within 5 kilometres of home and at least one 500 hectare site within 10 kilometres of home. Natural England therefore regards the need to consider delivery of open spaces as an essential part of the ED policy, and	
11	i	Promote the creation of footpaths and cycle links between new developments and settlements. This aim is in line with Natural England's position on Transport and the Natural Environment and in particular ' <i>Sustainable land use policies that encourage development that is accessible by public transport, walking and cycling and the movement of freight by water and rail</i> ' and, more importantly, in this instance, ' <i>Policies that maximise the effective use of existing transport networks and encourage modal shifts to public transport, walking and cycling</i> '.	
		<b><u>Terence O'Rourke (on behalf of the North Wessex Downs Preservation Society)</u></b>	

		<b>Comments</b>	<b>BDBC response</b>
12	a	ED, by its very nature. is a means of subsidy of last resort, when all reasonable means of raising finance to secure the long term future of historic assets have proven to be ineffective. Being a departure from existing planning policy, the process is controlled through published guidance that required strict adherence.	Agreed.
12	b	<p>The key point is that the policy being proposed is not necessary in principle, but that if a policy is to be adopted to offer control to the local planning authority and confidence to the Highclere Castle Estate, it must be more transparent than is currently proposed, and must adhere strictly to the guidance. It is the view of this representation that neither of these requirements is met.</p> <p><b>The need for a policy</b></p>	It is agreed that the policy is not necessary in principle but the nature of the enabling development proposal in this instance makes the adoption of a policy preferable, so as to establish a framework. The proposed policy does adhere to the English Heritage guidance in that all the criteria are embedded within the policy.
12	c	The starting point is that ED will be, by definition, contrary to the development plan: if it were not contrary, there would be no debate. For any proposal that is contrary to the development plan to be acceptable in terms of s38(6) of the PCPA04, it is essential for whatever material considerations are brought forward to be scrutinised and weighted in the balance against the development plan.	Agreed.
12	d	This is best done through the medium of planning application, where the essential tenets that must be dealt with can be tested in open forum; there is no requirement for a policy to state this obvious point. The production of such a policy effectively negates this principle of openness. The guidance acknowledges that an application for ED may be assisted by exception policies in local development frameworks (LDF), but it is not clear if this is what is intended by the draft policy, how it is to be used in exceptional cases, or why the policy is strictly necessary. The guidance is clear that any exception policy does not negate the need for planning applications or that each application is to be supported with its own evidence and justification that accords fully with the guidance.	The proposed scheme of enabling development is too complex to be dealt with within a single planning application. There would be several applications relating to different sites and brought forward over time. The policy is proposed to form a framework and is considered to be helpful but is not strictly necessary. Planning applications will have to be considered whether a policy is adopted or not. It is agreed that the policy will not negate the need for applications; this is clear in the draft policy.

		Comments	BDBC response
12	e	The English Heritage (EH) guidance 'ED and the conservation of significant places' (2008) makes no reference to the creation of a specific policy, in fact it suggests they should be resisted. The EH document itself may be said to be national policy on the subject, and its role in providing guidance is noted in paragraphs A6/A9. The EH document is written on the bases of the promotion and consideration of a planning application, and not the creation of a specific policy. It is noted that paragraphs 4/4.1/4.2 are taken without amendment from the EH 2008 guidance, page 5, and to that extent do not need to be repeated in any lower level policy.	<p>The EH guidance is written largely with more straight-forward enabling development proposals in mind. This case is more complex and the adoption of the policy would be helpful. English Heritage have been involved with this case from the outset and are very supportive; no concerns with regard to the policy have been raised.</p> <p>The policy is non site-specific (other than the need for enabling development relating to the Highclere Estate) and therefore does not allocate land for development.</p>
12	f	The EH guidance notes, particularly at paragraph 2.2.2, that attempts by owners to seek a specific policy within LDFs to allow for ED <i>"should be resisted, since optimum uses, costs and values fluctuate over time. The case for ED can only be properly considered in the context of a specific application ... "</i>	The draft policy allows for the reassessment of the enabling development criteria at each stage (i.e. with each new planning application) and therefore any changes in costs, values etc will be taken into account.
12	g	The EH guidance does note the potential value of planning briefs, where future viability or sustainability has been a matter of concern for some time, but it also notes that this best applies where, for example, a property may come onto the market. That situation does not apply to Highclere Castle Estate. In that context, the EH guidance at paragraph 2.2.3 is particularly pertinent, suggesting enforcement and the securing of links to benefits, may become impossible.	The draft policy is not site-specific and therefore any development resulting will be outside of normal planning policy and will therefore be 'enabling' and will permit the securing of benefits through legal agreements.
12	h	The guidance suggests that the need for ED may be recognised through planning policies to the extent that there may be instances where exceptional circumstances are proven to exist and a departure from adopted policy may be justified in order to protect a historic asset. However, the policy itself is not the determining factor, nor should it set a precedent for any applications that follow; each must be determined on its own merit and must be fully justified against each of the tests laid down by the guidance. The first part of paragraph 1.3 of the Council draft policy note is not correct, and in any event appears to be contradicted by paragraph 1.7 that follows.	Agreed. However, it is the officers' view that the need is established (i.e. basically that there are historic assets in need of repair and that the Estate cannot fund the cost). Paragraph 1.7 relates to the delivery of the development and this cannot be assessed at this stage.

		<b>Comments</b>	<b>BDBC response</b>
12	i	<p>The conclusion to be drawn is that the creation of a site-specific policy is unnecessary and, without full transparent and agreed justification, the proposed draft policy seeks to make the Highclere proposal acceptable when it is not. The correct way to proceed is to acknowledge the non-compliance of the proposals from the start, and proceed by means of planning application(s) in the detailed manner set out in the EH guidance, which will maintain the ability to enforce non-compliance and secure the public benefit.</p> <p><b>If there is to be a policy, it must be transparent</b></p>	<p>This policy is not site-specific and the non-compliance of the proposals is clear in the draft policy. Subsequent planning applications will be dealt with in detail, in accordance with the EH guidance (as embedded in the draft policy) and, as set out in the policy, the public benefits will be secured through legal agreements.</p>
12	j	<p>If it were to be argued by the Council that the full criteria for assessment to ED had been applied in a transparent fashion to the Highclere Castle question, then the situation might become more acceptable, but this has not been done.</p>	<p>The policy notes that 4 of the 7 criteria have been met (those relating to need) and that the remaining three must be met at the appropriate stage through the assessment of the planning applications. It is clear in the policy that all criteria will have to be met.</p>
12	k	<p>The draft policy note states that four of the seven criteria set out in the EH 2008 guidance have already been met. However, it is fundamentally wrong for the Council to conclude this on their own behalf in isolation from specific development proposals. The information that lies behind the contention has also not been tested in any public forum, and it is unlikely to be as part of any policy production process.</p>	<p>In the absence of specific proposals it is possible to conclude that 4 criteria have been met as these relate to need and future management. It is true, however, that the financial report by Saffery Champness was not at first made available to the public (although the conclusions of the report were set out in the draft policy). The report was subsequently made a publicly available.</p>
12	l	<p>It is important that all the assumptions that have been made in relation to the four 'agreed' criteria are published, and that an opportunity is given for these to be considered at large. If public planning policy is to be overturned, then it is only right that the basis for this change is also public.</p>	<p>The financial report was made available to the public during the period of public consultation. This period was also extended so that the report could be taken into account.</p>

		<b>Comments</b>	<b>BDBC response</b>
12	m	In particular, it is noted in paragraph 12.1 that funding is required, not only for direct use on repairs, but also to fund other projects that will assist the repair backlog indirectly. This appears to us to be a matter which merits the closest scrutiny, both for its relationship to the EH 2008 guidance, and for the way in which the mechanism can be adequately controlled through any s.106 agreement. Some of these projects would appear to be capable of being carried out without the need to be wrapped up in an enabling package.	<p>All the development proposals and all matters arising relating to securing the repairs, control of future income streams etc will be afforded detailed scrutiny and will be tied in through a legal agreement.</p> <p>The Estate does not have the capital to fund either the repairs or the development schemes which would fund the ongoing maintenance. This is supported by the findings of Saffery Champness.</p>
12	n	From reading the draft policy it may be inferred that development is inevitable and is supported, yet this is not all proven beyond doubt. There is a fundamental lack of justification that ED is the only option that remains available to the Estate and that it is a matter of last resort, as no transparent demonstration of alternatives is given.	The draft policy concludes that the need for enabling development is proven, this is the officers' view. That enabling development can be successfully delivered on the ground (complying with all English Heritage criteria) is yet to be proven and the draft policy acknowledges that. Proving the absolute absence of alternative subsidy is difficult as it is proving a negative. However, officers are satisfied that all reasonable alternatives have been explored. The availability of grants would be reassessed with each planning application.
12	o	The draft policy arrives too quickly at the conclusion of development being appropriate, and we question seriously whether all funding alternatives have been exhausted. We find it difficult to accept, for example, that no part of the asset could be sold off to raise funds (we are confident that neighbours could become interested in any surplus land, particularly that at a distance from the heart of the asset – and no evidence is given to suggest this option has been tested), that funding could not be raised from other sources or from the further diversification of land use and activity, or that the sale of any part of the Estate would constitute fragmentation of the historic asset (more so as land will have to be released for the ED). Our client questions how the asset has been defined, particularly as elements of the Estate that could provide a source of finance (such as the stud farm and lakes), and which the public perceive to be part of the historic asset, appear to have been excluded.	See comment above on funding alternatives. It is proposed to raise funds by sale of land outside of the entity. The sale of land within the entity will cause fragmentation of the historic entity (which the enabling development seeks to avoid) and would reduce revenue income for the Estate. The extent of the entity has been agreed by Government in consultation with English Heritage and Natural England; all the land has high historic or landscape value. The entity includes the stud farm and the lakes but these parcels are not within the direct control of Lord Carnarvon.

		<b>Comments</b>	<b>BDBC response</b>
12	p	We suggest that many opportunities for funding are dismissed, simply because they are undesirable to the Estate. For example it may be undesirable to sell off the Estate in its entirety, or part of the asset for tax reasons, but the guidance clearly requires of the owner are not a justification.	The entity is considered to be outstanding in the national context. Retention of the entity is therefore a reasonable objective. The sale of all or part of the entity breaks the agreement and could put the unique collection under threat. The needs of the owner of an estate would not justify enabling development but it is clear in the guidance that retaining an entity is an acceptable objective of enabling development.
12	q	Development is suggested for a range of locations, but as not scale or form of that development is given, it is impossible to compare the scale of any proposals to the funding that is necessary to repair the asset as is required by the guidance: it must meet the test of the minimum necessary. Similarly there is no opportunity to judge if the Ed itself is acceptable on the chosen site, or if alternative locations may be a better fit with planning policies.	It is agreed that the amount of enabling development allowed must be the minimum necessary to secure the future of the place. This will be considered with each and every planning application to ensure compliance with criterion f. The impact of proposals would be considered in the next stage (initially all potential sites and subsequently individual detailed proposals).
12	r	The draft policy also appears to suggest that the development will continue over a long period with unspecified developments being brought forward at undetermined points in the future. This is clearly at odds with the guidance, which states that ED is a single opportunity to secure the future of the asset that is permitted in response to specific emergency after all other options have been exhausted. The development permitted must be the minimum necessary to fund the works deemed necessary (which themselves are the minimum necessary to conserve the asset and not to provide funding for other purposes) and to provide a means of protecting the repaired asset for the longer term.	It is likely that the timeframe of about five years would be manageable for this project. The EH guidance does suggest a shorter timeframe but the guidance is written largely for more straight forward cases of enabling development. Taking an incremental approach allows future consideration of proposals to take into account the changes in values and costs. That the works should be the minimum necessary etc is established in the draft policy.

		<b>Comments</b>	<b>BDBC response</b>
12	s	<p><b>To conclude</b>, it is considered that the proposed policy does not follow published guidance as strictly as is required or indeed as it itself suggests. We submit that the policy, if adopted, may be given undue weight in the consideration of any subsequent planning application and may consequently allow development to proceed, either without the support of demonstration of a level of evidence that is required by EH guidance, or in locations that are inappropriate. Such a situation must place both the policy and any subsequent planning application open to legal challenge.</p>	<p>The draft policy does not strictly follow the English Heritage guidance as this is a more complex case. English Heritage has been consulted on the policy and the approach has received their support. It is clear in the policy that the English Heritage criteria must be complied with. If adopted the policy would be a material consideration, but does not negate the need to examine any proposal in detail through the planning application process. If the policy is adopted and any subsequent applications considered and handled in the normal proper manner officers cannot see the grounds for a legal challenge.</p>
13	a	<p><b><u>North Wessex Downs Preservation Society (initial comments)</u></b></p> <p>This society has recently been formed by a group of concerned residents with the expressed objective of protecting the North Wessex Downs AONB from the sort of development now envisaged by Highclere Estate.</p> <p>While we are sympathetic to the problems faced by Lord Carnarvon and his desire to conserve Highclere Castle and associated heritage assets, we do not believe that all other alternatives have been properly explored, nor that much of the work proposed may properly be regarded as falling within the remit of ED. ED is explicitly stated by English Heritage to be a last resort. We are not convinced, and neither should the Borough Council be convinced that that last resort has been reached.</p>	<p>Noted.</p> <p>Officers are convinced that currently there is no reasonable prospect of alternative sources of funding. Following consultation there is more explanation around why the National Trust would not be a likely option and there is an update on HLF funding (see sections 7 and 9 of the report). The report also explains why the sale of land (whether or not part of the entity) would not be practical solution (section 8 of report).</p>
13	b	<p>This society recognises the importance of the AONB in a National context as being second in importance only to a National Park. Development, of the extent and nature envisaged by Lord Carnarvon, conflicts with the whole purpose of the AONB designation.</p> <p>This society wishes to make the following points:</p>	<p>The Council is mindful of the importance and sensitivity of the AONB. The policy has been amended to give emphasis to the AONB (see paragraph 14.1.2 of the amended draft policy).</p>

		<b>Comments</b>	<b>BDBC response</b>
13	c	<ul style="list-style-type: none"> <li>Has sufficient attention been paid to the sustainability of the Estate even after the full development has been completed? The financial report states that there is no better than a “reasonable chance” of the business plan being achieved and offers no guarantee that the budgets will be accurate. That is not a sufficiently sound basis for proceeding with a development plan, which will wreak serious damage on the AONB, without meeting the English Heritage guidelines requirements for sustainability in the long term.</li> </ul>	<p>The business plan relates to the future performance of the various businesses on the Estate and in making projections assumptions have been made. Saffery Champness confirm that these assumptions, which are based on historical levels of income, are reasonable. Farming and tourism industries can suffer from fluctuating incomes levels for reasons beyond the management team’s control and within this context there can be no guarantee of future income and it would be unrealistic to expect any such guarantee. That the accountants believed the projections to be ‘reasonable’ is as much reassurance as can be given in these circumstances. Any enabling development could not wreak damage on the AONB as such a damaging proposal would not meet the criteria set out by English Heritage.</p>
13	d	<ul style="list-style-type: none"> <li>The North Wessex Downs AONB is of vital importance nationally and there should be an absolute prohibition on development of the scale envisaged.</li> </ul>	<p>There cannot be an absolute prohibition on development within the AONB (see section 6 of the report).</p>
13	e	<ul style="list-style-type: none"> <li>Insufficient attention has been paid by BDBC to the relative importance of Highclere Castle and the AONB.</li> </ul>	<p>Both the AONB and the grade I buildings and landscape of the Estate are of national importance. How any enabling development might impact on the AONB is not yet clear but this matter will be considered in detail at planning application stage.</p>
13	f	<ul style="list-style-type: none"> <li>Granting ED in this instance could create an unfortunate precedent nationally and encourage further encroachment into our fast disappearing national landscape heritage.</li> </ul>	<p>Enabling development is not a new idea and has been utilised by others wishing to secure the future of historic assets. This draft policy could not set a precedent for any other site as it is specific to the situation and needs of the Highclere Castle Estate (see section 11 of the report).</p>

		<b>Comments</b>	<b>BDBC response</b>
13	g	<ul style="list-style-type: none"> <li>The public consultation process is not being conducted with the degree of openness and publicity that such an important matter should receive and which is required by the English Heritage guidelines. The full extent of the possible development and its impact on the AONB has not been made clear. Neither is it clear whether the sum required is £11.75million, per the Council's own publicity material, or £13.3million, per the expenditure forecast presented by Highclere Estate in appendix h. That is a variance of 13%, which is not acceptable in relation to such a sensitive project.</li> </ul>	<p>The council has encouraged openness and has consulted widely with the public on this draft policy. However, as explained in paragraph 6.3 of the report, specific sites cannot be identified within the draft policy. Full public engagement will be encouraged at the next stage (See section 15 of the amended draft policy).</p> <p>The variance in figures arises from an earlier estimate of costs. £13.3 million is incorrect, the figure should read £11.75m.</p>
13	h	<ul style="list-style-type: none"> <li>BDBC has failed to take into account the impact on local residents in formulating its draft policy.</li> </ul>	<p>As the policy is about the need for enabling development and not about delivering the enabling development the question of impact (whether on individuals, communities, the landscape, historic buildings etc) has yet to be fully addressed. This would happen at the planning application stage.</p>
13	i	<ul style="list-style-type: none"> <li>Development on much of the area proposed would cause serious erosion to a large area of broadleaf woodland.</li> </ul>	<p>It is not yet known where the development might take place so the impact on landscape and biodiversity is not yet known. These would be key considerations at the planning application stage.</p>
13	j	<ul style="list-style-type: none"> <li>The principle of seeking to set a policy for ED ahead of any planning application is flawed and not in accordance with English Heritage guidelines.</li> </ul>	<p>As stated the policy addresses the need for the enabling development and aims to set a framework within which the future planning applications can be considered. English Heritage guidance counsels against including site- specific provision for enabling development within the local development framework (as then, by definition the development would be within policy and could not be defined as enabling development). The policy currently proposed is Council Policy but is not site-specific (in terms of development sites) and is not within the LDF. As proposed this draft policy complies with the English Heritage guidance.</p>

		<b>Comments</b>	<b>BDBC response</b>
13	k	<ul style="list-style-type: none"> <li>The application submitted by Lord Carnarvon does not meet the basic criteria set by English Heritage most notably in the failure to offer the Heritage Asset for sale on the open market.</li> </ul>	When dealing with an historic 'entity' there is not the normal requirement to offer the property on the market as avoiding the fragmentation of the asset is an accepted objective of enabling development. This complies with the English Heritage guidance.
13	l	<ul style="list-style-type: none"> <li>The work specified by Lord Carnarvon and included in the cost of £11.75million, or is it £13.3million, includes many expenditures which are outside the scope of ED.</li> </ul>	<p>see point 13g above.</p> <p>Apart from the removal of modern farm buildings at Manor Farm Old Burghclere (see section 10 of the report) the costs are within the scope of enabling development.</p>
13	m	<ul style="list-style-type: none"> <li>The proposal submitted by Lord Carnarvon appears to conflate the requirements of the place with the requirements of Lord Carnarvon and his family.</li> </ul>	The enabling development proposal relates to the need to make the Estate self-sustaining in the medium to long term. The Saffery Champness report confirmed that the drawings from the various businesses by Lord Carnarvon for his private use were 'reasonable' and that as the Carnarvon family do not live in the Castle there was little or no overlap between personal and business financial matters. A legal agreement will ensure that the proceeds from any enabling development can only be utilised for the funding of repairs etc. Lord Carnarvon cannot derive any personal benefit from enabling development.
13	n	<ul style="list-style-type: none"> <li>Little attention appears to have been paid to the interests of property owners adjoining the sites for possible development.</li> </ul>	See point 13h above. It must be remembered also that personal circumstances are not material planning considerations.
13	o	<ul style="list-style-type: none"> <li>The published planning consultation document makes it clear that the issue has already been prejudged and that the planning department are recommending development in the AONB.</li> </ul>	The draft policy document and the consultation response sheet both make it clear that any proposals for enabling development would have to go through the normal planning process and that the adoption of the policy would not bind the Council to agreeing any planning applications in the future.

