

Belmont Rural Parish Council

# **Belmont Rural Neighbourhood Development Plan to 2031**

## **Independent Examiner's Report**

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16 May 2017

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## Summary

I have been appointed as the independent examiner of the Belmont Rural Neighbourhood Development Plan.

The Plan is clearly presented and well organised with planning policies clearly defined. The Parish lies on the western edge of Hereford City. As well as seeking to protect a variety of open spaces and community facilities, the Plan supports local businesses. Two very locally distinctive policies seek to protect an area known as Home Farm and land adjacent to Ruckhall Lane and to promote development at Belmont Golf Course respectively.

Further to consideration of the Plan and its policies I have recommended a number of modifications that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear enabling it to provide a practical framework for decision-making as required by national policy and guidance. In particular given the location and context of the Plan area on the edge of Hereford and with a strategically important Relief Road proposal alongside sensitive heritage and environmental assets, I have made modifications to policies to ensure they support strategic development needs and plan positively to support local development.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Herefordshire Council that the Belmont Rural Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI  
Ann Skippers Planning  
16 May 2017



## 1.0 Introduction

This is the report of the independent examiner into the Belmont Rural Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Herefordshire Council (HC) with the agreement of Belmont Rural Parish Council, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

## 2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The examiner is required to check<sup>1</sup> whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

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<sup>1</sup> Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

The basic conditions<sup>2</sup> are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two basic conditions in addition to those set out in primary legislation and referred to in the paragraph above. These are:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site<sup>3</sup> or a European offshore marine site<sup>4</sup> either alone or in combination with other plans or projects, and
- Having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this is not applicable to this examination as it refers to orders).

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.<sup>5</sup>

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

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<sup>2</sup> Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

<sup>3</sup> As defined in the Conservation of Habitats and Species Regulations 2012

<sup>4</sup> As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>5</sup> The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Herefordshire Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

### 3.0 Neighbourhood plan preparation and the examination process

A Consultation Statement has been submitted which meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012.

A Steering Group was established in 2012 to oversee the preparation of the Plan. The work on the Plan built on an earlier Parish Plan. Regular updates to, and opportunities for, the community to be involved occurred including through newsletters.

Informal consultation was carried out on the emerging vision and objectives, issues and options at the end of 2014. A questionnaire was delivered to all properties in the Parish and a drop in event held. Despite these efforts there was little response.

Pre-submission (Regulation 14) consultation took place between 9 February – 23 March 2015. As well as contacting the consultation bodies, community groups and local businesses direct, efforts to publicise the consultation included a display at the local community centre, information at the Library and notices on Parish Boards. In addition an information evening was held during the consultation period. Despite this only four responses were received; all were from organisations rather than members of the community.

I consider that the consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was carried out between 2 November – 14 December 2016. The Regulation 16 stage resulted in ten representations which I have considered and taken into account in preparing my report.

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).<sup>6</sup> PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.<sup>7</sup> Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further additions or amendments are required.

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<sup>6</sup> PPG para 055 ref id 41-055-20140306

<sup>7</sup> *Ibid*

PPG explains<sup>8</sup> the general rule of thumb is that the examination will take the form of written representations,<sup>9</sup> but there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. After careful consideration of all the documentation and representations, I decided that neither circumstance applied and therefore it was not necessary to hold a hearing.

I did raise a number of questions and requested information from one of the representators. My list of questions is attached as Appendix 2. The questions and the responses to them are a matter of public record and available from HC or the Parish Council.

I made an unaccompanied site visit to familiarise myself with the Plan area on 5 March 2017.

Where I recommend modifications in this report they appear as bullet points in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in **bold italics**.

## 4.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

### Qualifying body

The Basic Conditions Statement (BCS) confirms that the Belmont Rural Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is met.

### Plan area

The Plan area is coterminous with the Parish Council administrative boundary. HC approved the designation of the area on 26 June 2013. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on Figure 1 on page 5 of the Plan.

### Plan period

The BCS indicates that the Plan covers the period 2011 – 2031 to align with the CS. However, the Plan's front cover states "to 2031" and the time period is not indicated in

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<sup>8</sup> PPG para 056 ref id 41-056-20140306

<sup>9</sup> Schedule 4B (9) of the Town and Country Planning Act 1990

the Plan itself. It is recommended that a sentence be added to the Plan to indicate the time period is 2011 – 2031 to align with the Core Strategy.

- **Add a sentence to the Plan to indicate the time period is 2011 – 2031 to align with the Core Strategy**

### **Excluded development**

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the BCS.

### **Development and use of land**

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. Should I consider a policy or proposal to fall within this category, I will recommend it be moved to a clearly differentiated and separate section or annex of the Plan or contained in a separate document. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.<sup>10</sup> Subject to any such recommendations, this requirement can be satisfactorily met.

## **5.0 The basic conditions**

### **Regard to national policy and advice**

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.<sup>11</sup>

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They

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<sup>10</sup> PPG para 004 ref id 41-004-20140306

<sup>11</sup> NPPF paras 14, 16



cannot promote less development than that set out in the Local Plan or undermine its strategic policies.<sup>12</sup>

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at <https://www.gov.uk/government/collections/planning-practice-guidance>. The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to it in preparing this report.

