

# **Wellington Heath**

## **Neighbourhood Development Plan**

### **Submission Version 2011 – 2031**

**Report of Examination**

**June 2018**

**Undertaken for Herefordshire Council with the support of Wellington Heath Parish Council on the submission version of the plan.**



**Independent Examiner:**

Liz Beth BA (Hons) MA Dip Design in the Built Environment MRTPI

## Contents

Summary .....	3
<u>1.</u> Introduction and Background .....	4
1.1 Neighbourhood Development Plans.....	4
1.2 Independent Examination.....	4
1.3 Planning Policy Context.....	6
<u>2.</u> Plan Preparation and Consultation .....	7
2.1 Pre-submission Process and Consulation .....	7
2.2 Regulation 16 Consultation Responses.....	8
3. Compliance with the Basic Conditions.....	9
4. Compliance with National Policy and the adopted Development Plan.....	11
5. The Referendum Boundary.....	23

### **Abbreviations used in the text of this report:**

The Wellington Heath Neighbourhood Development Plan is referred to as ‘the Plan’ or ‘WHNDP’.

Wellington Heath Parish Council is abbreviated to ‘Wellington Heath PC’ or ‘Qualifying Body (QB)’

Herefordshire Council is also referred to as the Local Planning Authority, abbreviated to ‘LPA’.

The National Planning Policy Framework is abbreviated to ‘NPPF’.

The National Planning Practice Guidance is abbreviated to ‘NPPG’.

The Herefordshire Local Plan Core Strategy 2015 is abbreviated to ‘HCS’.

The Wellington Heath Landscape Sensitivity and Capacity Assessment Report 2016 is abbreviated to ‘LSCA2016’.

## Summary

- I have undertaken the examination of the Wellington Heath Neighbourhood Development Plan (WHNDP) during June 2018 and detail the results of that examination in this report.
- The Working Group have undertaken extensive consultation on this Plan, and it complies with legislative requirements in this regard. There is also a range of informative evidence documents prepared by the qualifying body (QB). The Hereford Core Strategy (HCS) 2015 provides a comprehensive strategic policy framework.
- The Plan has an unusual approach to designating areas of Local Green Space alongside housing allocations, but within the context of the Malvern Hills AONB and the actual sites, these are valid designations. I have required further work on collating in one document the justification evidence base for them, and this should happen prior to any referendum.
- I have considered the comments made at the Regulation 16 Publicity Stage, and where relevant these have informed some of the recommended modifications.
- Subject to the modifications recommended, the Plan meets the basic conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

**Acknowledgements:** Thanks to Local Authority and qualifying body staff for their assistance with this examination. My compliments to the local community volunteers and Wellington Heath Parish Council, who have produced a sound and well-presented Plan.

# 1. Introduction and Background

## 1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowers local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF) states that:

“neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need”.

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’, and in Wellington Heath that is the Wellington Heath Parish Council. Drawing up the Neighbourhood Plan was undertaken by the Neighbourhood Plan Working Group, working to the Parish Council.

## 1.2 Independent Examination

1.2.1 Once the Qualifying Body had prepared their neighbourhood plan and consulted on it, they submitted it to Herefordshire Council, the LPA. After publicising the plan with a further opportunity for comment, the LPA were required to appoint an Independent Examiner, with the agreement of Wellington Heath PC to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this plan. I am a chartered Town Planner with over thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have recently concentrated on supporting groups producing neighbourhood plans. I have been appointed through the Neighbourhood Plan Independent Examiners Referral Service (NPIERS). I am independent of any local connections to Wellington Heath and Herefordshire Council, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 As the Independent Examiner I am required to produce this report and recommend either:

- (a) That the neighbourhood plan is submitted to a referendum without changes; or
- (b) That modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) That the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.2.4 The legal requirements are firstly that the Plan meets the 'Basic Conditions', which I consider in sections 3 and 4 below. The plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

The Wellington Heath NDP complies with the requirements of Paragraph 8(1). The Neighbourhood Area was designated on 26<sup>th</sup> January 2015 by Herefordshire Council. The plan does not relate to land outside the designated Neighbourhood Area. It specifies the period during which it has effect as 2011 – 2031 and has been submitted and prepared by a qualifying body and people working to that qualifying body. It does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure.