		<b>Comments</b>	<b>BDBC response</b>
13	p	<p>This society is very concerned that the Council does not appear to be taking its responsibility for the protection of the AONB sufficiently seriously. The whole thrust of the material published by BDBC has been directed towards promoting the development as if ‘saving’ Highclere Castle and its associated Heritage Assets were the only significant issue.</p> <p><b>Importance of the AONB</b></p> <p>Having attended the meetings at Highclere Castle and Burghclere Village Hall and read the documents put out by BDBC it is clear to this Society that the Borough Council has lost sight of its duty to preserve the integrity of the AONB. There has been hardly any attention paid to the importance of the AONB as part of the natural heritage of England and its vulnerability to erosion by just the sort of development now planned.</p> <p>It cannot be too strongly emphasised that it is the duty of the Borough Council to ensure proper respect for the AONB.</p> <p>The North Wessex Downs AONB includes Watership Down, Ladle Hill, Beacon Hill, and the commanding escarpment of the Hampshire Downs looking North over the Kennet Valley to the Berkshire Downs. It is one of the finest rural landscapes in the South of England. Quite rightly, new development is very strictly regulated. It should not be permitted in this case on sites which would seriously compromise the view from the escarpment and the integrity of the AONB.</p> <p>This AONB is an asset of huge national importance and significance. It is particularly important to the rural heritage of England as it forms a vital barrier protecting the predominantly rural West Country from the suburban sprawl running out from London to Reading and Basingstoke.</p> <p>To the east there is scarcely a mile between habitations between Central London and Basingstoke. To the west lies the open countryside of the South and West of England. If the ED is permitted it will begin a process of attrition over the years as, inexorably, infilling and back land development take over.</p>	<p>The policy is about establishing the need for enabling development and therefore understanding and agreeing the significance of the heritage assets is the starting point. Once specific proposals are presented understanding the impact on other interests such as the AONB and SSSI’s etc will be at the heart of the issue. These matters are not ignored but will be addressed at the relevant stage.</p> <p>See above and comments 10a - d above.</p>

		<b>Comments</b>	<b>BDBC response</b>
13	q	<p>Highclere Park is in the front line on the very edge of the AONB. Any development in the area of Highclere Park would advance the urban sprawl into the AONB opening up the prospect of yet further development. Building on the Tothill woodland, for example, would effectively extend the ribbon development continuously from Newbury to Whitway. Development in Highclere Street and Challis Gulley would do the same along the A343, Andover Road as far as the Yew Tree.</p> <p>A major part of the beauty of Highclere Park lies in the totally rural approach to it from the main road system. New development on many of the sites proposed will fatally damage the rural nature of the approach to the park, which will become in effect merely a pretty oasis in a suburban environment. Inevitably over time development on the very edge of the park will put pressure on the park itself.</p> <p><b>An unfortunate precedent</b></p> <p>Not the least of this Society's concerns is that if ED is permitted in this instance there will be created a most unfortunate precedent which inevitably will lead to further encroachment elsewhere, not merely in the North Wessex Downs AONB but nationally. It cannot be too strongly emphasised that protection of AONB's from major development of the sort now envisaged should be a priority in planning decisions. It is inevitable that owners of other heritage assets will see in such development a short cut to solving their own problems.</p>	See paragraph 1.5 of the amended draft policy and note 13f above.
13	r	<p><b>Relative importance of Highclere Castle and the AONB</b></p> <p>In the public presentations to date all the emphasis has been on the preservation of the built environment and none on the natural environment. It is relevant that perhaps a mere 30,000 people have enjoyed the pleasures of Highclere Castle and Park in 2007, many at very high personal expense, whereas as many or more enjoy the pleasures of the natural environment of the AONB outside the sequestered Estate in a single week as they pass and repass through the natural countryside. That natural countryside will be irreparably damaged if there is building development on the scale clearly envisaged by the proposals now before the council.</p>	See paragraph 14.1.2 of the amended draft policy.

		Comments	BDBC response
		<p>The Council appears to have paid little attention to the historic ambience of the AONB. For example, Budds Farm is mentioned by Cobbett in his <i>Rural Rides</i>, and West Street is said to be the original Winchester to Oxford road and may in essence be little changed from the days when Chaucer is supposed to have passed that way. The charming and very old sunken lane at the north end of West Street was swept away to accommodate the dual carriage ay of the A34. Is it to be further destroyed by this ill thought through development?</p> <p><b>Failure of BDBC to consult properly</b></p>	<p>The historic character of the landscape will be taken into account when assessing sites and considering a specific proposal. It must be remembered, however, that Highclere Castle Estate is an important part of the AONB.</p>
13	s	<p>The whole process of consultation so far falls far short of the requirements of the English Heritage guidelines.</p>	<p>The consultation was in accordance with the Statement of Community Involvement.</p>
13	t	<ul style="list-style-type: none"> <li>The meeting at Highclere Castle on 13th October 2008 was poorly publicised. The choice of 6.00pm on a Monday was particularly inconvenient for many residents, a large proportion of whom work at some distance from Highclere, many in London.</li> </ul>	<p>The choice of Highclere Castle reflects the fact that it is the Estate which is proposing the enabling development and not the Council. The draft policy is the Council's response to the proposal. The meeting was well attended.</p>
13	u	<ul style="list-style-type: none"> <li>The choice of Highclere Castle was questionable and may have been chosen to intimidate and stifle debate. This meeting should have been held on 'neutral ground'.</li> </ul>	<p>There can never be a time for a meeting that suits all. The venue was not chosen to 'intimidate or stifle' debate. A written response is the prime method of having views noted.</p>
13	v	<ul style="list-style-type: none"> <li>The Council has adopted a thoroughly one-sided approach. The Highclere Castle meeting sought merely to make a case on behalf of Highclere Estate. The Council should have made clear at that meeting exactly what the consequences of the proposed development would be.</li> </ul>	<p>That sites are not identified is discussed in paragraph 6.3 the report, the presentation given by the Council stated the officers' view and explained the process.</p>
13	w	<ul style="list-style-type: none"> <li>The documentation provided to the public makes no mention of the scale of possible development nor the sites at risk of that development. The main thrust of that documentation was to emphasise the needs of Highclere Estate.</li> </ul>	<p>The draft policy reflects officers' views that the Highclere Castle Estate has made a justified case for the need for enabling development. No views have been given on how successful delivery of the enabling development might be.</p>

		<b>Comments</b>	<b>BDBC response</b>
13	x	<ul style="list-style-type: none"> <li>The documents provided do not ask all the questions that should be asked and merely answer those questions that are partial to the promotion of Highclere's case.</li> </ul>	The consultation response sheet did not give a full explanation of the whole case. It is expected that if commenting on a document (the draft policy) those commenting would first read the document which gives the full picture and sets out the need for public benefits.
13	y	<ul style="list-style-type: none"> <li>The terminology used leads readers to assume that any development would be in the park and not outside it in those areas freely accessible to the public.</li> </ul>	Paragraph 12.2 of the draft policy states that the development is likely to be outside of the entity (and therefore outside of the park).
13	z	<ul style="list-style-type: none"> <li>The meeting in Burghclere Village Hall on 15th November 2008, was arranged at the last minute on the initiative of Burghclere Parish Council and was very poorly publicised.</li> </ul>	This meeting was set up by the Parish and it was their responsibility to advertise it being their meeting. However, the meeting was well attended.
13	aa	<ul style="list-style-type: none"> <li>The consultation document prepared by BDBC presented the scheme as being an invitation for the public to seek trivial reciprocity for the development, such as picnic areas, cycle paths and more footpaths, without making clear exactly what it was supposed to compensate for, the irrevocable damage to the AONB.</li> </ul>	Increased public access is only part of the public benefit but is of most relevance to the local community. The fact that there could be development has not been hidden but at this stage it is not appropriate to consider specific sites. Community engagement at the next stage of site selection will be encouraged and could be secured through the adoption of the policy.
13	ab	<ul style="list-style-type: none"> <li>It has been necessary to engage in protracted correspondence with Council officers and elected representatives to obtain clarification of points that should have been made available in the public consultation documents.</li> </ul>	When further clarification or additional information has been requested this has been given generally within a few days and certainly within the consultation period.
13	ac	<ul style="list-style-type: none"> <li>It has been necessary to have resort to the Freedom of Information Act to obtain documents and information which should have been available from the outset.</li> </ul>	The financial report from Saffery Champness was not openly available initially (although the conclusions of the report are included in the draft policy) because of the potential sensitivity of the information. On consulting with Legal Services the report was made available.

		Comments	BDBC response
13	ad	<ul style="list-style-type: none"> <li>There is no evidence of any impact assessment of the loss of some very old landscape features nor of any attempt to investigate the historical significance of the place.</li> </ul>	The Landscape Impact Assessment will form the starting point for the selection of sites for development. Appendix B of the Estate's submission set out the significance of the Estate. Further detailed information would be required at planning application stage when a specific site has been identified.
13	ae	<ul style="list-style-type: none"> <li>Most seriously there is no statement of what the proposed "Policy Decision" actually means nor the various alternatives to be considered by Cabinet in determining that policy.</li> </ul>	The purpose of the draft policy is set out in sections 1 and 2 of the draft. The purpose is to set a framework within which future planning applications can be considered.
13	af	<p>It is the opinion of this society that the Council is failing in its duty to provide an open forum for the proper debate of this highly damaging proposal and have manifestly prejudged the issue to the detriment of their residents.</p> <p><b>Failure to understand the local perceptions of the place</b></p>	This view is noted.
13	ag	<p>It would appear that BDBC has failed to take into account the local view of Highclere Estate. Until the death of the sixth Earl in 1987, Highclere Castle and Estate was a wholly private place, rarely seen by outsiders. Until the public meeting on 13<sup>th</sup> October 2008 few local people were fully aware of the full extent of the seasonally permissive footpaths. In their own submission Highclere Estate reports that many of the coach parties visiting Highclere come from within a radius of 50/60 miles. Highclere is little visited by local people, not least on account of the expense (no doubt fully justified by the expense of opening). It does not provide free access to all parts of the park and is totally unlike a public park or place. It is not a natural resort for local people on 'a summer Sunday evening'.</p> <p>However, in contrast, the network of footpaths in the AONB outside the park, particularly in the vale surrounding Ridgemoor Farm, is in daily use by walkers; a pretty vale which would be irrevocably altered for the worse if Highclere were to build upon the many possible sites within, surrounding and overlooking it.</p>	<p>The Council is will take into account the views of local communities, hence the investment in public consultation. The intention is to secure further community engagement should the policy be adopted. In the absence of the policy pre application consultation will be encouraged but cannot be insisted upon. The impact on amenity and the AONB cannot be assessed until an application is submitted. For some the loss of historic buildings may be 'slight' but the council will have to have regard for the national importance of the listed buildings as well as that of the AONB.</p> <p>Noted.</p>

		<b>Comments</b>	<b>BDBC response</b>
13	ah	<p>The consequences locally of the loss of Highclere Castle and its follies would be slight. There cannot be said to be a “strong degree of community ‘ownership’” and one might suspect that any suggestion of such community ownership would be resisted most fiercely by Lord Carnarvon and his family.</p> <p>The loss of the amenity of the AONB would be disastrous. If Highclere is to be saved on national grounds the expense should be borne nationally and not by the destruction of the local AONB.</p> <p><b>Loss of broadleaf woodland</b></p> <p>A major part of the identified sites, 94 acres, comprises Balls Plantation and the Tothill woodland, which contain a significant proportion of broadleaf trees. Those trees are particularly important both as a screen for the noise from the A34 Newbury bypass for the village of Burghclere and also as a consumer of the carbon produced by vehicles on the bypass. Other areas of planting along the A34 fulfil the same function.</p> <p><b>Lack of openness regarding the development proposals</b></p>	<p>The loss of grade I buildings cannot be ‘slight’ as they are of national importance.</p> <p>Noted.</p> <p>Any proposal that would result in the ‘destruction’ of the AONB would not be granted planning permission (see criterion g of the English Heritage guidance)</p> <p>See comment 13i above.</p>
13	ai	<p>Nowhere in the discussion papers published by the Council have we been able to find any reference to the area which might be subject to development. Neither has Highclere Estate been particularly forthcoming in providing that information. The map presented at the Highclere Castle meeting was poorly lit and almost illegible. The maps presented with the discussion papers were very small and needed a high magnification lens for the detail to be seen. No explanation of the sites identified for possible development was offered at the Highclere meeting. The explanation presented at the Burghclere meeting was the only occasion when it was made clear that the total area of the sites identified by Lord Carnarvon amounted in total to 160 acres.</p> <p>The maps attached to the ‘Council Policy (Draft)’ as Annexes 1 and 3 are too small to be read easily and do not indicate the areas identified by Highclere Estate as being available for development.</p>	<p>Sites cannot be specified in the policy document (see paragraph 6.3 of report)</p> <p>It is difficult to attach a suitable map at A4. More user friendly maps have been made available by the Highclere Estate.</p>

		<b>Comments</b>	<b>BDBC response</b>
13	aj	<p>Section 3.3 of the Council Policy (Draft) appears to ‘muddy the water’ regarding the areas actually at risk of development by deliberately confusing the description of them. The whole of the area identified for possible development, with the exception of the Tothill woodland, is in the AONB, not “some perhaps” as stated in your document. The use of the term “the Estate” is also confusing. Locally, the term “the Estate” means the area within the boundaries of, and to the west of the A34 dual carriageway and south of the Penwood road, effectively the Heritage Park. The land actually at risk of development, although within the ownership of Highclere Estate and therefore strictly within the boundaries of the Estate, is colloquially and locally not regarded as being within the Estate; the terms ‘park’ and ‘Estate’ being treated as synonyms. As a result many people are not fully aware that, for example, there might be development on Luckes Corner, at the entrance to the village of Burghclere or along the former A34 at Whitway.</p> <p><b>Extent of possible development</b></p> <p>Given the recent fall in the price of development land; large sites of the sort envisaged by Lord Carnarvon appear to be failing to find buyers at a price of about £250,000 per acre; it seems probable that almost all of the sites proposed will have to have some development of some sort or other. Sites such as those at Whitway backing on to the A34 will not command the premium prices envisaged by Lord Carnarvon in his presentations.</p> <p>The failure to make this clear at this stage in the consultation means that many people do not comprehend the enormity of what is being proposed.</p>	<p>Although it is deliberate that no sites are named within the policy there is no intention to be misleading. The local meaning to ‘Estate’ or ‘park’ may have led to initial misunderstandings and this is unfortunate.</p> <p>See section 14 of the report which addresses the current economic climate. It is in nobody’s interest to sell land while values are low.</p> <p>The current policy relates primarily to the need for enabling development. How much is required and where it may be sited would be explored at the next stage and the local communities will be invited to comment on the site selection.</p>

		<b>Comments</b>	<b>BDBC response</b>
13	ak	<p>What Lord Carnarvon calls “small sites of no agricultural use around the periphery of the Estate” are in fact within the AONB that everyone else enjoys. Some, such as at Whitway form an important sound barrier between the A34 and the settlements of Whitway and Burghclere, others were deliberately retained with a view to obtaining planning permission at some future date. That future date is now. They may be trapped by roads but it is from those very roadsides that the rest of us will lose our AONB and have to put up with ribbon development.</p> <p>At the meetings at Highclere Castle and at Burghclere village hall the emphasis was on explaining the needs of Highclere Castle; what Lord Carnarvon calls “securing Highclere Castle for his grandchildren”. There has been precious little consideration of the effect on the AONB, of securing the AONB for a far wider section of society. In the eyes of the planners and Lord Carnarvon it is effectively worthless and easily sacrificed for Highclere Castle. Even the discussion document put out by the Council fails to mention the importance of the AONB but concentrates on picnic areas and cycle paths, of which there are already plenty in the area. More of the same are in no way a reasonable or responsible exchange for irreparable damage to the AONB.</p> <p><b>Mr Paul Drury of The Paul Drury Partnership</b></p> <p>Mr Paul Drury was introduced at the meeting at Highclere Castle as being the planning consultant to Highclere Estate. Is that the same Mr Drury who is credited with the revision of the latest edition, published in September 2008, of the English Heritage guidelines, and who also appears to be advising the Borough Council? That begs the question whether Mr Drury, if he is indeed the same person, was both drafting the guidelines for English Heritage and at the same time advising Highclere Estate but not following his own guidelines.</p>	<p>The impact of any development on the AONB will be fully considered in the planning application process.</p> <p>The impact of any development on the AONB will be fully considered in the planning application process. See comments 10a-d above.</p> <p>Paul Drury is a private consultant and is employed by the Highclere Castle Estate to advise on enabling development. Paul Drury was previously employed by English Heritage as a consultant to assist with updating their guidelines on enabling development. Paul Drury is not advising the Borough Council. Mr Drury is confident that the Estate’s proposals comply with the guidelines set out by English Heritage. Council officers are also of the view that the proposals from the Estate must comply with those guidelines.</p>