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.<sup>13</sup>

PPG indicates that a policy should be clear and unambiguous<sup>14</sup> to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.<sup>15</sup>

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.<sup>16</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>17</sup>

The BCS sets out how the Plan has responded to national policy and guidance, focusing on the 12 core planning principles of the NPPF.

### **Contribute to the achievement of sustainable development**

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole<sup>18</sup> constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.<sup>19</sup>

Tables 1 and 2 of the BCS help to show how the Plan contributes to the achievement of sustainable development.

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<sup>12</sup> NPPF para 184

<sup>13</sup> *Ibid* para 17

<sup>14</sup> PPG para 041 ref id 41-041-20140306

<sup>15</sup> *Ibid*

<sup>16</sup> *Ibid* para 040 ref id 41-040-20160211

<sup>17</sup> *Ibid*

<sup>18</sup> NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

<sup>19</sup> *Ibid* para 7

## **General conformity with the strategic policies in the development plan**

The development plan consists of the Herefordshire Local Plan Core Strategy 2011 – 2031 (CS) which was adopted on 16 October 2015 and various other documents including the saved policies of the Unitary Development Plan (UDP) (found in Appendix 1 of the CS). I have taken all the CS policies to be ‘strategic’.

The BCS contains a table that lists the Plan’s policies with a short commentary about how the Plan generally conforms to the relevant policies of the CS. In response to a query the Parish Council has helpfully confirmed that the BCS refers to the adopted CS policies and that the sentence referring to the “pre-submission publication” should have been removed. Whilst some of the contents of the policies in the first column of Table 3 seem to differ in places from those contained in the submission Plan, I recognise that this is a summary of the policies and in any case whether a Plan policy is in general conformity with the strategic policies in the CS has formed part of my own assessment.

The CS focuses most development within and adjoining urban areas, but with about a third of all housing directed to the rural areas. Whilst strategic urban extensions are identified in the CS, smaller, non-strategic sites will be identified through the Hereford Area Plan (HAP), currently at an early stage of preparation. The Parish falls within the HAP boundary and HC confirm that it is intended the policies of the HAP will be complementary to that of the Plan.

CS Policy SS2 identifies some 6,500 new dwellings for Hereford which is followed through in Policy HD1. Some 3,200 dwellings are to be provided through commitment sites, windfalls and non-strategic sites in neighbourhood plans.

CS Policies SS4 and HD3 seek to deliver, amongst other things, a Relief Road which is described in the supporting text to CS Policy HD3 as a key element of the long-term transport strategy and a vital addition to the city’s transport network. The CS explains that detailed alignment will be shown in the HAP. At the time of writing, a map showing the Hereford Relief Road has been used as part of the consultation on the HAP and the Hereford Transport Package.

In considering the context of the Plan as a whole, whilst the Parish has not got any ‘target’ for housing numbers, it is important that the Parish contributes to the housing need identified for Hereford. I have considered the implications of Policies 1, 2 and 5 together. Policy 1 refers to open spaces and Local Green Spaces, Policy 2 to Home Farm and land adjacent to Ruckhall Lane and Policy 5 to infill housing. Taken together, it could be construed that very few opportunities for housing within the Parish would come forward. In addition the proposed Relief Road may provide a different context for the Plan, but of course if the HAP is adopted after this Plan and any conflicts occur, the conflict must be resolved by the decision taker favouring the policy which is contained in the last document to become part of the development plan.<sup>20</sup> I have therefore recommended modifications to policies to ensure that the Plan supports strategic

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<sup>20</sup> Section 38 (5) of the Planning and Compulsory Purchase Act 2004

development needs and plans positively to support local development in line with the NPPF.<sup>21</sup>

### **European Union Obligations**

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG indicates that it is the responsibility of local planning authorities to ensure that the Plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive) when it takes the decision on a) whether the Plan should proceed to referendum and b) whether or not to make the Plan.<sup>22</sup>

### **Strategic Environmental Assessment**

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004 (the Regulations).

An Environmental Report (ER) dated March 2016 has been submitted as an earlier screening opinion of 7 June 2013 concluded that a SEA would be required. Part of the Parish / Plan boundary adjoins the south side of the River Wye Special Area of Conservation (SAC).

The ER confirms that a Scoping Report dated October 2014 was prepared and sent to the statutory consultees from 8 September – 13 October 2014. Two responses were received from Natural England (NE) and Historic England (HE).

A draft ER of January 2015 underwent a period of consultation from 9 February – 23 March 2015 alongside the pre-submission version of the Plan. Responses were received from NE and HE. In relation to the SEA, NE considered that it met the requirements and HE had no adverse comments. The ER also refers to a response from the Environment Agency at paragraph 2.10, page 5 of the ER as well as referring to a different neighbourhood plan. HC has confirmed these two comments were made in error. I am however satisfied that neither error has rendered the ER incomplete or in breach of the Regulations.

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<sup>21</sup> NPPF para 16

<sup>22</sup> PPG para 031 ref id 11-031-20150209

The ER of March 2016 was published for consultation alongside the submission version of the Plan between 2 November – 14 December 2016.

HC will monitor the outcomes from the Plan's policies annually.