1.2.5 I made an unaccompanied site visit to Wellington Heath to familiarise myself with the area and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations, as I did not consider a hearing necessary.

1.2.6 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 5 at the end of this report.

## 1.3 Planning Policy Context

1.3.1 The Development Plan for Wellington Heath, not including documents relating to excluded mineral and waste development, is the Herefordshire Core Strategy 2011-31 adopted by the LPA in 2015 and some saved policies from the Herefordshire Unitary Development Plan. The latter are not relevant for the WHNDP however being mainly concerned with minerals and waste issues, development that is excluded from consideration by neighbourhood plans. The Policies of the Core Strategy are considered 'strategic' for the purposes of the Basic Conditions.

1.3.2 The National Planning Policy Framework (NPPF) sets out government planning policy for England, and the National Planning Practice Guidance (NPPG) website offers guidance on how this policy should be implemented.

1.3.3 During my examination of the WHNDP I have considered the following documents:

- National Planning Policy Framework (NPPF) 2012
- National Planning Practice Guidance 2014 and as updated
- Written Ministerial Statement March 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning Regulations 2012 (as amended)
- Submission version of the Wellington Heath Neighbourhood Development Plan (WHNDP)
- The Basic Conditions Statement submitted with the WHNDP
- The Consultation Statement submitted with the WHNDP
- Environmental Report and HRA Assessment for the WHNDP
- Wellington Heath Landscape Sensitivity and Capacity Assessment Report 2016 (LSCA2016)
- Wellington Heath Settlement Boundary Options paper
- Neighbourhood Area Designation (map)
- Herefordshire Core Strategy 2011 – 2031: Adopted Oct 2015 (HCS2015)
- Herefordshire Council Guidance Note 20: 'Guide to Settlement Boundaries' 2015
- Malvern Hills AONB Landscape Strategy and Guidelines 2011
- 'Options for a safe route between Ledbury and Wellington Heath' Presentation 2016
- Representations received during the publicity period (reg16 consultation)

## 2. Plan Preparation and Consultation

### 2.1 Pre-submission Process and Consultation

2.1.1 Wellington Heath is a village in Herefordshire, just north of Ledbury. The Parish includes land surrounding the village, but no other significant settlements. The village and the eastern section of the parish are within the Malvern Hills Area of Outstanding Natural Beauty (AONB), on the AONB's western edge. The landscape is well-wooded, with undulating hills and steep valleys, fruit-farming is an important agricultural industry. Dwellings are set into the surrounding landscape, within the village as well as outside.

2.1.2 A Neighbourhood Development Plan (NDP) Working Group was set up to work on the Plan, and sub-groups worked on specific topics. The Working Group was made up of volunteers from the local community as well as Parish Councillors. Regular information bulletins were posted on the Parish and NPD websites, and included in the Parish Newsletter, which is delivered to all households.

2.1.3 The Consultation Statement sets out comprehensively the nature and form of consultation prior to the formal Reg14 six week consultation. Both surveys of residents and events in the Memorial Village Hall were used to gather opinion on proposals, particularly on the sites to allocate and the settlement boundary. Discussions were held with local businesses, including farms, and landowners. Feedback on proposals was invited from local groups, including the Allotment Association, Scouts and Canal Trust. The Working Group undertook liaison on issues of common interest with the adjacent Ledbury Town Council.

2.1.4 As required by regulation 14 of the Neighbourhood Planning Regulations 2012, the formal consultation for six weeks on the pre-submission WHNDP ran from the 12<sup>th</sup> May to the 30<sup>th</sup> June 2017. The draft Plan and Environmental Report were available to download from the Neighbourhood Plan website and LPA website. Hard copies were available if people and organisations were not able to download the plan. Statutory bodies were notified of the consultation directly, as were landowners and other stakeholders. An advert was placed in a local paper (Ledbury Reporter), and all residents of the Parish were leafleted about the consultation, with a form on which representations could be made.

2.1.5 Representations were received from fifty residents, eight statutory bodies (two from Herefordshire Council) and two landowners during the consultation period. Forty of the residents responding supported the Plan, three supported with reservations, four objected to the Plan and

three did not offer an opinion on this. Several amendments and additions have been made to the plan as a result of constructive suggestions for changes. These are clearly detailed in the comprehensive Consultation Statement.