		Comments	BDBC response
		<b>Consideration for those directly affected by any proposed development</b>	
13	al	Many of the sites earmarked by Highclere Estate are adjoining or close to other peoples' property and homes. Those people are entitled to just as much consideration and respect as Highclere Estate. It is not reasonable to expect those people to bear the burden of developments which will undoubtedly affect their enjoyment of their properties. Neither is it reasonable, indeed it is a breach of natural justice, that the process of development should stretch over a period of five years or more with all the uncertainty and inconvenience that that will entail.	The concerns of local people are taken into account. At the application stage those neighbouring a site proposed for development would be specifically consulted. At the pre application stage the Estate would be encouraged to be open about all the sites which may have development potential. This will reduce the fears of many and will give a general greater understanding of the type and position of development and the potential impact it would have.
13	am	In addition the proposal flies in the face of the English Heritage guidelines which require that any application for ED should be a single, one-off application for full planning permission. The rolling succession of applications envisaged by the Highclere proposal, presumably prepared by Mr Drury, is at odds with the guidelines also prepared by Mr Drury. Having prepared the guidelines himself, he should not be so manifestly ignoring them.	See point 13j above.
13	an	A further major concern to residents of the area is the impact of development of the extent envisaged on the services and infrastructure of the area. Development of a few large houses (a selling price of £2million plus implying a site value of £1million was envisaged at both public meetings) is clearly not realistic now or in the foreseeable future given the current economic climate. An estimate of 100 or more houses may turn out to be not far short of the truth. Already the local schools are having to turn away local pupils and it is probable that the Clere School might have to exclude parts of its existing catchment area, putting pressure on other parts of the Borough. Other services will also come under pressure. If there is to be no development gain to the community the cost will have to be borne by the community at large or else the local area must suffer reduced and inadequate facilities. This society reasonably asks whether this is not too high a price for 'saving' Highclere Castle, particularly given the availability of alternative possible methods.	See section 14 of the report with regard to the current economic climate. The impact on local services cannot be assessed until a specific proposal has been made. These matters would be taken into account in determining a planning application.

		Comments	BDBC response
		<b>Conflation of the requirements of the place with those of the owner</b>	
13	bk	It is a cause of some surprise to this Society that in so many respects the proposals put forward by Highclere Estate appear to be at variance with the English Heritage guidelines. Without going into detail the following points present themselves:	Officers are of the view that the broad approach is in accordance with the EH guidance. The policy states that all EH criteria would have to be complied with.
13	bl	<ul style="list-style-type: none"> <li>Lord Carnarvon has failed to make it clear that the purpose of this application for ED is to secure the minimum necessary to secure the Heritage Asset and not to rescue his own finances and secure the property for the benefit of future generations of his family</li> </ul>	The proposal from the Highclere Estate is clear in its objective: to secure the future of the historic assets on the Estate by ensuring that the Estate is self-sufficient in revenue terms and can fund the necessary repairs and maintenance of the historic buildings and landscape. Lord Carnarvon cannot personally benefit from the enabling development and public benefits would be secured.
13	bm	<ul style="list-style-type: none"> <li>The separation from the Heritage Asset of Milford Lake House, Milford Lake, Duns Mere and the highly profitable Highclere Stud, and perhaps other assets in the ownership of other branches of the close family or their trusts, would appear to be fragmentation of the Estate and should therefore be ignored in assessing the validity of the request for ED</li> </ul>	These elements of the estate are within the 'entity' and are part of the exemption agreement. See section 8 of the report.
13	bn	<ul style="list-style-type: none"> <li>A further example of fragmentation, which the English Heritage guidelines specifically require to be ignored, would appear to be The Carnarvon Farmland Trust</li> </ul>	See comment 13bm.
13	bo	<ul style="list-style-type: none"> <li>The apparent failure in years of agricultural plenty, when the Estate will have been in receipt of substantial subsidies under the EC's Common Agricultural Policy, to apply that income in maintaining the Heritage Assets</li> </ul>	There has been investment in the repair of heritage assets over the last two decades or so, but not at a sufficient rate to keep up with decay. Farming income is notoriously variable.
13	bp	<ul style="list-style-type: none"> <li>The apparent failure in previous years to apply the income generated by Inheritance Tax Conditionally Exempt Assets - exempt on the grounds that they are necessary to support the Heritage Assets – to prevent the very deterioration in the state of the Heritage Assets which is now presented as a reason for granting ED</li> </ul>	The inheritance tax exemption does not generate income.

		<b>Comments</b>	<b>BDBC response</b>
13	bq	<ul style="list-style-type: none"> <li>The apparent failure to apply capital generated by the sale of, presumably, Conditionally Tax Exempt Assets - most notably from the sale of land to the Whitway Diversion of the A3 - to maintaining the Heritage Assets</li> </ul>	The Saffery Champness report makes it clear that there is considerable reinvestment back into the estate.
13	br	<ul style="list-style-type: none"> <li>There is no clear exposition of other assets owned or used by the broader family which might be put to better use, generating more revenue for maintenance of the Heritage Asset</li> </ul>	Lord Carnarvon states that he does not own other assets.
13	bs	<ul style="list-style-type: none"> <li>There appears to be some confusion as to the precise rights and obligations of the broader family as to occupation and use of assets comprised in the Conditionally Exempt Land for Inheritance Tax purposes as against the needs of and obligations towards the Heritage Assets</li> </ul>	Those other assets (presumably the Lake House and The Stud) which are occupied by other family members are maintained at their expense and do not form part of the enabling development proposal.
13	bt	<ul style="list-style-type: none"> <li>The wish to create personal assets for the owner in the guise of providing for the future maintenance of the Heritage Assets. The English Heritage guidelines are specific that ED should provide only for the minimum amount of work needed to secure the place and that planning authorities should be on their guard against attempts to extend the public subsidy to private gain</li> </ul>	All benefits arising from any enabling development would be secured for the repair and maintenance of the heritage assets through a legal agreement. The owner of the estate would derive no personal benefit.
13	bu	<ul style="list-style-type: none"> <li>It is difficult, as an outsider, on the basis of the evidence submitted, to separate the needs of the place, arising from circumstances outside the control of the owner, from those consequent on the actions or inaction of the present and previous owners, in spite of the massive subsidy inherent in the Conditional Exemption from Inheritance Taxes over several generations.</li> </ul>	The tax exemption does not provide a subsidy. The Saffery Champness report confirms that the current owner of the Estate takes a responsible approach to the estate and its businesses. Whether or not there has been mismanagement in the past we must tackle the current situation if the historic assets are to be repaired and maintained.
13	bv	While this intrusion into the personal finances of Lord Carnarvon and his family is to be regretted, it may be said that Lord Carnarvon has invited it by applying for the public subsidy inherent in the granting of ED. It is nevertheless proper to subject it to public scrutiny, not only in the light of the already not inconsiderable public subsidy provided by the Conditional Exemption from Inheritance Tax, but also in the light of the further public subsidy that will flow from any granting of ED.	The Estate has co operated fully with providing all the necessary information requested by Saffery Champness to enable them to undertake the assessment of the Estate businesses on behalf of the council.

		<b>Comments</b>	<b>BDBC response</b>
13	bw	There are, in our opinion, numerous sound objections to this application for ED. We have touched on some but by no means all of them in this letter. Our instructed Planning Consultants, Terence O'Rourke Ltd, will have elaborated on the more technical and legal aspects in their letter to you.	See comments 12a-s.
13	bx	Taken together the overall impact of the numerous sites referred to by Lord Carnarvon would, if developed to the full extent necessary to provide the funds being sought, be the equivalent of a new small village in an AONB. Highclere Estate, while outlining the problems which they face, have quite failed to make a case for ED. They have failed to show that all possible alternative sources of funding have been explored. They have conflated the personal needs of the owner with the requirements of the place. ED is not a vehicle for rescuing an owner from his own financial problems. It is intended to be a last resort to secure the minimum work necessary to secure the Heritage Asset. In those circumstances it is totally inappropriate to permit development on the North Wessex Downs Area of Outstanding Beauty and Tothill Woodland and a total dereliction of our duty to future generations to do so.	The full impact of proposals will be considered when sites are put forward for selection. If proposals have too great an impact on the AONB planning permission will not be granted. See comment 12n in relation to this being the last resort, along with comment 13 m (personal needs).
		<b><u>North Wessex Downs Preservation Society (covering letter)</u></b>	
14	a	<b>Highclere Castle Estate ED Draft Policy Appendices 2 and 3</b> We are disturbed that these Appendices, which are fundamental to the case made in the Council's Policy for ED at Highclere were not made available from the outset and could only be obtained using the Freedom Of Information Act.	See comment 13ac.
14	b	Having considered the information provided in the Appendices 2 & 3, and without the benefit of access to the sources from which they were compiled, we present our conclusions as follows:	These issues are addressed in detail in responses 15au-15cx below.
14	c	<ul style="list-style-type: none"> <li>The Brief given to Saffery Champness is fundamentally flawed, fails to ask the right questions and does not ask for the financial proposals to be tested against the requirements of the English Heritage guidelines</li> </ul>	See comment 15au below.
14	d	<ul style="list-style-type: none"> <li>The conclusions drawn by Saffery Champness do not support the contention that Highclere has made an adequate case for ED</li> </ul>	These issues are addressed in detail in responses 15au-15cx below.

		Comments	BDBC response
14	e	<ul style="list-style-type: none"> <li>There is insufficient evidence to assert that adequate resources do not exist to fund the immediate and urgent repairs to Highclere Castle, the only expenditure permissible under English Heritage guidelines, without resource to ED</li> </ul>	These issues are addressed in detail in responses 15au-15cx below.
14	f	<ul style="list-style-type: none"> <li>Insufficient investigation has been conducted to be confident that a result of this ED, if approved, would not be to add to the personal wealth of Lord Carnarvon, a course that is specifically prevented by the English Heritage guidelines</li> </ul>	See13bt above.
14	g	<ul style="list-style-type: none"> <li>It is unlikely that Highclere Estate would become sustainable even if the full range of ED were undertaken</li> </ul>	These issues are addressed in detail in responses 15au-15cx below.
14	h	<ul style="list-style-type: none"> <li>That the root cause of the deplorable state of the Heritage Assets appears to lie in the excessive amounts drawn by the owners over several generations in maintaining their personal lifestyle. ED would be no more than a further direct public subsidy to perpetuate it.</li> </ul>	The Saffery Champness report confirms that the drawings are not excessive.
		<b><u>North Wessex Downs Preservation Society (detailed comments)</u></b>	
15	a	<p>1.1 Purpose of the Review</p> <p>The North Wessex Downs Preservation Society (NWDPS) has already commented on the Draft Policy for Enabling Development (ED) at Highclere Estate (HE). In it we concluded that the applicant, Lord Carnarvon (LC) had failed to demonstrate why the community should subsidise the maintenance of his Heritage Assets through ED.</p> <p>Appendices 2 and 3 have since been released providing financial information previously considered confidential.</p> <p>The purpose of this report is to review those Appendices to see if they change the conclusions previously offered.</p>	
15	b	1.3 Summary of Conclusions	

		Comments	BDBC response
15	c	<p>Our findings are that the Appendices provide further compelling evidence for rejecting the proposals for ED at Highclere.</p> <p>Specifically, the Appendices reviewed fail to give adequate assurance in addressing the following issues:</p> <ul style="list-style-type: none"> <li>Do the claimed requirements for funds represent the essential minimum? We found evidence of unconstrained pursuit of perfection grossly inflating the figures presented. Less than 20% of the funding sought is allocated to the repair of the Castle. Approximately 40% is taken by Capital Gains Tax, VAT, selling costs, fees and other overheads. The remainder is for follies and garden features. If the merely 'desirable' elements were eliminated, the 'need' for funding might well be reduced by an order of magnitude.</li> </ul>	<p>The costs set out by the Highclere Estate relate to the repairs to the historic buildings and some minor works to the landscape. All the buildings listed (including follies and garden walls) form an integral part of the historic entity and their survival is key to the estate being classed as 'outstanding'. To consider only the works to the castle as being legitimate is to fundamentally misunderstand the meaning of the entity. Tax, fees selling costs are all unavoidable expenses of taking such a project forward if the benefits are to be realised. It is clear in the English Heritage guidance that these are legitimate costs and can be included. The repair approach and costs have been checked by Oxley Conservation on behalf of the council.</p>
15	d	<ul style="list-style-type: none"> <li>Are there insufficient funds to execute the repair without ED? We have already expressed concerns that other sources have not been approached. We now add that there is evidence to prompt concern that both the projected funding requirements and the historical family drawings are excessive. Had they been more realistic, the gap might well be addressed through enterprise and efficiencies. This question therefore remains unanswered.</li> </ul>	<p>See comment above. If family drawings were excessive in the past that is a problem which has to be addressed and cannot be discounted if the current needs of the Estate's historic assets are to be addressed. The current drawings of the family are not considered to be excessive according to the assessment made by Saffery Champness.</p>
15	e	<ul style="list-style-type: none"> <li>Does the public sacrifice preserve the place rather than its owner? We question whether the report diligently investigates the possibility that the family may have, for generations, given the maintenance of their lifestyle precedence over maintaining the property.</li> </ul>	<p>See above. If past generations have failed to adequately invest in the repair of the historic buildings, for whatever reason, the present Lord Carnarvon is conscious of his responsibilities. Several buildings have been repaired in the last few years but the financial report supports the suggestion that the Estate cannot fund the required level of investment in repairs.</p>

		Comments	BDBC response
15	f	<ul style="list-style-type: none"> <li>Is there sufficient potential for the enterprise to be sustainable? The potential needs to be quantified. Subjective comparisons with other unspecified places are meaningless. The report hints at inherent weaknesses in the limited size of the estate which will not be cured by selling more land. The solution may lie in more enterprising use of existing resources. With no evidence to suggest otherwise, the assumption has to be that no significant changes are being proposed. We find no comfort for our concern that this request for £11.75m will be followed by a series of further subsidies.</li> </ul>	These issues are addressed in detail in responses 15au-15cx below.
15	g	<ul style="list-style-type: none"> <li>Is HE's management going to be able to deliver its side of the agreement? There is no evidence of a lean, enterprising management structure with a suitable plan of action. There is no evidence of a business plan that quantifies the projected Return on Investment over, say, 10 years. No attempt appears to have been made to reconcile the 75 year maintenance cycle with the opportunistic drawings of the owners.</li> </ul>	These issues are addressed in detail in responses 15au-15cx below.
15	h	<p>2.1 The Needs of a Robust Policy</p> <p>In conducting our Review of Appendices 2 and 3 we turned to the English Heritage Guidelines and in particular Part 3 – The Legal Basis. Without compliance with the conditions, they impose any application for exemption from normal planning constraints through ED cannot be justified. We used this source to establish the criteria for evaluating the scope and validity of evidence presented.</p> <p>EH guidelines point out that proposals for ED should be subject to the same degree of financial scrutiny as an application for a cash grant from public funds. We would therefore be looking for signs that the Council were fulfilling their responsibilities through the application of best practice and quality processes, such as those recommended by OGC for procuring consultancy services, conducting financial appraisals or managing risk.</p>	<p>Any application for enabling development must comply with the English Heritage guidelines, this is clear in the policy,</p> <p>The Council is aware of the need to scrutinise the evidence submitted. With this in mind the accountants Saffery Champness were appointed to undertake an assessment of the financial aspects of the Estate's businesses.</p>

		Comments	BDBC response
15	i	<p>2.2 The Master Questions</p> <ul style="list-style-type: none"> <li>• The claimed requirement for funds represents the essential minimum</li> <li>• There are insufficient funds to execute the repair without the grant</li> <li>• The public sacrifice preserves the place, not its owner</li> <li>• There is sufficient potential for the enterprise be sustainable</li> <li>• HE's management is going to be able to deliver its side of the agreement.</li> </ul>	
15	j	<p>2.3 Confidentiality</p> <p>The draft policy seeks to deal with the 'need' side of the balance once only for multiple planning applications. Therefore, the financial investigation must be quantified in detail. Confidentiality ceases to be an impediment and if applicants are unwilling to supply the very information that is the foundation of their case for overriding normal planning policy, the guidelines say 'refusal becomes all but inevitable'.</p>	<p>The Highclere Estate has co operated willingly in supplying the necessary financial information to the Council's financial advisers.</p>
15	k	<p>2.4 Review of the Tasking Instructions</p> <p>When evaluated against our assessment of the requirements, described above, the tasking instructions issued to Saffery and Champness and other contributors appear to have serious flaws. These include:</p>	<p>The accountants Saffery Champness have been asked to comment on the detailed financial concerns raised by the NWDPS. Their comments are stated in italics.</p>