Whilst the ER refers to six objectives whereas the submission version of the Plan has seven, the vision which was in place at the time of the assessments includes mention of the Western Relief Road which has since become an objective and so I do not regard this change as a fatal flaw in the process. The ER is a comprehensive document that deals with the issues appropriately for the content and level of detail in the Plan. This is in line with PPG advice that confirms the SEA does not have to be done in any more detail or using more resources than is considered to be appropriate for the content and level of detail in the Plan.<sup>23</sup> In my view, it has been prepared in accordance with Regulation 12 of the Regulations. Therefore EU obligations in respect of SEA have been satisfied.

### **Habitats Regulations Assessment**

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.<sup>24</sup> The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

An initial screening assessment in 7 June 2013 found that further assessment would be required.

A HRA Screening Assessment of January 2015 found that the River Wye SAC is located less than a kilometre away from the northern edge of the Plan area. It recommended that wording be added to Policy 3 to ensure that the future use of land and buildings at the Belmont Golf Club does not have an adverse impact on the River Wye SAC. As a result of the uncertainty around Policy 3, it concluded that the Plan may have likely significant effects on the SAC.

An Addendum dated February 2015 considered whether the conclusions of the earlier assessment were affected by amendments to Policy 3 of the Plan. The document concludes that the Plan will not have a likely significant effect on the River Wye SAC as a result of changes to the wording of Policy 3. These documents were consulted upon alongside the pre-submission Plan.

A further Addendum dated March 2016 considered whether any changes to the Plan after the pre-submission stage altered those conclusions. During the Regulation 14 stage NE had indicated that they disagreed with the findings in the Addendum and advised further wording changes. Those have now been implemented with the

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<sup>23</sup> PPG para 030 ref id 11-030-20150209

<sup>24</sup> *Ibid* para 047 ref id 11-047-20150209

exception of an additional criterion referring to the River Wye SAC to Policy 4. This can be the subject of a modification; if this modification is not implemented then I consider the conclusions of the Addendum will need to be reassessed. The Addendum concludes that the Plan will not have a likely significant effect on the River Wye SAC.

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in primary legislation as detailed in section 2.0 of this report. In my view, requirements relating to Habitats Regulations Assessment have been met and the Plan complies with this basic condition provided that the modification to Policy 4 is implemented.

### **European Convention on Human Rights (ECHR)**

The BCS contains a statement on human rights. There is nothing in the Plan that leads me to conclude there is any breach of the fundamental rights and freedoms guaranteed under the ECHR or that the Plan is otherwise incompatible with it or does not comply with the Human Rights Act 1998.

## **6.0 Detailed comments on the Plan and its policies**

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. As a reminder, where I suggest specific changes to the wording of the policies or new wording these appear in **bold italics**.

The Plan is generally well presented with policies which are clearly differentiated from supporting text. There is a useful foreword that sets the scene and the Plan has a contents page and list of figures helping users to find their way around the document.

### **1. Introduction**

This section contains information about the Parish.

### **2. Why are we preparing a Neighbourhood Development Plan for Belmont Rural?**

Useful background information is contained in this section.

### **3. The Neighbourhood Development Plan Process**

Figure 2 in this section is a useful table that shows the various stages of the process. It will need some natural updating as the Plan progresses towards the latter stages.

#### 4. Planning Policy Context & Key Issues for Belmont Rural

As a representation points out, paragraph 4.2 on page 12 of the Plan incorrectly refers to the CS as being adopted in December 2015; it should read October. A modification to correct this error is made.

This section includes some of the key issues considered important for the Plan to address. Some of the issues are not development and use of land related and cannot be achieved through planning policy. A short note to this effect should be added to this section making this clear.

Again some natural updating of this section will be required.

- **Replace “December 2015” in paragraph 4.2 on page 12 of the Plan with “October 2015”**
- **Add a sentence at the end of paragraph 4.7 on page 13 of the Plan to indicate that “*It is recognised some of the issues are achievable through mechanisms other than planning policy.*”**

#### 5. Vision and Objectives of the Belmont Rural NDP

The vision for Belmont Rural is:

“By 2031 Belmont Rural will have grown to take advantage of the Western Relief Road. Key green areas and open spaces will have been protected. Access to and from the area will have been improved allowing safe, easy access to quality services, open spaces and the wider countryside.”

The vision is worded simply and relatively generally. The objectives and policies which follow offer an interpretation of the vision. The vision is underpinned by seven objectives; all are clearly articulated and relate to the development and use of land. Objective 2 is “to protect ‘Home Farm’”. Policy 2 then follows this objective through. Reference is made to an appeal decision in 2013. However, there is no mention of the proposed Western Relief Road. In the interests of completeness and accuracy, if the references to the appeal decision are retained, then reference should also be made to the proposed road. This is because the Relief Road will potentially cut a swathe through this area as shown on Figure 12 of the Plan and represent a changed circumstance since the appeal decision.

Objective 3 supports development proposals at the former Belmont Golf course. Policy 3 then follows this through. The area subject to this objective and policy is shown on Figure 5. I discuss this later in my report in relation to Policy 3.