2.1.6 I am satisfied that due process has been followed during the consultation undertaken on the Plan by the Parish Council and Working Group. The record of comments and objections received during the regulation 14 consultation shows that these were properly considered, and where appropriate resulted in amendments to the plan to accommodate points raised.

2.1.7 As required, the amended plan, together with a Basic Conditions Statement, a Consultation Statement, the Screening Opinion and a plan showing the neighbourhood area was submitted to Herefordshire Council on the 20<sup>th</sup> December 2017.

## **2.2 Regulation 16 Consultation Responses**

2.2.1 The LPA undertook the Reg 16 consultation and publicity on the WHNDP for six weeks, from the 5<sup>th</sup> January 2018 to the 16<sup>th</sup> February 2018. Fourteen Representations were received during this consultation, from one resident and thirteen statutory bodies. Where these have specific comments to make on the Plan that raise issues pertinent to my consideration of whether the Plan meets the basic conditions, they are considered in sections 3 and 4 of this report below. Where corrections to the text are suggested in responses, but are not a Basic Conditions issue, I have not commented on them. However the LPA and QB will be aware that they can correct errors in the Plan's final version, without needing explicit authority in this examination report [Town and Country Planning Act 1990 Schedule 4B section 12(6)].

### 3. Compliance with the Basic Conditions.

3.1 General legislative requirements of the 1990 Town and Country Planning Act (TCPA) other than the Basic Conditions are set out in paragraph 1.2.4 above. The same section of this report considers that the WHNDP has complied with these requirements. What this examination must now consider is whether the Plan complies with the Basic Conditions, which state it must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area; and
- Be compatible with and not breach European Union (EU) obligations and human rights law.

3.2 The Basic Conditions Statement assesses how the WHNDP meets the 12 Core Planning Principles and thus the definition of sustainability in the NPPF. The conclusion is that the Plan promotes the social, economic and environmental goals of sustainable development and does contribute to sustainable development in line with the Basic Conditions. With the modifications to policy recommended below, I accept that this is so.

3.3 A screening opinion was undertaken by Herefordshire Council in December 2014 on the proposal to produce a NDP for the Parish. This stated that Habitat Regulations Assessment (HRA) was not required as there are no likely environmental impacts on European Sites from the Plan's proposals. However the same screening opinion stated that Strategic Environmental Assessment (SEA) was required for the WHNDP due to the presence in the Parish of protected and sensitive landscapes. An Environmental Report was therefore undertaken on the draft Plan into the issues identified in the subsequent Scoping Report, and was available for comment during the Reg14 consultation in May 2017. No comments were received on it, but the final Environmental Report Dec 2017 includes a review of the amended policies in the Submission version of the WHNDP.

3.3.1 The Report concludes that no significant environmental impact is likely to arise from the policies of the WHNDP. The Plan's objectives are assessed as positive or neutral, and the allocated sites are also assessed as having a neutral or positive impact on the SEA baseline data. As the policies of the WHNDP are in general conformity with higher level documents and do not propose additional growth, they are giving local detail to strategic policies that have undergone a full

Sustainability Appraisal. Thus the WHNDP does not breach EU obligations and complies with the Basic Conditions in this regard.

3.4 The WHNDP in my view complies with Human Rights Legislation. It has not been challenged with regard to this, and the Basic Conditions Statement (page 21) states that it seeks to enhance to human rights of current and future residents.

## 4. Compliance with National Policy and the adopted Development Plan

4.1 The final and most complex aspect of the Basic Conditions to consider is whether the WHNDP meets the requirements as regards national policy and the development plan. This means firstly that the Plan must have regard to national policy and guidance, which for this neighbourhood plan is primarily the NPPF and the NPPG, government planning policy and guidance. Secondly the Plan must be in general conformity with the strategic policies of the development plan (detailed in para 1.3.1 of this report above). The phrase ‘general conformity’ allows for some flexibility. If I determine that the Plan as submitted does not comply with the Basic Conditions, I may recommend modifications that would rectify the non-compliance.

4.2 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards national policy and the development plan. If not, then modifications required to bring the plan into conformity are recommended.

Modifications are boxed in this report, with text to *remain in italics*, new text **highlighted in Bold** and text to be deleted ~~shown but struck through~~. Instructions for alterations are underlined.