		Comments	BDBC response
15	1	<ul style="list-style-type: none"> <li>• No guidance on the underlying purpose of the investigation and its role in forming the policy for justifying ED</li> <li>• No acceptance criteria against which the contributions would be judged</li> <li>• No reference to the responsibility of the Council for due diligence over public assets or the need for HE claims to be thoroughly tested</li> <li>• Incorrect impressions about confidentiality and the need for openness. No direction over the level of detail or the need for quantitative data to be made available</li> <li>• No reference to the then current version of English Heritage guidelines to identify the important questions that need to be addressed</li> <li>• No guidance on evaluation criteria such as how to assess an appropriate level of drawings for the owner and his family</li> <li>• In accepting the provision of accounts for ten years, as proposed by Highclere Estate, the review fails to take account of the 75 year cycle of repairs to the Heritage Assets, the volatility of the various business cycles and the profits of the Conditionally Exempt Assets, and the pattern of private expenditure over three generations</li> <li>• No requirement for a professional assessment of the potential of the Heritage Assets to become self funding in future</li> <li>• The tasking of SC mentions features that should be covered by the Business Plan but does not ask for their validity to be tested.</li> </ul>	<p><i>‘The original brief was not flawed; In accepting the brief we discussed this at length with BD and prepared our report in conjunction with the English Heritage guidance on Enabling Development. We consider that Highclere is an Historic Entity as defined in EH Guidance section 4.9. Our report was prepared in the light of that guidance and our objective was to answer BD’s questions and to assess the evidence in order to prove to our satisfaction, that the support being sought by HE was “necessary or justifiable and is essentially based, not on the capital value of the entity, which can only be realised by its dissolution, but by a gap between revenue income and revenue costs, despite demonstrably efficient and effective management evidenced by estate accounts (S4.9.2. EH guidance).</i></p> <p><i>Our report detailed the work done and the reasoning behind our conclusions that enabled us to report to BD that the Highclere has demonstrably efficient and effective management evidenced by estate accounts. In our opinion the brief exceeded the minimum required by EH.’</i></p> <p>(Saffery Champness Response to NWDPS comments)</p>
15	m	<p>Of particular concern is the partiality inherent in the tone of the brief. It will be apparent to anyone reading it that it is seeking to have an opinion confirmed. It is this Society’s view that BD should have commissioned a far more rigorous, sceptical and critical review of the financial aspects of HE’s application. That defect seriously detracts from the value of the report in determining whether Highclere’s application should succeed under the guidelines set out by English Heritage.</p>	<p>The brief asks for the information submitted by the Highclere Estate to be ‘scrutinised’ within the context of proposed enabling development. The letter is not biased in favour of the Estate but states the Estate’s case (not the council’s case) neither was there justifiable cause to be unduly sceptical or mistrusting. The letter is considered to be impartial in tone.</p>

		<b>Comments</b>	<b>BDBC response</b>
15	n	<p>3.1 Failure to grasp the English Heritage Principles for ED</p> <p>The English Heritage Guidelines are absolutely fundamental to the whole process of applying for ED. A key responsibility of the Council is to ensure that, where possible, the financial aspects of any proposal put forward meet the requirements of these guidelines.</p> <p>Nowhere in the appendices is reference made to the EH Guidelines. No contributor acknowledges the conditions they impose in return for concessions to normal planning policy.</p> <p>The failure to anchor the financial evidence on the guidelines of English Heritage seriously weakens the value of the two appendices in establishing the validity of the Highclere Estate claim for ED, to the point that its rejection is unavoidable.</p>	<p>See 15l.</p> <p>Agreed.</p> <p>The EH guidance is of prime importance and is the only published guidance on the subject. Both Saffery Champness and Oxley Conservation, having been involved in such matters in the past were well aware of the guidance. The Council Officers are confident that adequate, appropriate and relevant advice has been given within the enabling development context.</p>
15	o	<p>3.2 Misallocation of Funds</p> <p>We consider it vital that the Council assesses the risk that future income generated by HE might be unfairly diverted to the benefit of the owner if ED were granted. The history of the way in which income generated by HE has been apportioned between the owner and the maintenance of the Heritage Assets over the past twenty years gives cause for concern. Accordingly, BD should expect a significant change of practice and ethos in the way HE is managed by its current owner. We see no evidence of this change presented in the Evidence Base or SC report.</p> <p>Our concern about this risk arises from the omission of any critical consideration of the following:</p> <ul style="list-style-type: none"> <li>• Conditional Exemption from Inheritance Tax</li> <li>• Drawings by the Owner</li> <li>• Fragmentation of the Estate's assets and businesses.</li> </ul>	<p>The Council will secure any future income (capital and revenue) from enabling development through a Section 106 Legal Agreement. This is made clear in the draft policy (see section 16). The Saffery Champness report indicates that the Estate is currently well run and therefore there is no justification for expecting significant changes in management of the Estate.</p> <p>See comments 15o - x below.</p>

		Comments	BDBC response
15	p	<p>3.3 Conditional Exemption from Inheritance Tax</p> <p>Conditional Exemption from Inheritance Tax represents a public subsidy intended both to ensure that important Heritage Assets, such as Highclere Castle, its park and follies, are maintained as an entity and that assets are retained with the Heritage Assets to ensure that they can self-fund their proper maintenance and repair without recourse to outside funding.</p> <p>There is therefore an implied trust that, taking one year with another, owners will not take the income of those assets exclusively for their own benefit but will also ensure that funds are applied as needed in the due and timely repair and maintenance of the Heritage Assets.</p>	<p>The Conditional Exemption from Inheritance Tax is effectively monitored by English Heritage and English Nature on behalf of the Capital Taxes Office. Apart from the obvious exemption from inheritance tax there are no further financial benefits from exemption. The owners are expected to maintain the historic assets but there is a test of 'reasonableness' i.e. within the Estate's budget they would be expected to invest a suitable proportion of funds in repairs. The Estate can demonstrate investment in repairs. The retention of the entity itself does not guarantee that the estate is self-funding and therefore there can still be a legitimate call on other public subsidy such as grants or enabling development. The Capital Taxes Office is aware of the Estate's intention to pursue enabling development.</p>
15	q	<p>It cannot have been the intention of Parliament that owners of Heritage Assets should enjoy a personal financial benefit and a higher level of income while allowing the Heritage Assets to decay. It is not clear to what extent that implied trust has been complied with over the past twenty years.</p>	<p>See above.</p> <p>The past agreement was fulfilled and a new agreement (following the death of the 7<sup>th</sup> Earl) has been agreed.</p>
15	r	<p>If income which should have been spent on maintaining the Heritage Assets has instead been spent on maintaining the owner's standard of living then ED is no more than a subsidy of that lifestyle and is therefore specifically excluded by the English Heritage guidelines. The evaluation of this risk requires the Council to take a long term view of both drawings and maintenance. It is therefore essential that before making the further public subsidy of £11.75million, the Council should satisfy itself that ED is not simply a subsidy of the past lifestyle of the Earl and his predecessors.</p>	<p>See comment 15o above.</p>

		<b>Comments</b>	<b>BDBC response</b>
15	s	<p>3.4 Drawings by the Owner</p> <p>The English Heritage guidelines make it absolutely clear that ED is available only to meet the needs of the place. It is emphatically not there to restore the finances of the owner. But since the owners answer only to themselves when deciding their drawings, the risks of a conflict of interest become self-evident.</p> <p>Against this background it is incumbent on the Borough Council to:</p> <ul style="list-style-type: none"> <li>• question whether the level of drawings is appropriate to the profit generated and the prior charge on profit, the obligation to maintain the Heritage Assets</li> <li>• question whether the level of drawings is appropriate to the duties performed by the owner</li> <li>• enquire into the causes of the failure to maintain in the past</li> <li>• require a long term review of available profit, maintenance expenditure and private drawings. A four year review is insufficient given the huge backlog of repairs</li> <li>• establish whether the current deplorable state of disrepair of the Heritage Assets has arisen because the level of personal expenditure in the past has left insufficient funds to meet the necessary repairs</li> <li>• question whether the income generated by the Conditionally Exempt Assets has been properly applied in supporting the Heritage Assets</li> <li>• enquire whether the creation of new assets such as the new garden created by the 7th Earl has been undertaken in preference to maintaining the Heritage Assets.</li> </ul>	<p>The drawings by the owner are considered to be reasonable by Saffery Champness. A programme of repair to the historic buildings has continued for many years (most recently The Temple has been repaired) but the underlying problem of the income of the Estate being insufficient to keep up with the rate of repair is not new.</p> <p>See 15o above.</p> <p>The purpose of the Saffery Champness report was to examine most of these issues. If there had been no investment in the buildings in the past they would have disappeared long ago. It is not helpful to question historic levels of investment in repair as this is complex relating to World Wars, times of high taxation, agricultural depression etc. If there is to be a serious attempt to fund the proper repair of historic assets the current situation is relevant and the stewardship of the present owner. The Saffery Champness report has assessed the businesses, drawings etc of the current owner.</p>
15	t	<p>None of these points is covered in the SC report, for the simple reason that the questions are not asked and yet they are absolutely fundamental to whether ED is, or is not, appropriate.</p>	<p>The Saffery Champness report examines all aspects relevant to the current performance of the estate in relation to the request for enabling development</p>

		<b>Comments</b>	<b>BDBC response</b>
15	u	When SC write, in Section 8.7, “ <i>On this basis the level of proprietors drawings in the projections provided to us seem reasonable, albeit they are lower than those shown historically</i> ” they are not making an objective judgement on Lord Carnarvon’s personal expenditure. They are commenting on the arithmetic that has been used to calculate the level of drawings shown in the forecasts for 2009. They are reasonable merely in the sense that they do not vary significantly from amounts drawn in previous years. It does not mean that they are reasonable by reference to the duties performed or the salary that an owner would pay to an employed manager performing the same duties as the Carnarvons.	The Saffery Champness report confirms that the drawings made by Lord Carnarvon are reasonable. If the amount paid to Lord Carnarvon was greater than that paid to a manager in the same role then the drawings would not have been reasonable and would have undermined the efficient running of the Estate.
15	v	It is inadmissible for the Borough Council to permit the ED until it is wholly satisfied that the backlog of repairs and the inability to meet the routine level of future maintenance has not been caused by the personal expenditure of the current Earl and his predecessors being higher than the income of the estate can afford, bearing in mind the prior obligation to maintain the Heritage Assets.	The problems of the past should not serve to blight current attempts to secure the proper repair of the historic assets. Saffery Champness are confident that the drawings of the current Earl are ‘reasonable’. All benefits derived from any enabling development will be secured for repairs and maintenance and not for the personal benefit of the owner.
15	w	3.5 Fragmentation of the Estate’s Assets and Businesses  The English Heritage guidelines warn specifically that Councils should be vigilant for cases of fragmentation.  Fragmentation occurs when income earning assets are separated from non-income earning Heritage Assets such that the income is not available to meet the costs of maintaining the Heritage Assets. Often that occurs for perfectly legitimate reasons. Nevertheless it must be ignored in making an assessment of the need for ED.	Agreed.  Agreed.

		<b>Comments</b>	<b>BDBC response</b>
		<p>It would appear that there are several such cases of fragmentation in Highclere Estate:</p> <ul style="list-style-type: none"> <li>• The separate ownership of Highclere Stud by Mr John and Lady Carolyn Warren</li> <li>• The transfer of income from Porchester Farms to the Carnarvon Farmland Trust</li> <li>• The occupation of other houses by other members of the family</li> <li>• There are stated to be other partners in Highclere Enterprises LLP in addition to Lord and Lady Carnarvon</li> <li>• We do not know the ownership of all the assets comprising HE nor whether there has been fragmentation, for example in the ownership of let properties.</li> </ul> <p>There may be others of which we are not aware.</p>	<p>The issue of fragmentation is addressed in the report (section 8). Although certain elements of the entity are in different legal ownership there are still part of the entity and covered by the exemption agreement. Those properties which are not in the ownership of Lord Carnarvon would not benefit from any income from enabling development.</p>
15	x	<p>We are surprised that the Council has not initiated a thorough enquiry into the full extent of fragmentation and the effect on the finances underlying the application for Enabling Development. There is nothing in the SC report that permits the Borough Council to accept that such fragmentation has not taken place.</p>	<p>See above.</p>
15	y	<p>4. Review of the Evidence Base</p> <p>While there is no denying the deplorable state of the Heritage Assets following several generations of neglect, that alone is not sufficient to permit ED along the lines proposed by Highclere Estate.</p> <p>The English Heritage guidelines refer in some detail to the extent of repairs that may be appropriate. They particularly reject the unrealistic goal of a long subsequent period free of maintenance, although that will be particularly attractive to the owner, who may look forward to enjoying a greater proportion of the income of the Conditionally Exempt Assets for many years to come.</p>	<p>While there is a significant back log of repairs to be undertaken it is misleading that there has been wholesale neglect. There has been significant investment in repairs, but the rate of investment has been insufficient to keep up with the rate of repair.</p> <p>The correct extent of repair expected by English Heritage is understood and has been checked by Oxley Conservation on behalf of the Council.</p>

		Comments	BDBC response
15	z	<p>4.1 Summary of Findings</p> <p>The only expenditure that falls within the English Heritage guidelines is the repairs to the roof of Highclere Castle and perhaps some of the stonework, which alone might meet the condition of being “<i>the minimum necessary to secure the place</i>”. That expenditure could be met from the existing Maintenance Fund and possible grant aid from outside organisations.</p>	<p>To consider that only the repairs to the Castle are justified under the terms of enabling development is to misunderstand the fundamental objectives of enabling development which is to secure the long term future of the place. The proper long term repair and maintenance of the historic elements which make up the ‘entity’ is at the core of this objective. The proposed repairs comply with the English Heritage guidance in this respect. The only element that was not in accordance with the guidance was the removal of the modern farm buildings at Manor Farm. This element is to be excluded from the costs (see section 10 of Overview committee report).</p>
15	aa	<p>Expenditure on enhancements, such as to London Lodge and the Dairy Farm, constitute an addition to the personal fortune of the owner and as such are specifically excluded by the English Heritage guidelines. There is therefore no case for the granting of ED.</p>	<p>The development schemes would be undertaken to provide an enhanced level of income, which in term would be reinvested in the repair and maintenance of the historic assets (as secured through a legal agreement).</p>
15	ab	<p>Furthermore, we have found it impossible to escape the impression that every last item of possible expenditure, to the highest possible standard using the most expensive materials, has been included in the hope that it may be accepted without question, as indeed would seem to be the case. The inclusion of expenditure of £2,500 on the Church of St Michael and All Angels, of which only the foundations remain, cannot possibly be regarded as being part of “<i>the minimum necessary to secure the place</i>”. All sense of proportion seems to have been lost.</p>	<p>The proposals allow for the proper repair of the historic structures in accordance with current good conservation practice. That the repairs are properly specified, in the broad sense, in terms of extent and method of repair and the projected costs was tested by Oxley Conservation on behalf of the Council. The repairs were found to comply with good practice.</p>

		<b>Comments</b>	<b>BDBC response</b>
15	ac	<p>There has been no attempt to quantify the proposed expenditure in terms of the corresponding damage to the AONB.</p> <p>It should be borne in mind that each new house needed to fund the claimed expenditure will be built in the AONB or close to it. Normal council planning regulations applied by the Borough Council to applications in the AONB state that any shed larger than 10 cubic metres should have full detailed planning permission and that any application for any development whatsoever - even a greenhouse - outside the curtilage of a property will be strenuously resisted.</p>	<p>The current draft policy examines the need for enabling development not the form it might take. This will have to be examined in detail in the pre application and planning application stages. Until the specific proposals are made it is impossible to examine, realistically, the potential impact of development. To comply with the enabling development guidance the benefit of repairing the historic structures on the estate must decisively outweigh the disbenefits of breaching other public policies (including protection of the AONB). Depending on the nature of the proposals some, all or none could be permitted.</p>