Objective 5 seeks “to identify small, infill sites for new housing”. This in itself is acceptable, but the supporting text indicates that “it is recognised there are little

opportunities for any large scale development within the parish...”. Given that the Western Relief Road is proposed and that Policy 3 supports development on the former Golf Course, I consider that this is potentially inaccurate and may thwart the achievement of sustainable development. As a result I recommend its deletion.

The Parish Council has confirmed that there is some missing text in paragraph 5.14 under objective 6. As a result a modification is recommended to address this.

- **Refer to the Western Relief Road proposal under objective 2 or remove the reference to the appeal decision**
- **Delete the last sentence of paragraph 5.12 on page 21 of the Plan which begins “It is recognised there are little opportunities...”**
- **Add “*This can be achieved by working*” before the second sentence in paragraph 5.14 on page 22 of the Plan which currently begins “Working with Herefordshire Council...”**

## **Policies and Objectives of the Belmont Rural Neighbourhood Development Plan**

### ***Open Spaces and Local Green Spaces***

#### **Policy 1 Open Space and Local Green Spaces**

This long policy has a number of elements to it. I deal with each in turn.

Criterion a) requires any new development to provide public open space in line with HC’s requirements. It therefore does not add anything to, but simply repeats, existing HC policy.

Criterion b) identifies four areas for designation as Local Green Space (LGS) and refers to Figure 8 on page 28 of the Plan. In turn Figure 8 refers to five such areas. In response to my query on this, the Parish Council explains that five areas are sought, but that site 5 (Northolme Community Centre) falls within site 2 (Abbey View East). For the Plan to provide the practical framework sought by the NPPF and the clarity and unambiguity sought by PPG, it is important that this drafting discrepancy is addressed. Therefore taking my lead from the policy rather than the supporting text as this is what takes precedence, a modification is recommended to make it clear four areas are proposed. In terms of the outcome, there is no difference to what the Plan seeks.

The four areas are clearly shown on Figure 9. The policy refers to Figure 8 and I consider it important that there is a cross-reference to the figure which identifies the four areas. Therefore a modification is made to change the reference from Figure 8 to Figure 9.

The NPPF explains that LGSs are green areas of particular importance to local communities.<sup>25</sup> The effect of such a designation is that new development will be ruled out other than in very special circumstances. Identifying such areas should be consistent with local planning of sustainable development and complement investment.

The NPPF makes it clear that this designation will not be appropriate for most green areas or open space. Further guidance about LGSs is given in PPG.

The proposed LGSs are Abbey View West, Abbey View East, Jubilee Field and Coppin Rise. I saw all four areas on my site visit.

1. Abbey View West is an open area which affords long distance views to the mountains behind and views to the Abbey over the rooftops of houses in the foreground. It is readily accessible from a number of different points from the residential properties that surround the area and is crisscrossed by a network of footpaths that are all well used. It is an important open space and local in context to the houses around it.

2. Abbey View East is an area of elevated land with a stream running through it. It is close to Northolme Community Centre and has a play area and seats. It affords views of the Abbey. Supporting information explains that one of the valued aspects of this area is the level access around the area suitable for those with disabilities. It provides an important open space serving this high density residential area.

3. Jubilee Field is an area of relatively flat grassed land with footpaths crossing it with trees and a recreation area. It is situated slightly lower than the houses which overlook it. Supporting information indicates that its biodiversity is important and that a local management plan has been developed for the wildflower meadow and natural beauty. It is local in context and relates to the residential development close by.

4. Coppin Rise is a largely flat, open, grassed area surrounded by houses on two sides. It is hidden from the main road by a dense hedge. It contains some individual trees and has a play area. It is well related to houses and is local in nature.

Areas 1, 2 and 3 together provide an important green lung in this highly developed and high density housing area.

In my view, the proposed LGSs meet the criteria in the NPPF satisfactorily. This criterion of the policy refers back to the development permitted on such spaces identified in the NPPF.

Criterion c) seeks to protect other open spaces within the Parish. These are identified within the policy. I visited all of these areas on my site visit and all are appropriately identified and important. HC confirms they have previously been identified in the UDP and South Herefordshire Plans as part of the Belmont estate development and therefore have a sound basis for designation. However, CS Policy OS3 refers to the loss

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<sup>25</sup> NPPF paras 76, 77 and 78



of open space and in order for the policy to be in general conformity with the CS, it is important that the CS policy is cross-referenced in this policy so that there is flexibility in line with the NPPF and CS rather than a blanket restriction.

As well as their protection, their enhancement is sought together with links to “other potential new sites identified on Figure 8”. I found this phrase confusing and as previously indicated the reference to Figure 8 seems to be in error. Looking at the encouragement to provide links to other open spaces there seems to be no reason to limit such links to the areas of LGS shown on Figure 9 and this is borne out by the next criterion too. As a result a modification is suggested to help with clarity and the achievement of sustainable development.

Criterion d) promotes links between green spaces and this will help to achieve sustainable development.

Criterion e) refers to sports open space and HC’s Playing Pitch Assessment. This is a strategic framework that audited and needs analysed outdoor sports pitches and facilities for Herefordshire. It identified gaps in provision and looks forward to 2031 to assess what facilities are likely to be required by that date. The Study revealed that there are no pitches with community use other than the Newton Playing Fields.<sup>26</sup> The Study is an evidence base document for the CS with relevance to the aspirations of the Plan and it is appropriate for it to be cross-referenced in this instance.