4.3 The layout of the document is clear, and information within it is generally comprehensive and dealing with land-use issues as required. For clarity, and to demonstrate a robust evidence base for policies as required in the NPPG (ID: 41-040-20160211), the evidence list in section 16 should include the Wellington Heath Settlement Boundary Options paper, Options for the cycle route and Local Green Space Discussion Paper (the latter as modified as recommended in modification 2 below).

**Modification 1:** I recommend the following additions to Section 16 of the WHNDP in order that the Plan demonstrates compliance with the Basic Conditions with regard to having a robust and proportionate evidence base:

- **‘Wellington Heath Settlement Boundary Options’ V4.03 November 2016**
- **‘Proposed Green Spaces in Wellington Heath’ V5.0 November 2016**
- **‘Options for a safe route between Ledbury and Wellington Heath’ 2016**

4.4 **Policy WH1 – Settlement Boundary:** The policy defines a new settlement boundary, revising one originally set by the Malvern Hills District Council twenty years ago. The HCS2015 encourages neighbourhood plans to development settlement boundaries (Policy RA3 and para 4.8.23), and a

guidance note on the topic has been provided for neighbourhood planning groups. The implications of this policy are explained further in Policies WH5 and WH6, which could usefully be explained in the text.

4.4.1 The redrawn boundary has included the allocated sites, and is drawn less tightly around the settlement, often keeping better to physical features and boundaries than previously. The boundary follows key landscape factors identified in the Landscape Sensitivity and Capacity Assessment (LSCA2016) and complies with guidance provided by the LPA on the subject of drawing up settlement boundaries. The policy complies with the Basic Conditions.

**4.5 Policy WH2 – Protected Local Green Spaces:** The proposed designation of Local Green Space (LGS) in the WHNDP is unusual, in that key community green assets have not been designated while areas in private ownership, adjacent to allocated residential sites, have been proposed for designation. The emphasis on designating only where protection is felt to be needed has moved away from the intent of the NPPF I would argue. The first sentence of Section 8/1 states that “A Local Green Space is an area of land on which development will not generally be allowed.” In fact it is primarily an area of land that has ‘particular importance’ for a local community, and holds a particular local significance. For accuracy, and in order that the Plan meets the Basic Conditions, I recommend that this first sentence is amended as shown in Modification 2 below.

4.5.1 My role however is to consider the merits of the designations proposed in the Plan, specifically whether they comply with the requirements of the NPPF and are supported by a proportionate and robust evidence base. The situation in Wellington Heath is that the village and defined settlement boundary are all within the Malvern Hills AONB (henceforth ‘AONB’) apart from two dwellings. This is a nationally designated area of landscape beauty, where landscape and visual impact considerations are of much greater importance than is usual. Additionally the Parish Council jointly with the AONB Authority commissioned a comprehensive landscape study (the LSCA2016), which suggested some of the proposed LGS designations in order that visually sensitive parts of sites remain open and green. Thus the areas proposed for designation are particularly visually sensitive within a protected landscape that is richly endowed with exceptional views, and highly visible from viewpoints within the AONB.

4.5.2 The landscape character of the Village, as shown in the Malvern Hills AONB Landscape Strategy and Guidelines 2011 document is 'Forest Smallholdings and Dwellings'. It is a rare type of landscape within the AONB, and is characterised by dwellings nestling within small fields and other areas of vegetation. I consider therefore that the proposed designations meet with the NPPF requirement (para 77) that the green areas proposed are 'demonstrably special' because of their historic and landscape importance. At present however the policy and Map do not adequately identify the areas, thus I recommend that the Plan includes more detailed maps of each of the designations, to clearly show boundaries and provide the clarity required of policies by the NPPF (para 154).

4.5.3 The NPPG requires policies to be supported by a robust evidence base, as discussed above. While I have found this to be the case after some research into the documents, I do not consider the evidence base to be currently adequately and accessibly demonstrated. A paper written to discuss designation of LGS with the community discusses areas of potential LGS that are rejected for designation because they are already protected. Unfortunately there is no description of each area of proposed LGS in the Paper, while there is discussion of areas rejected for designation. I have been provided with some further detail on the reasons for designation of the four sites, and I recommend that this text should be added to an amended version of the Paper on LGS designation, together with a summary of recommendations regarding LGS designation within the LSCA2016. In this way a robust evidence base for the designations will be demonstrated, as required by the Basic Conditions.