		<b>Comments</b>		<b>BDBC response</b>																																																																				
15	ad	<p>It is instructive to relate the projected costs of some of the projects and the total cost of £11,75million to the number of houses which would need to be built at the plot proceeds projected in Annex H, £354,108 at the higher end of plot proceeds and £118,036 at the lower end:</p> <table border="0"> <tr> <td>Projected plot proceeds</td> <td></td> <td><u>£354,108</u></td> <td><u>£118,036</u></td> </tr> <tr> <td></td> <td>£1,950,000</td> <td>5 ½ houses</td> <td>16 ½ houses</td> </tr> <tr> <td>Highclere Castle</td> <td>£235,300</td> <td>¾ house</td> <td>2 houses</td> </tr> <tr> <td>Heavens Gate</td> <td>£637,500</td> <td>1 ¾ houses</td> <td>5 ½ houses</td> </tr> <tr> <td>London Lodge</td> <td>£1,875,000</td> <td>5 ¼ houses</td> <td>16 houses</td> </tr> <tr> <td>Manor Farm Barn</td> <td>£782,400</td> <td>2 ¼ houses</td> <td>6 ¾ houses</td> </tr> <tr> <td>Stable Block</td> <td>£136,875</td> <td>¼ house</td> <td>1 ¼ houses</td> </tr> <tr> <td>Dans Lodge</td> <td>£383,500</td> <td>1 house</td> <td>3¼ houses</td> </tr> <tr> <td>Beacon Hill Arch</td> <td>£169,000</td> <td>½ house</td> <td>1½ houses</td> </tr> <tr> <td>Live Arch Bridge</td> <td>£267,228</td> <td>¾ house</td> <td>2 ¼ houses</td> </tr> <tr> <td>Kitchen Garden Walls</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Garden Walls and Greenhouses</td> <td>£735,250</td> <td>2 houses</td> <td>6¼ houses</td> </tr> <tr> <td></td> <td>£173,375</td> <td>½ house</td> <td>1½ houses</td> </tr> <tr> <td>Ha Ha Wall</td> <td>£7,345,428</td> <td>20 ½</td> <td>62 houses</td> </tr> <tr> <td>Total house equivalent</td> <td>£11.75 million</td> <td>houses 33 houses</td> <td>100 houses</td> </tr> <tr> <td>Total projected cost</td> <td></td> <td></td> <td>112 ¾</td> </tr> <tr> <td>Or taking the total value of land sales given in Annex H</td> <td>£13.3million</td> <td>37 ½ houses</td> <td>houses</td> </tr> </table> <p>These figures sit uneasily with claims that development would be limited to “a few houses tucked away in woodland” or “a few houses selling for about £2½ million”.</p>		Projected plot proceeds		<u>£354,108</u>	<u>£118,036</u>		£1,950,000	5 ½ houses	16 ½ houses	Highclere Castle	£235,300	¾ house	2 houses	Heavens Gate	£637,500	1 ¾ houses	5 ½ houses	London Lodge	£1,875,000	5 ¼ houses	16 houses	Manor Farm Barn	£782,400	2 ¼ houses	6 ¾ houses	Stable Block	£136,875	¼ house	1 ¼ houses	Dans Lodge	£383,500	1 house	3¼ houses	Beacon Hill Arch	£169,000	½ house	1½ houses	Live Arch Bridge	£267,228	¾ house	2 ¼ houses	Kitchen Garden Walls				Garden Walls and Greenhouses	£735,250	2 houses	6¼ houses		£173,375	½ house	1½ houses	Ha Ha Wall	£7,345,428	20 ½	62 houses	Total house equivalent	£11.75 million	houses 33 houses	100 houses	Total projected cost			112 ¾	Or taking the total value of land sales given in Annex H	£13.3million	37 ½ houses	houses	<p>There is the intention to restrict the sale of land until values improve through the section 106 agreement and in any case the Estate have agreed that this would not be beneficial to the project. While it is known that if the full value of the enabling development is to be raised there must be a considerable amount of development it is not known whether all can be accommodated within the landscape while complying with all the EH criteria.</p>
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		Comments	BDBC response
15	ae	<p>Restoration of follies, garden walls, greenhouses</p> <ul style="list-style-type: none"> <li>• This work cannot possibly be considered as “the minimum necessary to secure the place”; the English Heritage guideline on permissible work; and accordingly to allow Enabling Development to fund it would be a flagrant breach of the English Heritage guidelines.</li> <li>• There can be no possible justification for building between 7 and 23 new houses in the AONB to fund this expenditure.</li> </ul>	<p>The follies, garden walls, glass houses and the remains of the church are all important elements of the entity and contribute to it being ‘outstanding’. It is legitimate to use enabling development to secure the future of an entity and therefore to include the cost of repairing these elements is acceptable under the guidance.</p>
15	af	<p>It cannot be right that a few footpaths, picnic areas, and perhaps a car park and cycle track, should be considered as an appropriate compensation for the huge damage that 100 or more new houses will cause to the AONB.</p>	<p>The increase in public access will be one public benefit secured through a legal agreement if the enabling development goes ahead. The Highclere Estate is of outstanding importance in heritage terms and therefore its protection, for its own sake, is the key public benefit.</p>
15	ag	<p>4.3 Maintenance Projections</p> <p>The Business Plan sets out a schedule of planned expenditure. We would have expected this to be the subject of independent and objective review by SC. There is no such review.</p> <p>The consulting surveyors, Oxley and Partners, have not reported on the whole proposal but only a part, which does not constitute the “<i>thorough examination</i>” referred to below.</p> <p>We cannot accept that there has been the “<i>thorough examination of the estimates regarding repair and maintenance costs</i>” without their manifest failure to meet the English Heritage criteria having been abundantly clear and subject to cautionary comment in the Council Policy.</p>	<p>The general business plan formed part of the Saffery Champness review of the Estate. Saffery Champness were specifically not asked to comment on the maintenance schedule, this was part of the remit for Oxley Conservation. To limit costs on fees Oxley Conservation were asked to examine a selection of buildings on the basis that there would be a consistent approach to repair throughout. 6 of the 11 buildings were assessed. The report concluded ‘The general approach to the repair and maintenance of the buildings is based on sound conservation principles and methods.’</p>

		Comments	BDBC response
15	ah	<p>4.4 Comments on particular proposals</p> <p>In general there appears to be a counsel of perfection, restoring all the buildings to their original condition using improved materials wherever possible. That cannot be justified where the cost to society is the building of 100 or more houses in the AONB. We offer the following as examples of the excessive expenditure planned, which cannot possibly fall within the English Heritage guideline of “<i>the minimum necessary to secure the place</i>”.</p>	See comments 15ab, ac, ad, ae and ag above.
15	ai	Expenditure of the level proposed would have the effect of reducing future maintenance costs and be in effect a subsidy of the future income of Lord Carnarvon and his successors. The English Heritage guidelines particularly warn Councils to be vigilant for that.	The proper repair of the historic assets followed by a cyclical programme of maintenance has been allowed for in the costs estimates and this is acceptable in terms of enabling development. The Estate will continue to fund repairs and maintenance but it is intended that the level of investment will be enhanced through the benefit of the enabling development.
15	aj	We also offer the following comments on particular projects as indicative of comments on the whole:	
15	ak	<p>Highclere Castle</p> <ul style="list-style-type: none"> <li>• The minimum work necessary to secure the place can only include the repairs to the roof (£430,000 plus additions), for which adequate funds exist within the Maintenance Fund, which itself can be replenished from income over future years</li> <li>• As the expenditure programme in Annex H extends over seven years, we may take it that none of the other work is urgent and that it therefore falls outside “the minimum necessary to secure the place”, the English Heritage guideline</li> </ul>	<p>See comment 15z.</p> <p>Enabling development must address the problems for the medium to long term with the intention of making the Estate self-sustaining overtime. To address only the most urgent repair problems would be to ignore the EH guidance. Most of the work is urgent but it is impossible to undertake such a range of repairs at once.</p>

		Comments	BDBC response
15	al	<p>Live Arch Bridge</p> <ul style="list-style-type: none"> <li>Converting the upper floor into three separate flats, at an assumed cost of £390,000 - rather than the £350,000 projected (including additions) – would provide accommodation that could be occupied by Lord Carnarvon and his siblings and their families. That would release Milford Lake House and two other houses for letting, generating significantly more income than letting the upper floor itself.</li> </ul>	<p>It is not possible to convert the upper floors to residential use because of the fire risk or without major internal alterations to meet the fire regulations. The house occupied by Lord Carnarvon on the Estate is very modest in comparison to the upper floors of the Castle.</p>
15	am	<p>Ha Ha Wall –</p> <ul style="list-style-type: none"> <li>Can it really be right to build in the AONB to fund the removal of the perfectly adequate concrete deck of the bridge and replace it with equally inauthentic resin bound gravel?</li> </ul>	<p>The bridge is an important feature in the grade I landscape. It requires structural repair and removal of the concrete bridge deck is part of the repair process.</p>
15	an	<p>Garden Walls and Greenhouses</p> <ul style="list-style-type: none"> <li>A cost of £5,700, the equivalent of one man's wages for three months, to remove ivy and vegetation from 190 metres of wall and dispose of it, is excessive. That is effectively clearing three metres (10 feet) per working day. The total projected cost of £173,375 represents a cost of £912 per metre for a one metre high wall! VAT and fees must be paid in addition. That is a cost of over £1,000 per metre for a 1 metre high wall!</li> </ul>	<p>Sections of the wall require rebuilding, other sections require extensive repair. This is clear in the condition report and to suggest that the cost relates only to ivy removal is misleading.</p>
15	ao	<p>Beacon Hill Arch</p> <ul style="list-style-type: none"> <li>This work cannot possibly be considered as “the minimum necessary to secure the place”, the English Heritage guideline on permissible work, and accordingly to allow ED to fund it would be a breach of the English Heritage guidelines.</li> </ul>	<p>See comment 15z above.</p>
15	ao	<p>Beacon Hill Arch</p> <ul style="list-style-type: none"> <li>£40,000 to replace presumably adequate red bricks with new purpose made yellow bricks. Allowing ED to fund it would be a breach of the English Heritage guidelines.</li> </ul>	<p>See 15z.</p>

		Comments	BDBC response
15	ap	Dans Lodge <ul style="list-style-type: none"> <li>Is the cost of £136,875 for an uninhabited folly, reasonable s?</li> </ul>	See 15z.
15	aq	Manor Farm Barn <ul style="list-style-type: none"> <li>Is it really appropriate to build 16 houses in the AONB to fund this work on a building described as being of no great value?</li> </ul>	Manor Farm Barn is grade I and is of great historical value.
15	ar	London Lodge <ul style="list-style-type: none"> <li>A major part of the cost, £108,000, relates to improvement, which is not permitted by the English Heritage guidelines.</li> </ul>	London Lodge is to be repaired and converted. The additional income from rental would be reinvested in the repair and maintenance costs.
15	as	Heavens Gate <ul style="list-style-type: none"> <li>Is it right to commission purpose-made bricks for something that is observed to best effect from a significant distance?</li> </ul>	See 15z.
15	at	5. Review of Saffery Champness Report  This section of our report uses the same numbering as the original. Unnumbered subsidiary paragraphs have been numbered in sequence. Quotations from the report are given in italics.	Saffery Champness were asked by the Council to assist in the response to these comments because of the more specialist nature of the matters raised. Their comments are set out below in italics:
15	au	<b>5.1.1. B. 2. Introduction</b> The introduction confirms the flawed nature of the brief.  2.2 BD should be requiring a far more rigorous approach than mere “confirmation”.	2.2 <i>We would ask why “confirmation” is not adequate. Our report gives detailed analysis of the reasons behind that “confirmation”. The dictionary defines confirmation as a corroborative statement or piece of evidence, so it would seem to us to be a fully appropriate term to use.</i>

		Comments	BDBC response
15	av	<p>2.5 “In writing this report we have been mindful to the key elements and considerations set out in the instruction letter of 12 February.”</p> <p>This confirms our view that SC have not gone beyond the very limited brief given to them.</p> <p>2.6.1 “<i>The Estate does not have assets to sell without harming the heritage entity</i>”</p> <p>We would suggest that this question is one upon which SC, as professional business advisors, would be ideally placed to report and which should be tested rigorously by them, as it is fundamental to HE’s claim.</p> <p>2.6.3 “<i>The existing businesses are efficiently run and there is little scope for increasing net income by changing management policies.</i>”</p> <p>The level of efficiency of the businesses and the scope for increasing their profit is absolutely fundamental to HE’s case. The Borough Council claims to have no expertise in assessing that, and yet SC are stating not that they will test this assumption of efficiency but that it is a given upon which their report will be based.</p> <p>2.6.4 Here again SC have not been asked to test the assertion by HE that there is indeed no alternative source of possible capital funding. This point is so fundamental to HE’s case that it requires to be fully tested.</p> <p><b>5.1.2 Comment:</b> SC have not been required to test fundamental assertions made by HE and come to an objective conclusion. The report cannot be said to provide the objective review of HE’s financial case so clearly required by the English Heritage guidelines, neither can it be said to enable the assertion that “<i>the evidence submitted has been carefully assessed ...</i>”.</p>	<p><i>We have followed EH’s guidance and provided more than that guidance would demand. There is no requirement for a third party review of the accounts, however, BD felt that independent review by experts would be appropriate</i></p> <p><i>We were not asked to carry out a full audit of all the assets owned by the Estate and associated entities. We did, however, obtain tax returns and as a result a full listing of all income generating assets. All of these income generating assets have been assessed in producing the report</i></p> <p>2.6.3 <i>We are confused by this comment. Our introduction was setting out the terms of our appointment. This was a fundamental point and most of our report addressed this very issue. All of the businesses were assessed in detail to check whether they were efficiently run.</i></p> <p>2.6.4 <i>We think NWDPS have misunderstood the introduction to our report. We tested this statement and our conclusion is recorded at 10.4 of our report.</i></p> <p>5.1.2 <i>NWDPS appear to have misunderstood the point. We were asked to research the issues and questions raised by BD. Our report does this, while taking into account EH’s guidance. The introduction detailed what it was we were testing and reviewing.</i></p> <p><i>We have reviewed, commented upon and carefully assessed accounts for 12 entities covering a ten year period. This has given an excellent background for our conclusions and commentary.</i></p>

		Comments	BDBC response
15	aw	<p><b>5.2 C. 3 Scope and work carried out.</b></p> <p>3.6 We do not accept that disclosing financial details “<i>would be entirely inappropriate</i>”. HE is asking for a massive public subsidy, of between £11.75 million and £14million, depending on which set of figures are adopted in addition to the existing public subsidy in the form of Conditional Exemption from Inheritance Tax. It is ‘entirely appropriate’ that an applicant for so large a subsidy should be required to provide adequate proof of that need. That is particularly relevant given the clear requirement of the English Heritage guidelines that there should be a clear line drawn between the needs of the place and the personal needs of the owner. Without financial details the owner cannot prove that his claim meets the English Heritage guidelines.</p>	<p>3.6 <i>NWDPS state that disclosing financial details would not be inappropriate, However, in not disclosing the detailed financial analysis performed by SC we were following EH guidance. Specifically, section 4.9.14 of EH guidance states that information must be adequate for the decision making but must not seek more than is justified. The gap between the required funding and the actual income is so wide that disclosure of the figures would only serve to put market sensitive, confidential information into the public domain without making any impact upon the case for enabling development.</i></p>
15	ax	<p>We are concerned that the report appears to rely to an excessive extent on unsubstantiated generalisations and subjective observations. For example, there are numerous uses of the word ‘reasonable’ without an objective test of reasonableness being supplied; references to other clients are valueless to anyone not in possession of those comparatives.</p>	<p><i>We were asked to assess whether the figures were reasonable and in accordance with our expectations of comparable businesses. We are not at liberty to publish the comparable financial data we used as this information is not in the public domain. Putting HE’s figures in isolation would not serve any purpose without providing benchmarks. BD asked Saffery Champness to report on the accounts specifically because we have the knowledge and comparative information to facilitate this.</i></p>
15	ay	<p><b>5.3 D. 4. Overview of Castle Opening Business</b></p> <p>4.1.3 We note that there are other partners in Highclere Enterprises LLP in addition to Lord and Lady Carnarvon. There is no indication of who the other partners may be, nor their interest in the partnership. Prima facie there is a case of fragmentation. The interest of the other partners should not be ignored when assessing the need for ED unless they are genuinely third parties such as non-family business partners, e.g.; the chef in a restaurant business.</p>	<p>4.1.3 <i>The other partners in the Castle Opening Business have no interest in the capital assets of the partnership. This is not therefore evidence of fragmentation. It is an example of giving an incentive to people working within the business, and, therefore, makes good commercial sense.</i></p>

		Comments	BDBC response
15	az	4.1.3 The three year time lag between the death of the 7th Earl in 2001 and the transfer of the business to the 8th Earl in 2004 raises further unanswered questions, notably as to how the executors disposed of the profit in that period, and whether here, too, there is a prima facie case of fragmentation.	4.1.3 <i>To those with experience of winding up a complex estate a three year period of administration by the executors would not be excessive. (Delays are often at the door of third parties like the Inland Revenue). However, we are not sure where NWPDS found the three year period. The 7th Earl died on 11/9/2001 and the business was transferred to the 8th Earl in September 2003. The interim 2 year period was recorded in the Highclere Castle and Gardens accounts and we have taken full account of those trading results. (See Appendix A of our original report).</i>
15	ba	4.2.1 After excluding the impact of inflation, growth in turnover between 1999 and 2007 was 27.5%, rather less than 3% per annum. Given the pressing need to raise finance to fund repairs and expansion of the business that does not suggest either great entrepreneurial skill nor an urgent desire to improve trade. These results are not compatible with the conclusion that “ <i>the existing businesses are well run</i> ”.	4.2.1 <i>Our figures stated that growth over the 8 year period was 59% before inflation. NWPDS state that it is 27.5% adjusted for inflation. We have not checked their figures, but on either basis this would appear to be a good increase in activity over an eight year period for <u>any</u> business.</i>  <i>The business itself is constrained by external factors, there are only 52 weekends a year for weddings/events etc. Public access, must be maintained under the terms of conditional exemption. Consequently numbers of high earning, commercial events are limited. A house opening business cannot simply expand like a chain of coffee houses. There are a finite number of weddings, events etc that it can host and in those terms an increase in income of 59% over the period is a good result.</i>

		Comments	BDBC response
15	bb	<p>4.2.3 “...income is entirely dependent upon the level of ‘high spend’ events ... different demands from the clients can have an impact”.</p> <p>This indicates an astonishing level of complacency. We would have expected there to have been a constant quest for new ventures and attractions to increase both footfall and spend per head, as well as there to have been reference to a constant search for ways of improving the offer to maximise income and profit. The report indicates an exceptionally low level of entrepreneurial input, which has consequences in considering an appropriate level of personal drawings by the proprietors.</p>	<p>4.2.3 <i>The business does seek to have new ventures and attractions. However, as stated in paragraph 4.5 of our report, there are not inexhaustible funds available to do so. Borrowing would be difficult unless returns can be guaranteed, which they cannot. This is not the type of business where the proprietors feel justified in gambling on speculative ventures. An entrepreneur is by definition a risk taker. Owners of historic homes tend to see themselves as guardians and custodians and so are relatively risk averse. High borrowing or speculation is not a characteristic of businesses run by similar enterprises. Nor should it be if one is looking to keep together an estate and avoid fragmentation.</i></p>
15	bc	<p>4.2.4 The inclusion of the Gross Profit percentage is also a matter of surprise, given that it is a key management figure and of great commercial sensitivity. The report of this figure sits uneasily with the claim that disclosing financial information would be “<i>entirely inappropriate</i>”. It is impossible to say whether the gross profit percentage of 66% is reasonable without knowing the component figures. However given that one major cost, direct labour, can be precisely estimated and that the main variable in catering businesses, waste of food, can be almost entirely eliminated as there must be only a small proportion of catering income applicable to chance trade; that in the Castle tea room. Without the benefit of the actual numbers a gross profit percentage of 66% does not indicate a high level of entrepreneurial management. The inclusion of a global gross profit percentage is also confusing given the disparate nature of the various enterprises operating under the one business e.g.; society weddings, company promotions, catering for shooting parties, private functions, filming, public opening. We would have expected at least a reference to SC having carried out an objective review of each of the several enterprises and profit centres.</p>	<p>4.2.4 <i>This comment was ambiguous. NWPDS quite rightly say they cannot tell whether 66% is a reasonable result but then go onto say that it is not.</i></p> <p><i>They also say that it is inappropriate for SC to disclose the margin. Gross margin figures are the ones that are easily available and it is a benchmark that we have used within our firm for comparable businesses. Our benchmark is that it should exceed 50% overall, on all events. In reaching 66% we would content that HE performs well. That was the conclusion on our report and that remains our conclusion now.</i></p>