Criterion f) seeks to protect Local Wildlife Sites “within the vicinity” presumably of the Plan area, from any harm and specifically restricts development if harm is likely to occur. Firstly, the Plan can only cover any such sites within the Plan area and therefore I consider the phrase “in the vicinity” to be too imprecise.

The second issue is that the tenor of the policy to resist development if any harm at all is likely to such sites does not reflect national policy and guidance. This is because whilst the NPPF seeks to conserve and enhance the natural environment, it suggests that criteria based policies are developed against which development proposals on or affecting wildlife sites can be assessed and that a distinction should be made between international, national and locally designated sites. This is to ensure that protection is commensurate with their status.<sup>27</sup>

CS Policy SS6 conserves and enhances environmental assets which contribute to the County’s distinctiveness. It continues that local features, areas and sites of importance identified in neighbourhood plans should inform decisions about proposals. However, the blanket resistance to development that might affect local wildlife sites does not accord with the advice in the NPPF. In addition I am mindful that such a blanket restriction could hamper the development of the Relief Road. Finally, there is no mention of such sites or justification for this part of the policy in the accompanying text.

For all these reasons, the criterion should be deleted.

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<sup>26</sup> Information contained in the SEA Scoping Report October 2014

<sup>27</sup> NPPF Section 11 and particularly para 113

Subject to the following modifications, I consider the policy will meet the basic conditions.

- **Change Figure 8 on page 28 of the Plan by including what is referred to as “5. Northolme Community Centre” within 2. Abbey View East so that there are four identified areas. This can be done by changing 2. Abbey View East to read “2. Abbey View East *incorporating Northolme Community Centre*” in the first column, moving the text from the second column at 5. to the text at 2. with the addition of the word “*and*” and moving the text from the third column at 5. to the text at 2.**
- **Change the reference to “Figure 8” in criterion b) to “Figure 9”**
- **Amend the wording of criterion c) to read: “Other Open Spaces within the Parish *identified below* will also be protected. *Any proposals which would result in the loss of these open spaces will be determined in line with Core Strategy Policy OS3.*” [then follow with the retained list of open spaces and the sentence on enhancement]**
- **Delete “identified on Figure 8” from criterion c)**
- **Delete criterion f)**

## **Policy 2 Protecting Home Farm and the Land Adjacent to Ruckhall Lane**

Figure 10 shows the area of land subject to this policy. It is a large area of countryside generally abutting the western edge of the built up area of the Parish.

A representation considers that references to this land as “the Triangle” are incorrect. It seems to me that the policy identifies a much larger area than “the Triangle” (subject to the appeal mentioned earlier in the Plan on page 16) and that there could be some confusion as to whether the policy applies to the whole of the area identified in Figure 10 or just “the Triangle” (part of the area shown on Figure 10).

On a fair reading of the policy, given that the land subject to Policy 2 is clearly shown on Figure 10, I consider it would be clearer for the policy to simply refer to the land identified on Figure 10.

Criterion a) of the policy seeks to protect the land from development that would have a harmful effect on its open character and the setting of heritage assets. Criterion b) seeks enhancement of ecology. Criterion c) refers to CS Policies SS4 and HD3. The policy indicates that the land is an important ecological site and has heritage assets including Belmont Abbey, Home Farm Stables, Belmont House, the Almshouses and Chapel nearby and part of the Belmont House park and garden, of local importance, falls within the identified area.

The policy generally conforms to CS Policy SS6 which, amongst other things, indicates that proposals should conserve and enhance environmental assets that contribute to distinctiveness and that local features, areas and sites of importance in neighbourhood plans should inform decisions on proposals. CS Policy LD1 seeks to ensure that the character of the landscape and townscape positively influences development and conserves and enhances important landscapes and features including locally designated parks and gardens. CS Policy LD2 refers to biodiversity and geodiversity, CS Policy LD3 to green infrastructure and CS Policy LD4 to the historic environment and heritage assets.

The area subject to the policy also coincides with an area identified for the Western Relief Road. CS Policy SS4 indicates that land and routes for new and improved existing public transport, walking and cycling infrastructure will be supported. The Hereford Relief Road is identified in the policy as a major scheme. CS Policy HD3 identifies this and stipulates that the road will be designed and developed in such a way which avoids and mitigates adverse impacts or physical damage to or loss of habitats, noise pollution and vibration, air and light pollution, flood risk and water quality on the River Wye SAC as well as residential amenity and business interests. It states that consideration of the impact on heritage assets, their significance and setting, and the historic character of the wider landscape will also be required. The Hereford Bypass Corridor has recently been out to consultation as part of the HAP and Hereford Transport Package.

Policy 2 needs to be in general conformity with CS Policy HD3. Whilst I appreciate the community's desire to ensure that the land is protected from any harm, it is, in my view, unlikely that development such as a relief road will not have any impact whatsoever on the landscape or other aspects detailed in the policy. It is therefore worded too restrictively and may act to prevent the relief road coming forward. My view is reinforced by HC's response to my query; HC consider that the wording of Policy 2 could make the implementation of what is regarded as a key strategic proposal more difficult and suggest ways forward to resolve this.