4.5.4 Site 19b is rejected for designation due to its coverage by a TPO, although the LSCA2016 specifically mentions this part of the site as particularly important for maintaining the wooded appearance of the ridgeline in both near and distant views. The site is adjacent to a LGS designation of arguably less visual importance than the woodland. If it decided at some point in the future to review the Plan, the Qualifying Body may like to consider including the wooded area in the designation as part of that review.

**Modification 2:** Policy WH2, its designations and supporting text are recommended to be altered as follows:

- The first sentence of Section 8.1 to read “A Local Green Space is an area of land **with locally special and significant attributes** on which development will not generally be allowed.”
- The Plan to include more detailed maps of each of the areas to be designated in order that the boundaries have adequate clarity. The sites to be listed individually within Policy WH2.
- The Evidence document “Proposed Green Spaces in Wellington Heath” v5.0 20<sup>th</sup> November 2016 to be extended with a discussion of each area to be designated. Text to give reasons for the designation, using answers given to my question about the designations during this examination, text in the LSCA2016 and other evidence as available.

**4.6 Policy WH3 – Strategic Green Gap:** The Policy aims to retain Wellington Heath as a clearly defined settlement, within the wider context of the AONB. With strategic development proposals to the north of Ledbury protecting the setting of Wellington Heath has additional importance, and the policy is in general conformity with strategic policy in the development plan. However the title of the gap implies that the WHNDP is entitled to develop strategic policy, which is not the role of a neighbourhood plan. I recommend therefore that the Green Gap is renamed a ‘Settlement Green Gap’ in order that there is no implication that the Plan is setting out and developing strategic policy. The Basic Conditions require a neighbourhood plan to be in general conformity with strategic policy, not to make it.

**Modification 3:** I recommend that throughout the WHNDP and in Policy WH3 references to a ‘~~Strategic Green Gap~~’ are altered to ‘**Settlement Green Gap**’ in order that it is clear the policy is not a strategic policy.

**4.7 Policy WH4 – Mix of New Housing and Design for Changing Needs:** The Policy has considered the analysis in the latest Housing Market Assessment (HMA) from the LPA, undertaken in 2013 but using census data from 2001. Based on this evidence, particularly Table 83 of the 2013 HMA, a specific requirement for two thirds of any new housing to be 3-bedroomed has been made. I note that this does not tally with the affordable homes projected requirement, but also that the sites allocated are unable to accommodate levels of development that would require an affordable homes component. The evidence base is somewhat out of date now, and the policy should acknowledge that it could be updated in future. The specific split suggested is not justified by the evidence base, and needs to be more flexibly worded.

4.7.1 The requirement for smaller homes is evidenced adequately with reference to 2011 Census information in the Plan and Policy H3 of the HCS2015. The NPPF advises providing a wide choice of homes based on size and other requirements of the location (para 50), and evidence is provided in the Plan that within the existing stock in Wellington Heath the provision of 4 bed and larger homes is significantly above the average for the Ledbury Housing Market Area.

4.7.2 A Housing Needs Survey was undertaken in the parish in 2008, so that the information in it is now out of date and less reliable. Consultation on the Neighbourhood Plan showed a local preference for smaller homes to be built, and, as in the Housing Needs Survey, a local need for homes suited to older people. Paragraph 2 in Policy WH4 is addressing the need for development to be suited to a range of mobility and lifetime needs. As currently phrased the policy is not clear, and needs to address the type of development, not make demands of ‘developers’.

4.7.3 The Written Ministerial Statement of March 2015 is clear that neighbourhood plans cannot specify the use of technical standards, including the National Space Standards. To comply with government guidance and hence the Basic Conditions reference to these technical standards needs to be removed from the policy, and the statement in the text at lines 537-540 needs to be removed.

4.7.4 For reasons of complying with government guidance, having clear land-use requirements and reflecting evidenced-based requirements, I recommend that Policy WH4 is amended as shown in Modification 4 in order that the Plan meets the Basic Conditions.

