

Herefordshire Council

**How Caple, Sollershope and Yatton
Neighbourhood Development Plan
2011-2031**

Independent Examiner's Report

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17 December 2018

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Summary

I have been appointed as the independent examiner of the How Caple, Sollershope and Yatton Neighbourhood Development Plan.

The Neighbourhood Area covers the three Parishes of How Caple, Sollershope and Yatton which together form a Group Parish Council.

This is a rural area. Part of it falls within the Wye Valley Area of Outstanding Natural Beauty. I saw at my site visit the nature of the Parishes crisscrossed by narrow country lanes and characterised by tall hedgerows, trees and woodlands with stunning long distance views across undulating countryside.

The Plan contains five policies. No settlement boundaries or site allocations have been made. It has been necessary to recommend modifications to all five policies. The modifications made have been largely to add precision and clarity, to word policies positively or to ensure they do not contain aspirational statements. Despite the number of modifications recommended, it is clear that the policies link back to a well defined vision and set of objectives.

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 How Caple, Sollershope and Yatton 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
17 December 2018



1.0 Introduction

This is the report of the independent examiner into the How Caple, Sollershope and Yatton 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 the Group 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 basic conditions¹ 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.

¹ Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and is:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site² or a European offshore marine site³ either alone or in combination with other plans or projects.

The examiner is also required to check⁴ 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.

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

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.

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.

² As defined in the Conservation of Habitats and Species Regulations 2012

³ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁴ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

⁵ 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

3.0 Neighbourhood plan preparation

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

Work on the Plan started in 2013. In March 2014 letters were sent to all households about the Plan with an invitation to an event in April 2014. This was attended by over 30 people. A further meeting was held later that month with those expressing an interest in progressing the Plan with another event in May for those interested in establishing the Steering Group. This Group was disbanded for personal circumstances.

The Parish Council relaunched the Plan with events in October 2015 with a total of 24 attending. These events identified the main issues of concern. They also led into the development of a questionnaire devised by professionals.

The questionnaire was circulated to all residents over 16 in March 2016. A total of 291 were hand delivered and collected. This effort resulted in an exceptionally high response rate of nearly 80%.

Feedback about the results was given in the Parish Council newsletter which was hand delivered to all households in August 2016.

A new Parish website went live and had a dedicated Plan section in September 2016. All news and information relating to the Plan was put on the website.

A meeting was held in November 2016 to provide feedback on a first draft of the Plan. 37 people attended.

A meeting was held in March 2017 to report progress and seek views on further drafts of the Plan. 20 attended.

A Parish Council meeting on 4 July 2017 approved the draft Plan as a pre-submission version.

Pre-submission (Regulation 14) consultation took place between 31 July – 24 September 2017. Copies of the draft Plan were distributed to all households in the Plan area and various individuals and organisations were contacted electronically. A meeting was held during the consultation period for any queries and discussion.

The Steering Group then reviewed the draft Plan alongside HC and with expert consultant support.

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

Submission (Regulation 16) consultation was carried out between 9 April – 21 May 2018.

The Regulation 16 stage resulted in 10 representations which I have considered and taken into account in preparing my report.

4.0 The examination process

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).⁶ PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁷ Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required.

PPG⁸ explains that it is expected that the examination will not include a public hearing. Rather the examiner should reach a view by considering written representations. Where an examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, then a hearing must be held.⁹

After consideration of all the documentation I decided that it was not necessary to hold a hearing.

Earlier this year NPIERS published guidance to service users and examiners. Amongst other matters, the guidance indicates that the qualifying body, in this case, How Caple, Sollershope and Yatton Parish Council, will normally be given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage should they wish to do so. There is no obligation for the Parish Council to make any comments; it is only if they wish to do so. If a qualifying body wishes to make comments, the guidance indicates that any such comments should be made within two weeks after close of the Regulation 16 stage. The Parish Council has made some comments.

I am very grateful to officers at HC for ensuring that the examination has run so smoothly.

I made an unaccompanied site visit to familiarise myself with the Plan area on 17 September 2018.

Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in **bold italics**. As a result of some modifications consequential amendments may be required. These can include changing section headings, amending the contents page,

⁶ PPG para 055 ref id 41-055-20180222

⁷ *Ibid*

⁸ *Ibid* para 056 ref id 41-056-20180222

⁹ *Ibid*

renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Plan and so on. I regard these as primarily matters of final presentation and do not specifically refer to such modifications, but have an expectation that a common sense approach will be taken and any such necessary editing carried out.