		Comments	BDBC response
15	bd	<p>4.2.6 to 4.2.8 We are astonished at the simplistic view of the accounts taken by SC. It is perfectly clear that the repair costs are not causally linked to the trade but are driven by the requirements of the place. It would have been more appropriate to have reviewed the business results after stripping out such disconnected variable expenses in order to establish the trend of net profit for each year. In any event the profit should be seen as a contributor to the repair costs of the venue rather than the repairs being a cost of earning the profit. This view is reinforced by the comment “(repair) expenditure is dependent upon available funds ...”. We do not see how it is possible to describe the business as being “efficiently run” when that opinion is based on accounts so heavily influenced by repair costs not amenable to ‘efficient running’.</p>	<p>4.2.6. to 4.2.8</p> <p><i>NWDPS are “astonished at the simplistic view of the accounts taken by Saffery Champness”. We would reply that they did not understand what the report actually said. We reported that repairs are driven by the requirements of the place, and we quote “repairs (often uneconomic but necessary) are usually the major fluctuation in cost and it is impossible to come up with a reasonable average percentage spend for repairs and maintenance for a property like Highclere. The main rooms must be maintained to the highest standard in order to attract the high profile weddings and commercial events. In addition the fabric and structure of the property must be maintained. Expenditure is dependent on available funds and the nature of the work required”.</i></p> <p><i>Clearly if the major rooms need repair then they have to be repaired. Where there are no funds available choices have to be made as to what is the most urgent item and in years when high profits are made then more expenditure can be made. Hence, although it would be nice to be able to spend as much on repairs as was required, difficult decisions have to be made on an annual, monthly and weekly basis. This is the nature of historic houses where there are not infinite funds available for repair and maintenance.</i></p> <p><i>These repairs are a proper part of the costs of the business, and need to be included, just as we included the costs of architect and other sector specific costs.</i></p>
15	be	<p>4.2.9 We note the substantial increase in the spend on repair costs since 2003. That suggests a considerable underspend in earlier years. That begs the question to what extent the current troubles may be attributable to previous neglect of the obligation to maintain the Heritage Assets.</p>	<p>4.2.9 <i>The substantial increase in spending on repair costs since 2003 reflects the current Earl’s reinvestment in the business. A property of this age will always have a high amount of repairs each year. The 8<sup>th</sup> Earl does appear to be spending as much as he can on the property, however, we cannot comment as to the wear and tear that occurred over the past 20 or 30, or even 100 years. That was not our brief.</i></p>

		Comments	BDBC response
15	bf	<p>4.3.2.1.4 It is interesting that the public opening does not make a profit and has to be subsidised. That indicates a low level of demand for public access at a price economic to HE. It also indicates a low level of public appreciation of the Heritage Asset with significant consequences for the notional value to be put on the public benefit of ED, which the English Heritage guidelines require be set against the public disbenefits arising therefrom. It further calls into question the ‘value for money’ obtained by society on the already huge public subsidy inherent in Conditional Exemption from Inheritance Tax.</p>	<p>4.3.2.1. 4</p> <p><i>Public opening is a requirement for conditional exemption. If this property were to be just open to the public it would be entirely uneconomic. Most historic house owners see opening their houses to the public as being for the public benefit and in return for the conditional exemption that they have been allowed. Many of the activities include school trips, particularly with a view to introducing children to the Egyptology collection. This does not tend to be highly lucrative, although it is something that HE is dedicated to continuing. Hence it is improving the Egyptology gallery and expanding the café areas with a view to increasing foot fall and profitability.</i></p>
15	bg	<p>4.3.2.3 It would seem that HE is seeking to establish a name for quality entertaining. However there is no indication that there is any attempt to establish a ‘brand’ or market a ‘brand’, particularly in external catering. This failure to develop an external catering outlet indicates again a significant lack of entrepreneurial flair. It is clear from the record of Castle bookings that there must be significant periods when the catering staff is underutilised. What steps have been taken to capitalise on this idle capacity? We do not see how a business can be described as being “efficiently run” when this fundamental question has not been asked. There is no indication of any adjustment for any private benefit to the proprietors from the catering facilities available.</p>	<p>4.3.2.3 <i>The proprietors have in the past used both external caterers and their own caterers. They are currently using in house caterers for the reasons stated in the SC report. To add external catering services to their businesses would be difficult, and in practice external events will often clash with in house ones. For instance most high profile events at the castle happen to be at weekends a time when most external caterers are at their busiest. We didn’t enquire as to whether or not they were looking at developing external catering services as there can be a law of diminishing returns on these items. At the moment the 8<sup>th</sup> Earl runs a farming business, rental business, a house opening business and a shoot. If he were to stretch himself further he would probably have to take on more staff. Taking on more staff ultimately means extra costs which have to be justified in terms of extra profits. In our experience when the main proprietor is spread too thinly across various enterprises, then they can become less profitable, or need new staff. Any new ventures have to be carefully costed. In contrast he outside caterers referred to by NWDPS probably only had one small business to operate.</i></p>

		Comments	BDBC response
15	bh	<p>4.3.2.5 <i>“One of the most noticeable points and a key reason behind the profitability of this business is that the family do not live in the castle”</i></p> <p>We would suggest the opposite is true. If there were private occupation of otherwise unused parts of the Castle some part of the overhead cost would be borne by the private occupiers; that is exactly the opposite of the conclusion drawn by SC!</p>	<p><i>Our brief was to look at the existing businesses to see whether the existing facilities were being fully utilised and we concluded that they were. The question is then where do we draw the line? If we were to comment on outside catering should we also comment on opening a farm shop or, indeed opening a theme park?</i></p> <p><i>Clearly all these options are open to them, our conclusion was that those businesses that they are running are making good use of the facilities that they have and were running at a profit. HE does not run “white elephant” businesses which run at a loss and deplete the estate of funds.</i></p> <p>4.3.2.3 <i>We are not sure upon what authority NWDPS have concluded that it would be beneficial for private occupation of the unused parts of the castle. We certainly have experience elsewhere where this does cause expense and interference with proper business use of an historic house. If it is thought to work for the family to be in occupation they are usually in a modest wing at the back and not occupying the main rooms that are open to the public. At Highclere making a small wing habitable would cost an enormous amount of money which is why the family live in a relatively modest house on the Estate. Indeed the area that would probably be used has already been identified for development into extra guest rooms once funds allow.</i></p>

		Comments	BDBC response
15	bi	<p>4.4.3 SC state that the annual accounts “do not break down the costs between each sector”. Did they not look at management accounts? Are no management accounts prepared? How can it possibly be said that the business is “run efficiently” if the first basic management tool, management accounts, is not in place?</p>	<p>4.4.3 <i>There seems to be a misunderstanding of what we have said. We have split the income between each entity and we did use the management accounts to achieve this. However, this is a fairly modest family business. We would not expect to see management accounts that split overheads between each sector. For instance, the house manager may spend time on the exhibition, the house opening and various events in the park and public openings. This time is not apportioned. Some staff from the tea rooms may also work at the gift shop and work at public events so their wages would not be apportioned. This is a pragmatic approach at this type of business where the management are sufficiently au fait with what is going on and they do not need to break the accounts down into minute subdivisions and headings. The extra costs of producing these relatively unhelpful figures would be difficult to justify</i></p> <p><i>The accounts are fully satisfactory for this type of business and perfectly reasonable in the light of accounts that we see elsewhere..</i></p>
15	bj	<p>4.4.3 We are aware that admission charges will be increased in 2009. We are surprised that there is no reference to any steps being taken to improve the offer, increase footfall and optimise per capita spend. They are all basic business development steps. The lack of them serves again to underline the lack of entrepreneurial input.</p>	<p>4.4.3 <i>Under section 4.5 of SC’s report, it clearly says there are plans to expand the Tutankhamen exhibition and with that the gift shop and tearoom. All intended to increase footfall and optimise per capita spend.</i></p> <p>4.4.3 <i>This was emphasising the fact that the commercial activities as opposed to the public opening activities are the bedrock of the funding for repairs on the property. Public access alone would not contribute funds for the maintenance of the property.</i></p>

		Comments	BDBC response
15	bk	<p>4.4.4 As a result, a significant part of the Castle remains unoccupied and unused. Without access to more information it is impossible to say at what cost those parts could be made habitable. However, many proprietors of comparably sized businesses are content to live in a four or five roomed flat, which could easily be accommodated within the castle without encroaching onto the existing commercial space, so releasing for letting the “<i>surprisingly modest house</i>” currently occupied by LC. It would be surprising if that house did not command a rent of £20,000 p.a. or more, which would amply service the borrowings necessary to render habitable a similarly modest flat within the castle. It is worth noting that the 7th Earl chose to continue to live in Milford Lake House rather than move into the castle. It is simply a question of priorities. If LC and his forbears chose to live to a certain standard they should not expect a massive public subsidy to make good the consequences of that considered choice.</p>	<p>4.4.4 <i>A significant part of the castle remains unoccupied and unused. These areas could be made habitable and it is in the long term plan (see 4.5 of my report) to renovate and use them for paying guests. This would enhance the house business considerably. We are not in a position to comment on a rent that the 8<sup>th</sup> Earl’s current property would command but given its proximity to the business if he were to move into the main house it would probably have to be converted to staff accommodation or similar as it does not offer any great degree of privacy to the tenant. Equally, by moving into the castle the 8<sup>th</sup> Earl would be using a wing that is earmarked for paying guests, effectively reducing future trading income.</i></p>
15	bl	<p>4.5.1 <i>“In recent times action has been taken to increase profits. Some properties have been transferred into the partnership, increasing rental revenues and providing essential staff accommodation (it also appears to be a sensible tax planning move).”</i></p> <p>With regard to the estate as a whole, there is no impact on profit as there is merely a transfer between one enterprise and another. We are surprised that SC regard this as being worthy of inclusion and that there is no better evidence of positive steps being taken to improve profit.</p> <p>The transfer of properties is, for planning purposes, irrelevant, as fragmentation must be ignored. However, it does suggest that there has been fragmentation in the past; separating income-producing assets from the Heritage Asset; and the question remains to what extent that is still the case.</p>	<p>4.5.1 <i>In the past these properties may not have been charged out on a full market rent. For example they may have been used for agricultural workers. Bringing them into a better state of repair, using them in the business or where they get a better rent or better return is clearly a cost effective decision. It also means that revenue from these properties can be spent on the repair work required on the castle. We did mention in my report that this is a sensible tax planning move and is done to avoid future fragmentation of the Estate. These type of transfers are very common in businesses of this kind and are entirely sensible for long term capital tax planning purposes.</i></p>

		Comments	BDBC response
15	bm	<p>4.5.2 <i>“It is apparent that there are rooms that could be renovated and used for paying guests or other functions.”</i></p> <p>This would appear to validate our opinion that there is scope for adequate private accommodation for LC and his siblings within the castle. We would also have expected a report of this nature to have evaluated the relative profitability of the various courses open and to have commented upon them.</p>	<p>4.5.2 <i>We have dealt with this above and this is also dealt with in Section 4.5 of my report where we have stated that there are examples, this being one of them, where expenditure could be made to increase revenue. However, the returns <u>must</u> exceed the borrowing costs and the costs of repaying that borrowing, otherwise it is pointless embarking upon them. The funds available have are far better used in maintaining the asset that is already being used for public openings.</i></p> <p>See comment 15bk above.</p>
15	bn	<p>4.5.3 <i>“The business does not borrow to fund these projects and, given the yardstick of a repayment term of over 25 years on a 10% return on any expenditure, this policy would seem sensible. The work on interiors would probably need repeating before the original loan is repaid.”</i></p> <p>We note that there is a policy not to borrow to fund growth of the business. That is surprising given that almost every other business does so. If it is that the business enterprises will not generate sufficient additional income to service and repay those borrowings, then there must be a substantial question mark over the viability of all the business enterprises, with significant implications for the sustainability of the estate. Sustainability is a fundamental requirement of the English Heritage guidelines. If, as appears to be the case here, HE is uncertain whether the businesses can service their its capital requirements then it follows that HE cannot be confident about the sustainability of the estate as a whole. Here again, we are surprised at the manner in which this information is imparted and the apparent importance given to that information.</p>	<p>4.5.3 <i>We refer again to our comments above, this is a business involved in the custodianship of an asset and not a risk taking business. Where borrowing needs to be considered (and indeed is used elsewhere on the estate) the return has to be in real terms to enable the repayment to be made over the life of the improvement. There seems very little point in borrowing (and risking various assets used as security) when the return is going to be zero over the borrowing term.</i></p>

		Comments	BDBC response
15	bo	4.5.4 If a change to a business model cannot generate sufficient return to cover its capital cost, then the change must be wrong. If it can cover the cost of capital, service and repayment, then there should be no reason for not borrowing to fund it. The use of a 25-year payback is far too long. It was the traditional means of assessing an increase in agricultural rents to recover the cost of improvements to tenant farms but is not appropriate to the financial climate of the past 40 years. Its use suggests an antiquated approach to business and again, a lack of entrepreneurial flair.	4.5.4 <i>The author of the NWDPS report has misunderstood the nature of the business. If work is going to be worth doing it is for the future benefit of the building as well as for the business. Of course one would prefer a ten year pay back period, and if that could be achieved, then the opportunity would be taken (and indeed is) at HE. If the payback period exceeds 25 years then it will probably not be done, unless it is unavoidable. Anything between 10 and 25 years is considered because it is a long term business, with different aims and objective than one would expect of a short-term entrepreneur.</i>
15	bp	4.6.1 On the basis of the view reported above we cannot share SC's view that "Highclere Enterprises LLP appears to be run efficiently ..". The favourable comparison with other comparable businesses merely serves to reinforce the view that over the longer term the enterprise is not sustainable. However, a comparison with other comparable businesses does not constitute an objective view of this business.	4.6.1 <i>NWDPS state that a comparison with other similar businesses does not constitute an objective view of this business. We wonder how else NWDPS propose that we arrive at an objective view of the business?</i>
15	bq	5.1.2 The total estate extends to a little more than 5,000 acres. Reported here are 2,000 acres arable and 920 acres grassland. Section 6.1.3 refers to woodland extending to 1,000 acres. Section 5.3.3 suggests that the Heritage Park is already included in the farm acreage. Therefore that leaves approximately 1,100 acres unaccounted for. Is that another case of fragmentation? Does that additional 1,100 acres generate any income and if so, where is it accounted for? The report does not make the point clear.	5.1.2 <i>This questions where the farmland lies. The agent at the Estate has confirmed that: "in round numbers the whole Estate is 5050 acres, of which about 530 acres relate to Highclere Stud and Milford. The remaining 4520 acres is broadly 2020 acres arable, 1070 grass, 1050 forestry and 380 of other. The other is the buildings, roads, tracks, disused railway, former lime kiln works, farmyards, pits, copses and scrub."</i>

		Comments	BDBC response
15	br	<p>5.2.4 <i>“Rent is paid to the trust but is less than market value so if full rent were to be required by the trustees the profits would fall significantly.”</i></p> <p>We refer to the ambiguous position of the Carnarvon Farmland Trust elsewhere. Suffice it to say that there is again a prima facie case of fragmentation which should be ignored from the point of view of permitting ED. This also begs the question as to whether there is a breach of fiduciary duty in so far as the trustees are not seeking the full market rent and whether there are potential consequences which BD should be addressing now as part of their deliberations. This comment by SC further reinforces our view that SC have not considered the requirements of the EH guidelines regarding fragmentation in framing their report.</p>	<p>5.2.4 <i>NWDPS state that the position of the Carnarvon Farmland Trust is ambiguous, however, we clearly state how this was set up in section 7.2 of our report. It was settled by the 7<sup>th</sup> Earl’s executors in September 2006. It is a discretionary trust for the benefit of the 8<sup>th</sup> Earl and his children and their remoter issue. As the 8<sup>th</sup> Earl is the beneficiary then the trustees at their discretion can either demand full rent or allow the 8<sup>th</sup> Earl, as a beneficiary, the right to occupy it at a reduced rent. It is far from fragmentation. The 8<sup>th</sup> Earl is clearly one of the discretionary beneficiaries, as are his children. This is a standard tax planning way of avoiding further fragmentation. In setting it up in a discretionary trust it is taken out of the 8<sup>th</sup> Earl’s estate and put into a separate entity for the next generation. It is there, however, for his enjoyment and for his eventual heir. This will aid the future viability of the Estate, not its fragmentation.</i></p> <p><i>We do not believe that there has been a breach of fiduciary duty by the trustees. However, that is not a matter for NWDPS, Saffery Champness or the Basingstoke &amp; Deane Borough Council. It is for the trustees to decide how they look after their assets for the benefit of their beneficiaries.</i></p>
15	bs	<p>5.3.1 <i>“... exploitation of the niche horse feed market...”</i></p> <p>Here is an example of seeking to capitalise on the Highclere brand. Given the good name of Highclere Stud in the equestrian world we would have expected even greater efforts being taken to capitalise on the brand. Licensing the brand to manufacturers of horse products is an obvious example.</p>	<p>5.3.1 <i>Where we provide examples of additional marketing and income as a result of good business skills, NWDPS ask why more is not being done. HE is operating efficiently and is exploiting specific niches in the market and our report provides evidence of this.</i></p>

		Comments	BDBC response
15	bt	5.3.2 There was a farm shop and it was well patronised by those who knew of it. However it was poorly marketed and closed for reasons not explained at the time.	<p>5.3.2 <i>We did not look into the farm shop because this was not one of the businesses in existence at the time of our report. However, it is highly unlikely that a profitable business would have been closed down and so in accordance with actions observed elsewhere on the Estate we would surmise that it was closed because it was not commercial.</i></p> <p><i>Farm shops can be lucrative particularly when you have family members with the time to staff and run them, particularly in quieter times of the week. Given the number of enterprises on the Highclere Estate, a farm shop would need additional employees and expenditure.</i></p>
15	bu	5.3.3 Is there no scope for a 'show farm', rare breeds centre or rural heritage display? An offer of a small collection of horticultural machinery and implements on free loan, to add another small element to the 'offer' was turned down.	<p>5.3.3 <i>Most farmers would love to have show farms with rare breeds, rural heritage displays etc but these are often not profitable. The proprietors of the Estate have decided to concentrate on their unique selling point (the Egyptology collection) to attract visitors, rather than opening this type of attraction. The farms concentrates on its core activity, farming. This seems to be a sensible approach.</i></p>
15	bv	6.1.1 This begs the question whether yet again there is fragmentation. There is also the question whether the occupation of estate properties by members of the family is in fact the best use of the assets as regards the need to generate funds for the Heritage Assets. In so far as income is reduced, for example by the occupation of a property by a member of the family, the reduction in income should be ignored as fragmentation in assessing the need for ED, which is available only to fund the needs of the place, not the lifestyle requirements of the owner and his family.	<p>6.1.1 <i>There are 46 cottages of which only 3 are occupied by members of the family. This is not a high proportion. Certainly not sufficient to make the difference between saying whether the business is well run or badly run. It is, however, a policy that avoids fragmentation. Family members may expect to inherit a home from a parent with a number of houses but inheriting the right to live in a house or indeed being allowed to live in the house by a family member means that ownership is not moved away from the core estate. We agree that if those family members were not there, there would be additional rents, however, this is not be a make or break issue for an assessment as to whether the Estate is being run on an efficient basis.</i></p> <p><i>Incidentally one of the properties is occupied by Lord Carnarvon.</i></p>