**Modification 4:** Lines 537–540 of the text to be deleted and policy WH4 to be amended as follows:

*“1 New housing should be designed to meet the needs of the community in terms of size, type and tenure. Development on all sites other than allocated Site 19a south should provide a mix of houses in order to address the needs identified in the **most recent** Local Housing Market Assessment for the Ledbury (Rural) Area. **There is currently an over provision of 4 or more bedroomed dwellings in the neighbourhood area, and new dwellings are expected to be smaller with 3 or less bedrooms in order to contribute to a better balance of dwelling sizes in the parish.** ~~specific mix to meet this need is for two thirds of new houses to be three bedroomed dwellings with the balance being for two bedroomed dwellings or, in limited and special circumstances, one bedroomed dwellings. There is no outstanding need for new houses of four or more bedrooms.~~ Planning applications for new dwellings should demonstrate how the proposals meet ~~these~~ **current housing need assessment** particularly in terms of house sizes. ~~(taking into account the methodology of the National Technical Housing Standards).~~*

*2 Where **residential** development is acceptable in principle, ~~developers are required to~~ **it should be designed and construct, extended or converted or convert** to standards which allow adaptation to a variety of changing lifetime and mobility needs of occupiers including home working.”*

#### 4.8 Policy WH5: Development in Wellington Heath Village within the Settlement Boundary

The Policy is setting out design details that are supported by the LSCA2016 evidence base for the most part. The reference to taking into account the National Technical Housing Standards needs to be removed in order that the Policy complies with Government Guidance as explained above.

4.8.1 Paragraph 1 is confusing in its wording and not clear. It does not specify what ‘all relevant guidance’ is, and it is understood that this will be a requirement of any planning application. The aim to extend the AONB guidance to all development in the parish is reasonable given the proximity of the AONB to parts of the parish not actually included, and to the two dwellings within the Settlement Boundary but not within the AONB boundary. The word ‘demonstrate’ is reasonably flexible and avoids any implication that any planning application needs to have a design and access statement or similar – which a neighbourhood plan does not have the legislative right to require.

**Modification 5:** I recommend that paragraphs 1 and 9 of Policy WH5 are amended as follows in order that the Plan complies with the Basic Conditions with regard to clarity of policy (NPPF 154) and having due regard to government policy:

*1 The village has a landscape character type of Forest Smallholdings and Dwellings and is substantially included within ~~at majority of Wellington Heath village is in~~ the Malvern Hills AONB where the AONB Building Design Guide[14] applies and should be complied with. ~~but the guidance should be considered relevant for all development in the village.~~ All development proposals should demonstrate that they have positively taken account of this ~~all relevant~~ guidance, including those dwellings outside but immediately adjacent to the AONB boundary.*

... ..

*9 The retention of pre-1900 dwellings is supported. The renovation, modernisation, and extension of such dwellings done sympathetically and appropriately is supported. This includes the addition of wall and roof space insulation. When pre-1900 dwellings cannot be economically improved, any replacement should respect the scale and mass of the original building ~~whilst taking into account the National Technical Housing Standards relating to internal space.~~*

#### 4.9 Policy WH6 - Development Outside the Settlement Boundary – and in the Countryside

This Policy extends AONB Guidance to cover parts of the Parish outside of the boundary in paragraph 2. As stated in 4.8 above, extending AONB guidance to all development in the parish is reasonable given the proximity of the AONB to parts of the parish not actually included, and the similarity of landscape type. The land immediately adjacent to an AONB designation is still important for the setting of that protected landscape. Paragraph 2 of this policy is lacking the clarity the NPPF requires at present however, and does not make this requirement clear.

4.9.1 Paragraph 15 of Policy WH6 is dealing with Poly tunnels, and these have been assessed as visually intrusive in the LSCA2016 Report. However it is not reasonable to apply a requirement for a Landscape (Visual) Impact Assessment on any application for a poly tunnel. I have asked for clarification of this section of the Policy, and it was agreed that it was aimed at larger commercial poly tunnels. The Policy will need to be altered in order that it does not unreasonably restrict the viability of development contrary to the NPPF (para 173).