5.0 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 three Parishes of How Caple, Sollershope and Yatton form a Group Parish Council which 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 administrative boundary for the Group Parish. HC approved the designation of the area on 4 October 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 in Annex 1 on page 31 of the Plan.

Plan period

The Plan period is 2011 – 2031. This is clearly stated in the Plan itself and confirmed in the Basic Conditions Statement. The end date aligns with the Core Strategy. This requirement is therefore met.

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 Basic Conditions Statement.

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. If I consider a policy or proposal to fall within this category, I will recommend it be clearly differentiated. 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.¹⁰

In this Plan, community actions have been included. Whilst these in themselves are differentiated, their location in the Plan could lead to confusion. I therefore make a recommendation later in this report to address this concern. Subject to this modification being implemented, this issue can be satisfactorily addressed.

6.0 The basic conditions

Regard to national policy and advice

The Government published a National Planning Policy Framework (NPPF) in 2012. On 24 July 2018, a revised NPPF was published. Paragraph 214 in Annex 1 of that document explains that:

“The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.”

Footnote 69 explains that for neighbourhood plans “submission” means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.

It is therefore clear that it is the previous NPPF published in 2012 that is relevant to this particular examination. I sent a note to this effect to the Parish Council and HC and this is included as Appendix 2.

Any references to the NPPF in this report refer to the NPPF published in 2012.

The NPPF is the main document that sets out national planning policy. 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.¹¹

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

¹⁰ PPG para 004 ref id 41-004-20170728

¹¹ NPPF paras 14, 16

plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.¹²

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.¹³

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 planningguidance.communities.gov.uk which is regularly updated. The planning guidance contains a wealth of information relating to neighbourhood planning. I have also had regard to PPG in preparing this report.

PPG indicates that a policy should be clear and unambiguous¹⁴ 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.¹⁵

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

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan has responded to national policy and guidance. Table 1 also offers detailed commentary on how the Plan aligns with the NPPF's core planning principles.

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 whole¹⁸ 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.¹⁹

¹² NPPF para 184

¹³ *Ibid* para 17

¹⁴ PPG para 041 ref id 41-041-20140306

¹⁵ *Ibid*

¹⁶ *Ibid* para 040 ref id 41-040-20160211

¹⁷ *Ibid*

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

¹⁹ *Ibid* para 7

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains Table 2 which explains how the Plan aligns with each of the three components of sustainable development outlined in the NPPF.

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’.

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains Table 3 that gives an assessment of how each Plan policy generally confirms to the relevant CS policies.

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).

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 (EAPPR).

An Environmental Report (ER) dated December 2017 has been submitted as an earlier screening opinion in August 2013 concluded that a SEA would be required.

The ER confirms that a Scoping Report dated March 2016 was prepared and sent to the statutory consultees from 23 March – 29 April 2016. Natural England, Historic England and the Environment Agency responded and comments made have been addressed.

A draft ER underwent a period of consultation alongside the pre-submission version of the Plan.

Following the Regulation 14 stage, policies were subject to minor word changes, but two policies (Policies ENV-1 and CF-1) were more substantially amended. These policies have been rescreened and the ER of December 2017 includes this review.

The ER concludes that the Plan is in general conformity with both national planning policy and strategic policies in the CS. It was published for consultation alongside the submission version of the Plan.

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

The ER is a comprehensive document that has dealt with the issues appropriately for the content and level of detail in the Plan. This in line with PPG advice which 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.²⁰ 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.²¹ The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

The initial screening assessment in October 2013 found that the River Wye runs along the southern boundaries of the Plan area and that it falls within the hydrological catchment of the River Wye (including the River Lugg) Special Area of Conservation (SAC). The Plan area is also within 10km of the Wye Valley and Forest of Dean Bat sites SAC. As a result, this initial screening indicated that a full screening assessment would be required.

A HRA dated July 2017 concluded that the draft Plan would not have a likely significant effect on the River Wye SAC and Wye Valley and Forest of Dean Bat sites SAC alone or in combination with other plans.

A further HRA dated December 2017 was then prepared following changes to the Plan after the pre-submission stage and updated information at HC level. This affirmed the earlier conclusion that the Plan would not have a likely significant effect on the River Wye SAC and Wye Valley and Forest of Dean Bat sites SAC.

I wrote to HC on 10 July 2018 regarding the case of People Over Wind, Peter Sweetman v Coillte Teoranta.²² My letter to HC is attached at Appendix 3. I asked HC to consider any implications arising from the judgment that meant that measures intended to avoid or reduce effects could not be taken into account at the screening stage when considering whether a plan would be likely to have a significant effect on a European site.