		<b>Comments</b>	<b>BDBC response</b>
15	bw	6.2.1 This section makes no comment on the probability of regulated tenancies and properties occupied by pensioners falling in. We are aware that one such property may soon be available to let. Clearly that will have a significant impact on future revenues. Has that prospect been taken into account in future estimates of income?	6.2.1 <i>Our report commented on the regulated tenancies. One cannot predict when these will cease but they are, as a matter of course, renovated and re-let at higher rents when legally possible. Given the borrowing costs for these improvements there would only be a modest short term impact upon the profits. See also 6.3 below.</i>
15	bx	There is no mention either of attempts made by HE to improve existing properties and increase their revenue potential which may have been frustrated by the Borough Council's reported resistance to planning applications for those improvements. It seems a strange trade off to cause irrevocable damage to the AONB in return for preserving the integrity of a property out of the public eye.	It is understood that properties on the Estate have been upgraded over the last few years. The upgrade of existing properties in terms of fittings, heating and plumbing would not require planning consent. Changes to listed buildings would require listed building consent and provided the proposals did not adversely effect the special interest of the building consent would be granted. Listed buildings are protected for their own sake whether or not in the public eye.
15	by	We are uncertain of the position regarding Manor Farm House, Old Burghclere. We do not know whether it is owned by LC or his brother, Lord Harry Herbert. It was until recently occupied by the farm manager of Porchester Farms, LC's farming enterprise. The farm manager has been rehoused in the Park and Manor Farm House is advertised as being to let. On the one hand, this may be the prudent use of assets, allowing the more attractive property to earn an income for LC. However, if it is owned by Lord Harry Herbert, and the house in the Park is owned by LC, this would appear to be a case of fragmentation, which must be ignored for planning and ED purposes. EH guidelines require that all assets, regardless of ownership, should be treated as one.	<i>With regard to the uncertain position regarding Manor Farm House, Old Burghclere, we can confirm that it is part of the core estate. The farm manager has moved to a less marketable property. Manor Farm House is now part of the property rental business.</i>

		<b>Comments</b>	<b>BDBC response</b>
15	bz	6.2.2 We do not agree that it is “a <i>creditable performance</i> ” for the shoot to be in profit. One would expect one of the most highly regarded shoots in the South of England to be very profitable. Many other commercial shoots do make substantial profits. The private benefit to LC and his family of any shooting taken may be considerable.	6.2.1 <i>We would be interested to know the comparative information that NWDPS have that shows that keeping a shoot in profit is not a creditable performance.</i>  <i>While shooting itself is an expensive pass-time for those taking part it is also very expensive to provide and is subject to vagaries of the weather, disease etc.</i>  <i>The shoot has been reduced in size recently. Obviously the overheads have to be spread further and our comment that it was a creditable performance was particularly relevant given the fact that it had downsized but remained profitable. This must mean that it was being run with an eye to costs and profitability.</i>  <i>We also commented that the shoot attracts paying guests to the castle over the autumn and winter which again adds to the business as a whole. (This income is not included in the shoot accounts, it forms part of the castle takings).</i>
15	ca	6.2.3 Woodland of this size - 1,000 acres - is quite small and cannot be expected to make much of a profit.	6.2.3 <i>We made the point that the forestry does not make a loss. Keeping a woodland operation in the black is difficult, given the very low returns on timber sales. The business is run at a profit demonstrating, again, HE’s tight fiscal control over its activities.</i>
15	cb	6.2.4 The fragmentation of Highclere Stud, based within the Conditionally Exempt Land, must be ignored if the English Heritage guidelines are to be followed correctly.	6.2.4 <i>Highclere Stud was not left to Lord Carnarvon in his father’s will and so was not part of the brief for our report. The gift of the stud away from the core estate was, we understand, beyond the 8<sup>th</sup> Earl’s control. The 7<sup>th</sup> Earl died in 2001. Our brief was to address the current situation</i>

		Comments	BDBC response
15	cc	6.3 Clearly there is substantial scope for more borrowing, particularly given the low interest rates currently available. It is noted that the borrowings are “easily afforded by the business”.	6.3 <i>It is noted that NWDPS comment that there is scope for more borrowing. The current level of borrowing is modest and can be easily afforded. We stated that in our report. We also stated in section 10.2 of our report that the interest on borrowing necessary to fund the repairs would <u>not</u> be affordable from the profits of the existing enterprises. That was specifically relating to the repairs required on the heritage assets.</i>  <i>NWDPS state that borrowing could be used to improve properties. This has already been done. Nine of the nineteen let out properties have controlled rents. It is not worth doing a great deal of work on those properties as there would be no more income as a result. Once they cease to be subject to the Rent Act and are available for short hold tenancies they will be renovated and let out at higher rents.</i>
15	cd	6.4.1 The report does not enquire into the reasons for the “..relatively small.... property portfolio”. As remarked elsewhere, the 6th Earl sold numerous properties during his lifetime.	6.4.1 <i>NWDPS criticises the SC report for not enquiring into the reasons for the relatively small property portfolio and states that the 6<sup>th</sup> Earl sold numerous properties during his lifetime.</i>  <i>We did not look into this as it was beyond our brief; however, the 6<sup>th</sup> Earl was in control of the HE from 1923 to 1987. During that period, and particularly in the 1970’s, Estate houses were seen as a liability to an Estate (there was very little demand for rental property so they represented liabilities in terms of repair costs in excess of commercial value) so many were sold. This was accepted good practice at the time.</i>
15	ce	Given that Conditional Exemption from Inheritance Tax does not extend to properties there should be scope to borrow on the security of individual properties to fund improvements and increase rent income over the longer term. One can also only wonder why in previous years of strongly rising property prices the opportunity was not taken to use the ability of unencumbered properties to leverage the property portfolio with long term income in mind.	See above.

		Comments	BDBC response
15	cf	<p>Yet again, the small scale and age of the property portfolio leads one to question the sustainability of the estate as a whole. In that respect it must be remembered that, under the English Heritage guidelines, ED may only be used to meet the essential needs of the place and may not be used to increase the personal wealth of the owner. It is not possible for the proceeds of ED to be used to acquire additional assets for enhancing the income stream.</p>	<p><i>NWDPS state that the small scale and age of the property portfolio leads onto questions of the sustainability of the estate as a whole. In that respect it must be remembered that under HE guidelines Enabling Development may only be used to meet the essential needs of the place and may not be used to increase the personal wealth of the owner. Clearly the HE plans stated that the additional funds would be used to put the heritage property into a good state of repair and to continue ongoing funds to maintain them in that condition. HE would then be sustainable.</i></p> <p><i>EH would not allow Lord Carnarvon could spend the money as he saw fit. He would have an agreement to put funds towards the proper maintenance of the properties this would be closely governed and policed by legally binding agreements and by English Heritage's involvement.</i></p>
15	cg	<p>7.2 <i>"The Carnarvon Farmland Trust"</i></p> <p>In planning terms, to meet the requirements of the English Heritage guidelines, the fragmentation inherent in the existence of the Carnarvon Farmland Trust must be ignored in assessing the need for ED. The whole of the income of the Trust must be taken into account regardless of whether the trustees exercise their right to distribute or accumulate it.</p>	<p>7.2 <i>The Carnarvon Farmland Trust - see my comments above at 5.2.4 above.</i></p> <p>See comment 15br.</p>

		Comments	BDBC response
15	ch	<p>7.3 <i>“The Highclere Maintenance Fund”</i></p> <p>The statement that “..most of the funds have been distributed” does not make it clear whether it is the accumulated income or the capital of the fund that has been distributed. However, Section 9.5 implies that the capital is in fact intact. Elsewhere there is a reference to the fund having an income of £28,000 which suggests a capital value in the region of £3/4 million. There must be a strong case, which may require negotiation with the Inland Revenue, for expending the capital immediately on urgently required repairs and replenishing the capital out of future income streams. If applied, for example, to the repair of a part of the Castle roof and repair of the rooms beneath, there could be created a flat for LC and his family, releasing his “modest house” for reletting. A rental income of £2,000 per month should be attainable effectively maintaining the status quo as regards income, while solving a part of the repair problem. Failure to take such obvious action seems typical of the limited vision being brought to bear on Highclere’s predicament.</p>	<p><i>The author of NWDPS’s report does not appear to understand the meaning of a Maintenance Fund. A Maintenance Fund is set up to provide funds for designated heritage properties. In Section 7.3 of our report we state that distributions are made from the fund as and when required for the designated heritage properties. It also states that these are made from accumulated surpluses, clearly not capital.</i></p> <p><i>While it might be possible to re-designate the assets for capital work the amounts would not make a meaningful dent in the total expenditure needed on Highclere, or provide for the future maintenance of the assets.</i></p>
15	ci	<p>5.7 H. 8. <i>Drawings from the various businesses</i></p> <p><i>This is a very large subject and forms a separate section, 3.4, of this report. Suffice it to say at this point that all the indications are that the current problems appear to arise from an endeavour both to maintain a certain life style and the Heritage Assets on an income that could only support one or the other, over a very long period of time.</i></p>	<p><i>NWDPS questioned whether Enabling Development is being sought to rescue the heritage assets or to subsidise the past and future personal expenditure for the Earl of Carnarvon and his successors. We would refer them to Section 8 of my report where we reported that during the 8th Earl tenure the business has seen significant cash investment over the past four years all of which comes either from the proprietor’s funds or from borrowing. The reinvestment is equivalent to 57% of the total accounting profits before tax, or 74% of the profits after tax.</i></p> <p><i>By any measure, a business where the proprietor reinvests so much of the profits can be seen to have a sensible attitude to re-investment.</i></p> <p><i>While we are not at liberty to disclose the actual figures we can confirm that they are not excessive and that future plans are showing reasonable levels of drawings for Lord Carnarvon from the businesses.</i></p>

		Comments	BDBC response
15	cj	This then begs the question whether ED is being sought to rescue the Heritage Assets or to subsidise the past and future personal expenditure of successive Earls of Carnarvon.	Enabling development is sort to address the current condition of the historic assets.
15	ck	Only if all available resources over many years past have been devoted to maintaining the Heritage Assets can it truly be said that the last resort has been reached. It is therefore incumbent upon the applicants to show that to be so by making available full details of all significant maintenance expenditure over at least the past twenty years and relating that to the amounts drawn from the estate to maintain the owner's standard of living.	There has been significant expenditure on repairs and maintenance over the last 20 years, but not sufficient to keep up with the rate of decay. In their evidence base the Estate quotes a figure of £0.75m spent on repair since 2001 (with grant support).
15	cl	There are various indications in this report that appropriate adjustments have been made in tax returns for the personal benefit arising from the use of various assets, notably motor vehicles and shooting. From the point of view of assessing the need for ED, all those adjustments need to be taken into account when reviewing the level of personal drawings and the funds made available in the past to fund maintenance and repairs.	<i>The report also questions whether appropriate adjustments have been made for personal benefit arising from various assets, motor vehicles and shooting in particular. Where private use adjustments are made this has been included as drawings so we can confirm that they have been taken into account in the calculations.</i>
15	cm	<p>8.6 <i>“Future drawings are shown at a lower level than 2007 in the 2009 forecasts. We understand that Lord Carnarvon has agreed that this lower level is sufficient for his requirements.”</i></p> <p>The report does not consider whether Lord Carnarvon's requirements are appropriate to the level of profit generated nor yet to the obligation to apply the profit in maintaining the Heritage Assets. One is bound to enquire how many days shooting for the family may be considered appropriate given the level of damage to the AONB consequent on the granting of ED and the corresponding public benefit of a few additional Seasonally Permissive Footpaths?</p>	<p>8.6 <i>Future drawings are shown at a lower level than in 2007 in the 2009 forecasts. On the basis of this comment we have been accused of not considering whether Lord Carnarvon requirements are appropriate to the level of profit generated, not to the obligation to apply the profit and maintain heritage assets. We are slightly confused by this as we have stated that he has invested 57% of the total accounting profits before tax or 74% of the profits after tax. In reducing his drawings in future he will be reinvesting an even greater percentage of the profits. We can only surmise from the tone of Section 8.6 that the writer assumes the level of profits is huge. It is not, it is in keeping with this type of businesses, but if Lord Carnarvon took no drawings from the businesses it would not make a significant impact on the requirements for funding for the repairs and improvements required and are detailed by Basingstoke &amp; Deane Enabling Development Report.</i></p>

		Comments	BDBC response
15	cn	<p>5.9   9. Future Plans and Budgets</p> <p>Generally, it is quite natural that the SC report is hedged about with caveats and warnings about the difficulty of confirming budgets. Unlike a public service budget, the significant variable is income. A budget of income prepared twelve months in advance is incapable of validation. It is simply a target that must be reached.</p>	
15	co	<p>However, we do not see how HE can expect a public subsidy of £11.75million, or more, without having prepared a financial plan for at least the next five years bringing together both the revenue and capital streams and in particular showing both personal drawings and expenditure on maintenance of the Heritage Assets. A bank or business partner or shareholders proposing an investment of £11.75 million would expect no less.</p>	<p><i>We note the comments regarding difficulty in confirming budgets. We enquired as to whether a five year plan was available. However, we understand that it would be almost identical to that for the earlier period, adjusted for notional inflation. We therefore felt that the forecasts were adequate, given that they are illustrative only at this stage.</i></p>
15	cp	<p>Additionally, without such a plan it is impossible for the Council to ensure that the public subsidy is indeed for the benefit of the Heritage Assets and not for the owner.</p>	<p>That any income from enabling development will be expended for the benefit of the heritage assets will be secured through a legal agreement.</p>
15	cq	<p>A further concern with the budget is its dependency on high cost luxury services such as that offered by Highclere Enterprises LLP. We doubt the wisdom of concentrating on high end high value customers and again it causes us to question the entrepreneurial skills of the proprietors.</p>	<p><i>We also note that NWDPS are questioning whether HE should be doing as many high value events. Given that these are lucrative and develop the profile and promote the Highclere 'brand', these would appear to be exactly the type of events that the business should be running.</i></p>
15	cr	<p>All these are problems which the unfortunate owner of the Heritage Asset has to face. They are not problems applicable to the place. For that reason the only impact that these uncertainties can possibly have is on an assessment of the sustainability of the Heritage Asset and in the short term at least the prospects for sustainability look bleak.</p>	<p>The Saffery Champness report concludes that the Estate is well run and therefore the fundamental problems do relate to the nature of the place.</p>

		Comments	BDBC response
15	cs	<p>10.1 <i>“The estate does not have assets to sell...”</i></p> <p>The report states that SC have not enquired into the availability of assets to sell. BD appear to have accepted at face value the assertion by HE that there are none and there appears to have been no attempt to test this assertion. Here as so often in this report the assumption is stated to be “reasonable” without there being any objective test or explanation of what “reasonable” means. The report comments that there is not “a huge number of cottages to sell”. That is true. Most were sold in the time of the 6th Earl during which period it would appear that virtually nothing was done to maintain the Heritage Assets.</p>	<p>10.1 <i>We have stated that we have looked at all of the income generating assets and cannot find any that could be sold without detracting from the whole.</i></p> <p><i>We have not enquired specifically into where there are areas that are available for development and planning permission as we understood that there were no such properties. It would be a job for a surveyor to look for the potential sale proceeds from farmland and change of use etc, not for accountants. What we have done is looked at the income generating assets and can conclude that they are all needed to maintain the estate in its current form.</i></p>
15	ct	<p>10.2 <i>“The current net income... is insufficient to fund ...repairs and maintenance..”</i></p> <p>It is not clear whether this statement is made before or after considering the personal drawings of LC nor whether proper allowance has been made for the effects of fragmentation or the private benefits obtained from the business enterprises. Neither is there any indication of what proportion of the expenditure could be funded from income (and so reduce the need for ED somewhat). Nor has there been any attempt to quantify the extent to which the current state of disrepair can be attributed in any way to personal drawings being put before maintenance of the Heritage Assets.</p>	<p>10.2 <i>All of the expenditure currently made from profits or from income and set against profits is for the maintenance of the heritage assets. Proportionately Lord Carnarvon draws a relatively small amount of the profit for his personal needs. Even if he drew no funds from his business there would be insufficient funds to pay for the required repairs.</i></p>

		<b>Comments</b>	<b>BDBC response</b>
15	cu	<p>10.3 <i>“The existing businesses are well run...”</i></p> <p>We find it hard to accept this assertion. The simplistic statement that the public opening does not make a profit alone suggests that there is a want of entrepreneurial skill and scope for improvement. As stated before it is a matter of improving the offer and capitalising on available attributes. For example what use is made of the gardens developed by the 7th Earl or the rhododendrons for which Highclere used to be famous? Why is Milford Lake House not included in the offer? We would expect to see documented evidence of the scope and expected performance of proposed initiatives.</p>	<p>10.3 <i>“The existing businesses are well run” – we consider that our point by point analysis of NWDPS’s comments deals with this matter. Suffice to say that opening to the public is necessary and desirable but it is not the most profitable form of use of the property.</i></p> <p><i>As to the comments about the gardens and rhododendrons we are aware that new work on the gardens is being undertaken but this is minor detail about small areas of the estate and demonstrates a lack of understanding of the care and attention that the current Lord Carnarvon is putting into the maintenance of the entire property portfolio. Milford Lake House is not owned by the Eighth Earl so cannot be part of the proposal.</i></p>
15	cv	<p>10.4 <i>“... a detailed survey of the assets ... was not part of our brief.”</i></p> <p>If SC have not carried out a detailed survey of the assets of the Estate then who has? Establishing the asset base is absolutely fundamental to an assessment of the claim for ED.</p>	<p>10.4 <i>Saffery Champness are accountants and not surveyors and are therefore not qualified or employed to carry out a detailed survey of the assets. However, our report confirmed that we had found no evidence of other capital available to Lord Carnarvon to support the work, nor would borrowing be a realistic way of funding the work required.</i></p> <p>Lord Carnarvon has confirmed in writing that he owns no other assets.</p>