4.9.2 In order that the Policy meets the Basic Conditions therefore, I recommend that paragraphs 2 and 15 are reworded as shown in Modification 6:

**Modification 6:** The second paragraph of Policy WH6 is recommended to be amended as follows:

**2** *The Malvern Hills ~~AONB~~, the AONB Building Design Guide[14], the AONB Colour Guide and the AONB Keeping Horses Guide[16] are to apply to all development in the neighbourhood area by reason of overall similarity of character and proximity to the AONB of those parts not actually included within it. ~~outside the AONB the guides are considered relevant and should be followed according to landscape type as shown on Map 5 – Landscape Character Types. All development proposals should demonstrate that they have positively taken account of all relevant~~ this AONB guidance.*

... ..

**15** *Proposals for new polytunnels that would have a significant effect on any of the listed criteria below must be accompanied by a Landscape Visual Impact Assessment. Polytunnels should not be located where hedgerows or trees would have to be removed or where there will be adverse impact on, or visual detriment to:*

... ..

**4.10 Policy WH7 - Development of Allocated Sites 19a south and 19a:** These allocated sites do not include the Local Green Spaces, they are adjacent to them, so that bullet point 7 is not accurate and should be deleted to ensure the Policy is clear as the NPPF requires.

**Modification 7:** Bullet point 7 is recommended to be deleted in order that Policy WH7 complies with the Basic Conditions.

**4.11 Policy WH8 - Development of Allocated Site 21:** As for Policy WH7, the Local Green Space is a separate designation, and not part of this allocation for housing. Thus for accuracy and Clarity I recommend that bullet point 4 is deleted in order that the Policy complies with the Basic Conditions.

**Modification 8:** Bullet point 4 is recommended to be deleted in order that Policy WH8 complies with the Basic Conditions and is accurate and clear.

4.12 **Policy WH9 - Development of Allocated Site 23:** The design guidance is overly prescriptive with regard to highway matters, and to allow the highway authority to properly assess any future planning application should only recommend at this stage. Again the Policy includes a statement that the Local Green Space is included within the site allocated for housing, and this needs to be removed. The description of the Local Green Space is useful assessment evidence however, that could usefully be added to the revised evidence document setting out the reasons for designation of the Local Green Spaces.

4.12.1 In order that Policy WH9 complies with the Basic Conditions, is accurate and clear, and not overly prescriptive (NPPF para59), I recommend it is amended as shown in Modification 9.

**Modification 9:** Policy WH9 to be altered as follows:

1 ~~Access to the site must~~ **is expected to be from The Common and loss of trees and ... ..**

... ..

5 ~~For safety, vehicles must be able to enter and leave the site from The Common~~ **in a forwards direction.**

Bullet Point 6 to be deleted

4.14 **Policy WH10 – Employment:** The Policy is generally sound, however the wording of paragraph 2 is not reasonable as currently framed. The word ‘might’ causes confusion and does not have the clarity the NPPF requires. Additionally the requirement to maintain ‘enjoyment’ of an adjacent property is not necessarily a land-use issue, whereas ‘amenity’ is. Point 1.4 is more accurately access for ‘all transport modes’, not ‘people’. Thus in order that Policy WH10 meets the Basic Conditions and is accurately drafted I recommend that it is altered as shown in modification 10.

**Modification 10:** Point 1.4 to be amended to read “have safe and suitable access to the site for all transport modes”

New paragraph 2 to be altered to read as follows:

2. ~~Development must will not be permitted if it might have an adverse impact on the amenity or enjoyment of adjacent properties or community facilities or where noise, odour or other forms of pollution or adverse impact generated by the development would on the site might cause nuisance or loss of amenity or enjoyment to such other adjacent properties or community facilities.~~

4.15 **Policy WH11 - Improvement and Retention of Community Facilities:** The policy is looking to protect existing community facilities, which is a usual neighbourhood plan policy. What is not usual is including land and rights of way within the facilities to be protected. There is nothing wrong with protecting areas of open space, but for accuracy and clarity the policy needs to make it clear that open space is included within it. Built facilities in private ownership will require a viability clause allowing a change of use if the current one is not viable, which is not relevant for open space.

4.15.1 Inclusion of the footpath network for protection is straying into highway matters not land-use issues. A footpath diversion for example is dealt with under highway legislation not planning. Policy WH16 can add a clause protecting the existing network and looking to extend it where possible, but footpaths and byways cannot be given the protection afforded to open space or community facilities. In order that Policy WH11 deals with land-use issues, has a clarity of intent towards open space and community facility buildings and does not put undue burdens on development proposals (NPPF para173), I recommend that it is amended as shown in Modification 11 in order that it complies with the Basic Conditions.