I therefore suggest that the policy is reworded. As it is currently negatively worded it protects the identified area from development that would have a "detrimental impact" on its open character and heritage assets. This may well prevent sustainable development and the implementation of a strategic proposal in the CS. The reworded policy would be in general conformity with CS Policies SS4 and HD3 whilst helping to address the community's concerns. Although there is generally no need to refer to any relevant CS policies, in this case it is important to do so.

HC also considers it would be useful if the policy refers to a walking/cycling link. As part of the opportunity of this area, I agree this would help to achieve sustainable development and take account of national policy and guidance which seeks to promote healthy communities and enhance public rights of way and access. This is then incorporated into the reworded policy.

- **Reword Policy 2 to read:**

***“Any development on land at Home Farm and land adjacent to Ruckhall Lane as identified on Figure 10 must have regard to the character and appearance of the area and conserve or enhance the character or appearance of heritage assets.***

***Opportunities to enhance ecological networks and habitats including hedgerows will be promoted and support is given for a walking and cycling link between Abbey View West and Belmont Abbey.***

***Any proposals must have regard to policies SS4 and HD3 of the adopted Hereford Local Plan Core Strategy and any other strategic policy or proposal concerning the proposed Hereford Relief Road and it is not intended that this policy will prejudice the implementation of the Hereford Relief Road.”***

- **The supporting text will need revision to ensure it reflects the wording of the policy**

### **Policy 3 Belmont Golf Course**

The area subject to this policy is shown on Figure 11 which is replicated earlier in the Plan as Figure 5.

A representation objects to the delineation of the area subject to this policy indicating it is not justified and does not take account of the Western Relief Road proposal (an indicative route traverses the area of the site). However, the land identified in relation to this policy is not illogical and does not conflict with any of the basic conditions. It would not preclude any proposals considering land outside the policy’s jurisdiction alongside it in a wider context.

This policy supports the development of the former Golf Course site for housing, employment and leisure uses as long as the existing buildings are reused. It also supports “limited” extensions and alterations. Belmont House is Grade II\* listed.

The landowner objects to the policy regarding it as too restrictive and unevidenced. The representation indicates that the landowner has not been engaged in any discussions about this site and they seek an opportunity to discuss the future of the site with the Parish Council. It is a pity that such discussions have not taken place during the preparation of the Plan.

I have raised a number of queries about this policy including seeking further written information from the landowner’s representatives. The Parish Council have confirmed that no site or building assessments have been carried out as supporting evidence for the Plan. The landowner has provided further information evidencing previous

correspondence with English Heritage, as it then was, indicating that enabling development would be needed. The proposed Relief Road is also likely to have an impact on the redevelopment potential and opportunity in this area.

At the heart of the matter is whether this policy meets the basic conditions. Despite the concerns raised by the landowner, the policy is not an end in itself. The Plan's objective is to support long term development proposals at the former Golf Course and the policy itself supports the reuse and conversion of existing buildings subject to seven criteria for any such proposals to comply with. Amongst other things, these relate to the effect on the River Wye SAC, high quality design and connections to public footpaths. All are clearly worded and will help to achieve sustainable development. Subject to some rewording to give clarity to the policy and to increase its flexibility in relation to the redevelopment of existing buildings to take account of the possibility of enabling development and therefore ensure the deliverability of the policy, I do not find any conflict with any of the basic conditions.

A representation indicates that criterion f) is potentially misleading as not all of the site falls within a flood zone and as further information sent to me reveals this to the case, a modification is recommended to deal with this issue in the interests of accuracy.

- **Reword the first paragraph of the policy to read: “*Future development of the former Belmont Golf Course site (see Figure 11) will be supported if proposals secure the future of Belmont House and other heritage assets. Existing buildings should, wherever desirable and viable to do so, be reused and converted. Enabling development will be considered favourably if appropriate in location and scale and if it respects the setting of the site.*”**
- **Change the second paragraph of the policy so that it begins: “A range of uses including housing, B1 employment and leisure uses will be supported...[retain the remainder of the paragraph as is and retain criteria a. to g.]**
- **Delete the words “The site lies within a flood zone, and” from criterion f) of the policy so that it begins “Future development...” [retain the remainder of the criterion as is]**

#### **Policy 4 Community Facilities**

Belmont is identified as a neighbourhood centre in the CS's retail hierarchy. These centres have an important role to play as community hubs. Three community facilities are identified for protection in this policy. They are the Northolme Community Centre, the Belmont Community Centre and Library and the Belmont Medical Centre; all are identified on Figure 13.

Should they be redeveloped, the first preference is for “community and recreation type uses”. If this is not possible, then non-community uses are only permitted where an

alternative site of equivalent or better provision is provided and the asset has been marketed for 18 months to find another user and is not subject to the community right to bid process.

The NPPF<sup>28</sup> promotes the retention of and development of local services and community facilities. Amongst other things, CS Policy SC1 protects, retains and enhances existing social and community infrastructure. It retains existing facilities unless an appropriate alternative is available or can be provided or it can be shown the facility is no longer required, viable or is no longer fit for purpose. Where appropriate this includes vacant facilities that have been marketed without success. The supporting text to the CS policy explains that where a business is no longer viable, an alternative community use should be considered first of all and to show this evidence of a marketing period of at least 12 months should be provided.