		Comments	BDBC response
15	cw	<p>10.5 “The aims of the business plan are to remedy the backlog of repairs...”</p> <p>However, if the plan referred to is the schedules forming Annex H to the Highclere proposals, we doubt whether a commercial investor considering this as an investment would take so complacent a view. SC’s comment “this was clearly stated in the plans submitted to us” does not indicate a thorough-going “due diligence” investigation of the sort required by the guidelines.</p>	<p><i>NWDPS seemed to be inferring from this section that there are no proper plans to detail how the money should be spent. They seem to think that any Enabling Development funds would be handed over directly to Lord Carnarvon to spend as he sees fit. This is disingenuous because at note 66 they have quoted from the Enabling Development policy document which states that having established the need for enabling development, then individual projects will be dealt with via appropriate maintenance funds or charitable trusts. BD or HE do not anticipate any additional monies generated would go to Lord Carnarvon to supplement his income. English Heritage clearly states that these funds <b>must</b> be earmarked and be specifically for the purposes stated. No Enabling Development funds would go directly to the owner of the property.</i></p>
15	cx	<p>10.7 “increasing the rental income ... the Estate is far more likely to meet the ongoing maintenance requirements.”</p> <p>This is merely a truism. It is merely unfortunate that the English Heritage guidelines specifically rule out using Enabling Development to achieve this in the manner proposed (adding to the personal assets of Lord Carnarvon). S 4.9.8 of the English Heritage guidelines requires a mechanism to prevent the subsequent break-up of estates allowing the owners to benefit. It may be implied that the same will apply to income, by the reference to the use of charitable trusts. It would appear to be the absence of such mechanisms in the past which has contributed to the current state of disrepair. There is no mention in the HE proposals that suggests the use of charitable trusts in this way has even been contemplated. That confirms our view that the whole exercise is intended to strengthen the personal finances of LC and his family. That is not a permitted outcome for ED.</p> <p><b><u>Test Valley Borough Council</u></b></p>	<p>10.7 <i>The entire purpose of the project is to put the heritage property into a sustainable and good state of repair. The exact mechanics of ensuring that the monies are properly spent can only be ascertained once the amounts and purposes are known. Our report was not on the set up or forming of a Maintenance Fund or Charitable Trust as that is a matter for later consideration.</i></p>
16	a	<p>The Council supports the approach proposed to ensure that an appropriate framework is established in relation to the principle of development for the determination of future planning applications. The document is laid out clearly and the context for future ED proposals is reasonably transparent.</p>	<p>Noted.</p>

		Comments	BDBC response
		<b><u>East Woodhay Parish Council (initial comments)</u></b>	
17	a	If the Council accepts that the principle of ED is acceptable to the Borough Council in that it fulfils all of the criteria in section 4 of the draft policy document, only those sites that can be shown to contribute to the need for greenfield development as defined in the adopted LDF, should be placed on the list of agreed sites.	All the sites are likely to be unacceptable in normal planning terms. All potential sites will be considered and assessed in light of a landscape impact assessment. The least sensitive and highest value sites should be considered first (see para 14.1.4 of the draft policy)
17	b	Any site that is acceptable under (a) above, should be the subject of full consultation with the affected parish council(s) with regard to the justification for development, as well as its scale, form and timescale and the planning policies that the Borough Council proposes to apply to each specific development.	The proposal for full community engagement is set out in the amended draft policy (see section 15 of the draft policy).
17	c	Concerned at the potential development of the site at Mount Road, Woolton Hill, Highclere.	Noted.
17	d	The consultation process is flawed in that the report prepared by consultants for the Borough Council is not available for inspection. As this evidence is of fundamental importance in the consideration of the draft policy, it should have been made available. Request that the report immediately be sent to the Parish Council.	This report was sent to the Parish for consideration.
		<b><u>East Woodhay Parish Council (detailed comments)</u></b>	
18	a	The assertion in paragraph 1.3 of the document that ED is an 'appropriate' method of funding repairs to the heritage assets is in our view an incorrect statement. It should have stated that ED is one method of raising funds but whether it is appropriate depends not only on the benefits to the Estate but on a full assessment of the impact of the magnitude of the development that has been requested.	Paragraph 1.3 also states that all the criteria for enabling development would have to be met and if so then enabling development would be 'appropriate'.
18	b	The principle of enabling development should not be agreed and indeed cannot be considered as justified until the effects of Ed have been considered in their entirety.	The policy seeks to establish the need for enabling development only. The impact of any development would be judged at the next stage when considering specific proposals.

		<b>Comments</b>	<b>BDBC response</b>
18	c	This is accepted in 4.1 and 4.2 of the document in that no specific detailed proposals have been submitted by Highclere Estate and therefore it is not possible to test whether criteria f. and g. in 4.1 can be satisfied.	It is clear in the draft policy that only some of the criteria would have been met, while others remain to be met (see para 4.4 of the amended draft policy).
18	d	To agree to the 'principle' of ED without the details of how it will be achieved is a commitment to granting planning permission for development on a relatively massive scale to raise a subsidy of £11.75 million by ED.	It is clear in the amended draft policy that the Borough Council would not be committed to approving any development (see para. 1.7 of the amended draft policy).
18	e	The ensuing property values on greenfield land may be a factor of 3 or 4 times the land value. Conversions of derelict and redundant farm buildings may require an even greater factor to achieve a marketable conclusion. Market circumstances are also relevant since in a period of economic recession values are at their lowest and the amount of ED to achieve a particular objective will be much higher than in a more buoyant market.	It is true that when property prices are low more development would be required. It is in nobody's interest to take this forward when land values are low. See section 14 of the Overview Committee report.
18	f	ED is an inefficient way of raising funds compared with other methods and should always be seen as a subsidy of last resort. There is no evidence in the document that grants have been applied for, this should be a first step before applying for ED. It should be noted that if grants are available they may be considered in combination with ED thus limiting the disbenefit from this inefficient form of subsidy.	Agreed that enabling development is a last resort. Grants are increasingly hard to secure. The criteria requires that no other subsidy is available, this would have to be revisited with each planning application.
18	g	ED is by definition contrary to policies arising under the Local Development Framework. Whilst the development of existing buildings such as derelict farm buildings is likely to be possible within current and future planning policies, we fail to see how new greenfield development can possibly be acceptable unless there is a trade-off with any sites selected under the Local Development Framework.  It is therefore a total contradiction to attempt to justify ED through the procedure outlined in section 14 of the Document. Section 6 of the English Heritage Reference Document referred to in 5 below substantiates this point.	Greenfield development within the enabling development context can only be acceptable if there are other benefits to be gained which outweigh the disbenefit of otherwise unacceptable development. There is no direct connection with any sites that may come to be developed under the Local Development Framework process.  Section 14 of the draft policy incorporates explanation of the desirability of reducing conflict with adopted planning policies under circumstances where the principle of ED has been accepted; this approach is acknowledged in Section 5 of the English Heritage document referred to.

		<b>Comments</b>	<b>BDBC response</b>
18	h	We support the broad principles in 14.1.7 but we object to any decisions being taken until the comprehensive report of the Estate appointed consultants has been produced and verified and those sites that will produce a minimum acceptable level of disbenefit to the community have been identified.	The landscape impact assessment will be critical for assessing the relative merits of various sites. No decisions on any particular site will be made until the various sites have been assessed and a proposal made and justified with reference to the landscape impact assessment.
18	i	We note in 12.2 that the study includes a landscape assessment and states the 'hope' that 'development can be provided through a selection of small/medium scale developments that are discretely sited within the landscape form and the settlement pattern'. The number of sites to achieve this could, for example, be in excess of ten, each comprising 6 or more dwellings with an average value of £500,000/dwelling and yielding a land value of £167,000/dwelling. Many more dwellings would be needed if, on grounds of sustainability, the policies on affordable housing and housing mix are applied. This form of development would be contrary to national sustainability policies which particularly mitigate against isolated residential enclaves and other single-use developments remote from services generating substantial travel needs and dependent on private motor vehicles for access (Ref 5). It is clear that these policies apply both to the conversion of existing buildings and new build on greenfield sites.	Enabling development is by definition outside of normal planning policy. Policies relating to density, affordable housing etc is likely to be set aside (see par. 14.1.4 of the draft policy).
18	j	We conclude that the disbenefit of enabling development on the scale requested would outweigh the benefit of securing the repair and ongoing maintenance of the heritage assets proposed in section 12.	Noted, however, it is not clear at this stage whether all, none or some of the required development can be accommodated without an adverse impact on the character of the AONB etc. This assessment would take place at the next stage.
18	k	We have studied the information that has informed the Document, namely the report into the finances of the Highclere Estate and the architectural evidence identifying estimates of the cost of conservation and the maintenance costs following the recommended action. The comments below are included in our response because we believe that there should be a prioritising of action on the basis that the whole scheme is too large to be funded solely from enabling development and should be reconsidered when the site surveys are completed as mentioned in 2.5.	The repair works will have to be prioritised. The agreed programme of repair would be secured through a legal agreement.

		<b>Comments</b>	<b>BDBC response</b>
18	l	The first priority should be the conservation of those assets which produce an income for the Estate and either do, or have the potential to, produce a surplus over operating costs that can be applied to the conservation of the whole of the historic entity.	The Estate seeks enabling development only for those buildings and structures which have no economic use (egg. Follies) or which have restricted use (egg. the Castle). Other income-producing assets are self funding and enabling development is not sought to support those buildings.
18	m	<p>We conclude from the financial report by Saffery Champness that in essence the financial surplus is barely enough to sustain and make some improvements to the current business.</p> <p>In particular we note from the architectural report by Brownhill Hayward Brown that the fabric of the Grade 1 listed building, Highclere Castle, is in immediate need of remedial work, including the roof, amounting to c.£0.90 million before VAT and fees. In addition, the cost of work to bring the second floor back into use to increase revenue is stated to be £0.6 million. It is therefore misleading in 8.2 of the Document to say that enabling development is primarily to fund the repairs of those buildings that have no or limited beneficial use (for example the follies).</p>	The use of the upper floors of the Castle is very restricted because of fire regulations. To accommodate new uses damaging alterations would have to be made. The proposal is to bring part of the second floor into use in an area that can be adequately served in terms of fire escape etc. In this sense it is true that the beneficial use of the Castle is restricted.
18	n	The financial report has not quantified the funds currently generated from the identified sources of income (these have been kept confidential) but it is clear that in the absence of suggested new forms of business, extra revenue to fund the ongoing maintenance of the historic entity can only be achieved by expanding the existing business activities. In essence this means the expansion of the niche business for top of the market weddings and conferences. The Castle is currently used as a specialist hotel and derives most of its income from this business rather than from providing the public with an opportunity to enjoy a stately home, its gardens and landscape. For this reason, great care will be needed in assessing the capability of the business plan to generate the required surplus for maintenance of the historic assets before permitting specific enabling development to fund business improvements as against that required to make the immediate repairs. The importance of this is outlined in Ref 4 and Ref 5.	The Castle business currently balances the need to hold income earning events such as weddings with the requirement to open the house to the public, which is less lucrative. The development of the new Egyptian exhibition will hopefully attract new visitors. It is intended that the enabling development fund the backlog of repair as a priority. The development schemes which will increase income over time would then fund the maintenance. These schemes would not conflict with the public enjoyment of the Castle and grounds.

		<b>Comments</b>	<b>BDBC response</b>
18	o	<p>The point made in 3.4 is particularly important because the sum for business improvements, such as the £0.6 million for the Castle mentioned in 3.3 amounts to a total of £4.85 million. We are not convinced that this can be justified on the flimsy business plan put forward and the broad statements made in Section 10 of the Document. The necessary figures that are confidential need to be revealed (Ref 3) and the business model and projections subject to critical independent assessment (Ref 4) and predetermined controls (Ref 5) before this substantial amount of enabling development is justified and sanctioned. The breakdown of this proposed expenditure is not clear. It is only partially estimated in the preliminary budget cost estimates provided by Brownhill Hayward Brown. No figure is given for the conversion of buildings at Dairy Farm to provide 5 new dwellings and it is not possible to determine whether the work proposed for the Stable Block will also secure additional rental revenue – see Appendix J: Potential Investment Sites.</p>	<p>The assessment of the businesses of the Estate by Saffery Champness concluded that the Estate is well run etc. and behind the broad statements is a detailed scrutiny of performance.</p> <p>Appendix H of the Estate's evidence base outlines all the costs, including those for the conversion of Dairy Farm</p>
18	p	<p>In examining the buildings mentioned in 8.3 we note that reference is made to Manor Farm Barn and the relocation of a modern farm building. Manor Farm Barn because of its early origin c.1451 and proposed upgrading from existing Grade 2 is a building of considerable historic interest . It lies within Old Burghclere Village and outside the registered landscape. In addition, it is in a parlous state as a timber structure and requires an estimated conservation cost of £1.875 million before VAT and fees. No figure is included for the removal and relocation of the modern farm building. We therefore suggest that the conservation of the Barn should be viewed as a project outside the 'historic entity' and removed from the calculation of the amount of enabling development required.</p> <p>We assume that the Barn is part of Manor Farm and that the farm remains in the ownership of the 8th Earl. It could therefore be sold with the associated farm buildings to offset the amount of enabling development required.</p>	<p>The barn at Manor Farm has been upgraded to grade I. Manor Farm is within the historic entity (although not within the registered park). The sale of the farm would break up the entity and would limit the income of the Estate, and therefore its ability to fund repairs, in the future. A cost for removing the modern farm buildings has been included (£400,000) but it is considered that this work, being enhancement, is not acceptable in enabling development terms. This sum is therefore to be omitted. (see section 10 of the overview committee report).</p>

		<b>Comments</b>	<b>BDBC response</b>
18	q	Having studied the condition survey of the buildings by Brownhill Hayward Brown in 8.3, we cannot agree with the statement 'that although substantial repairs have been undertaken of late there remains significant work to be done'. This statement is supported in respect of repair to the stonework of Highclere Castle but not to the conservation of the rest of the heritage assets that have deteriorated over several generations. The state of most of the non-revenue earning buildings can be summarised as extremely poor structurally with previous maintenance, if any, being of a sub-standard quality.	Substantial works repair works have been carried out of late including the repairs of some of the follies such as Jack Daw's Castle and The Temple.
18	r	<p>Of these buildings, the highest priority appears to be the London Lodge (registered as at risk) that would also provide two small lodges for rent. The lowest priority is probably Dans Lodge that is described as a ruin in an inaccessible location. It is not possible to discover from the notes the merits of all the work proposed in the preliminary budget cost estimate of repairs and renewals but in landscape terms it would seem that in addition to London Lodge, the important landmarks are Heavens Gate, Beacon Hill Arch, The Temple and Jackdaws Castle. The latter building, although shown in 8.3, is not included in the cost estimates. No mention is made of any work needed to conserve The Temple.</p> <p>Of the remaining items, it must be questionable whether the combined cost, in excess of £1 million, is justified for the garden walls and greenhouses, particularly since there appears to be no plan to put them into productive use.</p>	A prioritised programme of repair would be agreed as part of the legal agreement. London Lodge would be a high priority. The Temple and Jackdaws castle are not included for repair costs because they have been repaired recently. Garden walls and green houses are all part of the entity, having historic interest in their own right. The garden walls and green houses are all part of the visitor attraction of the gardens, the glass houses are currently used in management of the gardens and once repaired that use would be extended. Currently some of the glass houses are dangerous.
18	s	We conclude that further investigation and the setting of priorities could lead to a significant reduction in the total amount of subsidy required with a reduced need for greenfield enabling development.	More detailed work would have to be done on prioritising repairs as part of the legal agreement. However, as all the works (apart from removal of modern farm buildings at Manor Farm) are considered legitimate in enabling development terms prioritisation would not decrease the cost of the work.
18	t	No plans have been put forward by Highclere Estate for increased public access. It is noteworthy that in the financial report, item 4.4, it was stated that public open days and other public events generated less than 15% of that from weddings and corporate activities. It is unlikely that Highclere Enterprises LLP will be motivated, therefore, to increase public access or to improve the associated facilities. See also our comment in 3.4.	There are no specific plans to increase public access at this stage. Discussions between the council and the Estate have been held and the Estate has confirmed in writing that it is willing to increase access. Enhanced levels of access would have to be agreed and would be secured in detail through the legal agreement.

		<b>Comments</b>	<b>BDBC response</b>
18	u	It is hoped that if the neglected assets are repaired and the means of increasing revenue realised, the Estate as a whole will in future have the resources and will indeed see that it is managed with respect for the heritage assets, the landscape and biodiversity. Thus retaining the unique 'entity'.	This is the intention of the enabling development proposal.
18	v	<p>There is no specific benefit that will derive to existing residents of the areas affected by new developments. They simply suffer the disbenefit of the consequences of any development that would in the main not have been permitted under prevailing planning policies.</p> <p>We also assume that the normal S106 agreement applicable to new development for the local public good will not apply since this would work against maximising the value of the land to Highclere Estate.</p>	<p>The disbenefit suffered by local residents would have to be minimised through careful siting and design of development so as to limit the impact on the quality of the countryside. If the disbenefits of the enabling development outweigh the benefits planning permission would not be granted.</p> <p>It is possible that some normal planning policies would be set aside (such as affordable housing) if this would result in greater harm to the countryside (see para 14.1.4 of the draft policy).</p>