**Modification 11: Policy WH11 to be amended as shown:**

*Policy WH11 - Improvement and Retention of Community Facilities and Open Space*

*(Relevant to achievement of Objectives 6, 7, 10, and 12)*

1 *New developments **where appropriate** will be expected to support the enhancement of community infrastructure and facilities by sharing resources such as green space or other land or equipment. Financial benefits to the Parish Council derived from a Community Infrastructure Levy or other financial contributions arising from the planning process will be used to maintain, provide and improve community facilities and infrastructure.*

2 *Development that fails to adequately protect or that seeks to change the use of an existing community facility will not be acceptable **unless it can be demonstrated that it is no longer required or viable, and has been marketed for community use without success.** The community facilities covered by this policy ~~are include:-~~*

- 1 *The Farmers Arms public house ~~which will be retained;~~*
- 2 *Wellington Heath Memorial Hall;*
- 3 *Christ Church.*

**Areas of Open Space used by the community are expected to be retained for that use and where appropriate enhanced. The areas of open space covered by this policy are:-**

- 4 *the parking area at the Farmers Arms;*
- 5 *Wellington Heath cemetery;*
- 6 *footpaths and byways;*
- 7 *Pool Piece and The Plecks public green spaces;*
- 8 *The Ledbury Allotment Association allotments at Burtons Lane.*

4.16 **Policy WH12 - Pollution, Water, Waste and Light Management:** Complies with the Basic Conditions.

4.17 **Policy WH13 – Biodiversity:** Complies with the Basic Conditions.

4.18 **Policy WH14 – Viewpoints and Ridgelines:** Complies with the Basic Conditions.

4.19 **Policy WH15 - Energy Conservation and Renewable Energy Schemes:** Complies with the Basic Conditions.

4.20 **Policy WH16 – Footpaths:** As discussed in 4.15.1 above, this is the policy in which protection of the rights of way network, and its extension where possible, is better located in order that there is not an attempt in the Plan to assume the role of the Highway Authority. The third bullet point is also not clear where the potential route or routes are, and after discussion with the LPA and QB it has been agreed that the evidence document currently known as ‘E. 4 2016.30 Input to Ledbury Town Council ...’ but more informatively referred to as ‘Options for a safe route between Ledbury and Wellington Heath’ may be referenced in the policy.

4.20.1 In order that Policy WH16 meets the Basic Conditions with regard to clarity of policy, and to include policy objectives from Policy WH11, I recommend that the policy is amended as follows:

**Modification 12:** Policy WH16 to be amended as follows:

Paragraph 3 to read “*The creation of a safe walking and cycling route from Wellington Heath village to Ledbury will be encouraged should the opportunity arise during the plan period. Development that would prejudice this such a proposal, set out in ‘Options for a safe route between Ledbury and Wellington Heath’ for example by blocking a potential route without enabling a feasible alternative, will be resisted.*”

A new paragraph 4 to be added as follows: “**The rights of way network is a valued community resource and it should be protected and extended where possible and appropriate**”.

4.21 **Policy WH17 - Vehicle Parking and Access Arrangements:** Complies with the Basic Conditions.

4.22 **Policy WH18 – Provision of Mobile Phone and Broadband services:** For reasons of viability and impact on potential development of a minor nature, paragraph 2 of this policy should be qualified by the requirement being only 'where appropriate'. I recommend therefore that Policy WH18 is amended as shown in Modification 13 in order that it complies with the Basic Conditions.

**Modification 13:** Paragraph 2 of Policy WH18 to be amended as follows:

*2 A significant improvement to broadband services and internet connection is of major importance across the parish and development proposals **where appropriate** should make provision to enable connection of such services by the laying of suitable underground ducting from the site boundary to the dwelling or primary building to be constructed.*

## 5. The Referendum Boundary

5.1 The Wellington Heath Neighbourhood Development Plan has no policy or proposals that have a significant enough impact beyond the designated Neighbourhood Plan Boundary that would require the referendum boundary to extend beyond the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the Wellington Heath Neighbourhood Development Plan 2011 – 2031 shall be the boundary of the designated Neighbourhood Area for the Plan.