A number of issues arise. Firstly, I consider the phrase “community and recreation type uses” is imprecise and recommend a modification to make this clearer in order that the practical framework sought by the NPPF is provided.

Secondly, evidence of marketing for 18 months is a considerable period without justification in the Plan. In the absence of any evidence to support 18 months in this particular Plan area, as the supporting text to CS Policy SC1 provides for at least 12 months, this would seem to form a more flexible and practical basis for decision making.

Thirdly, criteria a) and b) in the policy are not alternatives. This means that the loss of the three facilities to non-community uses would only be acceptable if an alternative facility was to be provided and the facility concerned had been marketed for, as the current wording of the policy indicates, 18 months. This is very onerous and could prevent the achievement of sustainable development.

Fourthly, in line with NE’s recommendations in relation to the Habitats Regulations Assessment, it is necessary to add a further criterion referring to the River Wye SAC. As I explained earlier, if this modification is not implemented then I consider the conclusions of the Addendum will need to be reassessed.

- **Change the words “community and recreation type uses” in the second paragraph of the policy to “community, social or recreation uses”**
- **Change “18 months” in criterion b) to “of at least 12 months”**
- **Add a new criterion c) that reads: “Development can only proceed where any likely significant effect on the River Wye SAC can be avoided or mitigated.”**

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<sup>28</sup> NPPF para 28

## Policy 5 Infill Housing

This policy supports housing on infill and redevelopment sites subject to a number of criteria including the effect on amenity. The policy in itself would not prevent other larger scale development opportunities coming forward.

Two criteria give rise to some concern.

The first is b) in that it only refers to the privacy of adjoining properties rather than other issues which might also affect nearby occupiers. To ensure sustainable development and a good standard of amenity for occupants is achieved in line with one of the core planning principles in the NPPF, a modification is recommended.

The second is c) in that it requires a mix of type and tenure. Whilst this chimes with CS Policy H3, by their very nature infill sites and small plots may only be suitable for one dwelling. This can however be clarified through modification.

This criterion also refers to the provision of garden space and parking within the boundary of the “existing property”. The Parish Council has helpfully confirmed that this means any new houses should provide satisfactory garden space and parking within the plot. This can also be modified and it is suggested a new criterion is added to this effect.

Modifications are made to ensure this criterion is clear and provides a practical framework for decision-making.

- **Revise criterion b) to read: “Will not have a *harmful* impact on the privacy or other living conditions of the occupiers of nearby properties or is inconsistent with the character and appearance of the locality;”**
- **Reword criterion c) to read: “A mix of property type, size or tenure should be provided on appropriate sites.”**
- **Add a new criterion that reads: “All new dwellings will have useable garden space and provide appropriate parking provision within the site curtilage.”**

## Policy 6 Accessibility and Connectivity

This policy seeks the provision and enhancement of footpaths and cycleways throughout the Parish. The aim of the policy is to be supported and is in line with national policy and guidance and CS Policies SS4, HD3, MT1 and E4, but it would be very difficult and onerous for all development including minor householder extensions for instance to be able to meet the requirement for new development to include new footpaths and cycleways. Therefore the wording of the policy needs some adjustment

to increase flexibility without losing its overall aim which is in line with national policy and guidance and will help to achieve sustainable development.

- **Reword the second sentence of the policy to read: “*New development should take every available opportunity to provide new and enhanced safe footpaths and cycleways.*”**

## **Policy 7 Supporting Small and Medium Businesses in Belmont Rural**

Support for small and medium businesses is given by this policy. Expansion is also supported subject to four criteria including satisfactory access and parking, amenity impacts, good quality design and effect on the River Wye SAC. It is a clearly worded policy. It will help to achieve sustainable development and is in line with national policy’s support for the economy and the general thrust of CS Policies E1 and E3. As a result it meets the basic conditions and no modifications are recommended.

## **7. Monitoring and Review**

This is a short, well written section to end the Plan that explains monitoring of the Plan is to be carried out annually.

## **Appendix A**

This appendix is a list of the listed buildings in the Parish. This is referred to within the Plan and is a useful addition. It will however be important to ensure that users of the Plan seek the most up to date information available as this information may change throughout the lifetime of the Plan. For this reason I suggest that a sentence directing users of the Plan to the most up to date information is added.

- **Add to Appendix A a sentence that reads: “*The information in this appendix is correct at the time of writing the Plan. Up to date information should be sought from the local planning authority, the Parish Council or other relevant organisation such as Historic England.*”**

## **7.0 Conclusions and recommendations**

I am satisfied that the Belmont Rural Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.



I am therefore pleased to recommend to Herefordshire Council that, subject to the modifications proposed in this report, the Belmont Rural Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Belmont Rural Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.

I therefore consider that the Plan should proceed to a referendum based on the Belmont Rural Neighbourhood Plan area as approved by Herefordshire Council on 26 June 2013.

*Ann Skippers* MRTPI  
Ann Skippers Planning  
16 May 2017

## **Appendix 1 List of key documents specific to this examination**

Belmont Rural Regulation 16 Consultation Draft Neighbourhood Development Plan to 2031

Basic Conditions Statement September 2016

Consultation Statement September 2016

Environmental Report March 2016

Habitats Regulations Assessment January 2015

Habitats Regulations Assessment Addendum February 2015

Habitats Regulations Assessment Addendum March 2016

Belmont Rural Policies Map

Herefordshire Core Strategy 2011-2031 October 2015 and Appendices

Saved Policies of the Unitary Development Plan 2007

**List ends**

## Appendix 2 Request for further information and questions from examiner to the Parish Council and HC

### Belmont Rural Neighbourhood Plan Examination

#### Request for further information and questions from the Examiner to the Parish Council and HC

Having completed my initial review of the Neighbourhood Plan (the Plan) and the evidence submitted in support of it, I would be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or request further information.

#### *Queries requesting further information and clarification*

1. I am mindful that the Parish has not got any 'target' for housing numbers, but it is important to ensure that the Parish contributes to the housing need identified for Hereford. Given the range and coverage of policies in the Plan, including in particular Policies 1, 2 (which could be regarded as potentially restricting housing supply) and 5 (which supports infill development), please could HC confirm whether they are satisfied (or not) that the Plan and its approach will generally conform to the strategic policies in the development plan in relation to housing requirements.
2. Leading on from this, Policy 2 seeks to protect Home Farm and land adjacent to Ruckhall Lane shown on Figure 10 from any development that would have a detrimental impact on its open character and the setting of heritage assets. Three questions arise:
  - a. This area coincides with an indicative route of the Relief Road shown in Figure 12 of the Plan. Please could HC update me on the latest position with the proposal and state whether it is considered that Policy 2 is in general conformity (or not) with the strategic policies of the development plan in this regard? In particular I am keen to ensure that the wording and thrust of Policy 2 would not (however inadvertently) prevent the Relief Road proposal from being implemented.
  - b. The supporting text refers to the area as an 'unregistered park'. Please could more details be given to me about the status/designation of, and information about, this area.
  - c. Please could a copy of the appeal decision (or link to it) for Home Farm be provided to me?
3. Policy 3, the Belmont Golf Course, supports housing, B1 or leisure uses on an area defined in Figures 5 and 11 as long as the existing buildings are reused and converted. A number of queries arise:
  - a. Are the existing buildings or any part of the land referred to in Policy 3 heritage assets? If so, please provide details.
  - b. Have any assessments been done (by the PC or anyone else) of the potential to convert the existing buildings or of their character and any historic or

other contribution they may make to the local area? In other words what is the supporting information/evidence and rationale for Policy 3?

- c. How and on what basis has the area subject to the policy and shown on Figure 11 been defined?
- d. Has the landowner or their representatives been involved in any discussions and the development of this policy?
- e. A representation from Savills, on behalf of the landowner, indicates, amongst other things, their view that the policy is “overly restrictive, unjustified and has not taken account of the existing internal layout, condition or viability of the re-use”. Savills also refer to previous contact with Historic England and the need for enabling development. My earlier question relates to the basis on which this policy has been predicated. I consider it would be useful for HC to write to Savills to ask for further information and evidence in relation to the viability points they make in their representation objecting to Policy 3. I am keen to ensure that Policy 3 does not, however inadvertently, prevent the achievement of sustainable development.

#### *Queries of clarification*

4. Is there some missing text at the end of paragraph 5.14 on page 22 of the Plan? If so, please provide the text.
5. Policy 1 criterion b) seeks the designation of four areas of Local Green Space (LGS). These are shown on Figure 9. Yet Figure 8 refers to five such areas. Please clarify; for instance is Area 5 included within Area 2 on the map?
6. If possible, please provide a map indicating the location of the Local Wildlife Sites referred to in criterion d) of Policy 1 or direct me to where I might access this information.
7. Policy 1 criterion e) refers to Herefordshire’s Playing Pitch Assessment 2012, but this is not mentioned elsewhere in the Plan. I can see that this was included after a comment from Sport England at the pre-submission stage, but please could you briefly explain the relevance and status of this document and the intention of criterion e)?
8. Policy 5 criterion c) refers to garden areas and parking being provided “within the boundary of the existing property”. Was it intended to mean that gardens and parking would be provided within the curtilage of the new house(s) built? If not, please clarify what the intention was.
9. The Hereford Area Plan is referred to on page 41 of the Plan. Please update me on the latest position and whether the reference to the Area Plan is still relevant and appropriate for inclusion in this Plan.

10. The Basic Conditions Statement (page 11) indicates that Table 3 sets out the way Plan policies conform to the pre-submission version of the Herefordshire Local Plan Core Strategy (CS), but an earlier paragraph recognises the CS was adopted. Please confirm whether (or not) Table 3 relates to the adopted CS.
11. Was the Strategic Environmental Assessment Screening Opinion consulted upon? If so, please give me details about the consultation and its dates.
12. The Environmental Report refers to a response from the Environment Agency at paragraph 2.10, page 5 as well as referring to a different neighbourhood plan. I have assumed these comments are made in error; is that correct?

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this list of questions and request for information is a public document and the answers and any associated documents will also be in the public domain. Both my questions and the responses should be placed on the Councils' websites as appropriate.

With many thanks.

Ann Skippers  
5 April 2017