²⁰ PPG para 030 ref id 11-030-20150209

²¹ *Ibid* para 047 ref id 11-047-20150209

²² Case C-323/17

As a result HC rescreened the Plan. The HRA dated August 2018 reviews the submission version of the Plan. It concluded that the Plan would not have any likely significant effects on the SACs.

HC have also issued a briefing note dated 13 September 2018 attached as Appendix 4 to this report. This explains that they have sought Counsel advice following the judgments and that revised screening reports rely on policies in the CS namely SD4 and LD2 to reach a conclusion that a Plan would not result in any likely significant effects. It explains that the key issue has been whether CS policies are classified as ‘mitigation’ and therefore cannot be taken into account at the screening stage.

The note states:

“Counsel advice has indicated that [CS] Policy SD4 (for example) is part of the development plan and importantly it has been considered through the CS assessment as removing the pathway to harm and “likely significant effects”. As all neighbourhood plans need to be in conformity with the CS and the policies of the development plan read as a whole, there is no need for the NDPS to include addition [STET] mitigation covered within these policies as it is within the higher level plan (the CS).”

The August 2018 HRA was subject to further consultation from 29 August – 3 October 2018. This resulted in one representation from Historic England who did not disagree with its conclusions.

Following on from this, HC has sought further Counsel advice regarding the case of *Cooperatie Mobilisation for the Environment v Vereniging Leefmilieu*²³ (the so called Dutch Nitrogen case). The update of 13 December 2018 is attached as Appendix 5 to this report. This explains that the neighbourhood plan does not give rise to any pathway to harm which is not prevented by the proper application of CS Policy SD4. It therefore confirms that there is no reason why neighbourhood plans cannot progress in Herefordshire following on from current case law.

National guidance establishes that the ultimate responsibility for determining whether a plan meets EU obligations lies with the local planning authority.²⁴ In undertaking a great deal of work on HRA, HC has considered the compatibility of the Plan in regard to EU obligations and does not raise any concerns in this regard.

Given the distance, nature and characteristics of the SACs concerned and the nature and contents of this Plan and taking the conclusions of the revised screening report undertaken by HC and the Counsel advice received by HC into account, I consider that the requisite requirements have been met.

²³ Case C-293/17

²⁴ PPG para 031 ref id 11-031-20150209

European Convention on Human Rights (ECHR)

The Basic Conditions Statement 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.

PPG²⁵ confirms that it is the responsibility of the local planning authority, in this case HC, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It is HC who must decide whether the draft plan is compatible with EU obligations when it takes the decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

7.0 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 contains five policies. There is a useful contents page at the start of the Plan.

Sections 1. Introduction, Section 2. The area in context and Section 3. Key issues

These three short sections offer a helpful introduction to the Plan and set the scene for it well.

Sections 4. Neighbourhood Development Plan (the Plan) process and Section 5. Public engagement in developing the Plan

A good explanation of the process of developing the Plan is given.

6. The Parishes – evidence base

This is an informative section that set outs background information about the Plan area. It notes key heritage assets in the three Parishes. It explains that the western parts of

²⁵ PPG para 031 ref id 11-031-20150209

Yatton and Sollershope and the whole of How Caple lie within the Wye Valley Area of Outstanding Natural Beauty (AONB). It details other important designations.

7. Selection and preparation of policies

Further detail about how policies were selected is given here. Consideration could be given to moving this section to sit with sections 4 and 5 or even (only) be included in the Consultation Statement, but this is not a recommendation I need to make in relation to my remit.

8. Vision and objectives

The clearly worded vision for the Plan area states:

“We will enjoy a thriving and prosperous community supported by a resilient economy, serving the needs of residents of all ages. This will be achieved through the sustainable use of resources whilst maintaining the unique character and heritage of these three parishes.”

The vision is supported by six objectives. All are articulated well and will help to deliver the vision.

9. Plan policies

Environment Policy ENV-1

Before discussing the policy, I note that each policy includes a “Ref” to relevant sections or policies in the NPPF, the CS and links the policy to the Plan’s objectives. This is a helpful exercise, particularly in relation to the Plan’s objectives so that a clear link and relationship can readily be seen.

However, as explained in an earlier section of this report, a revised NPPF has now been published and so these references are out of date.

I also feel that it is not necessary or advisable to have the references within the policy ‘box’ itself as this could create confusion.

Taking both these matters into account, I suggest removing the “Ref” section from the policy ‘box’ and deleting references to the NPPF and the CS. In making this suggestion, I

note that the other four policies in the Plan only refer to the Plan's objectives. This then would bring this policy into line with how the other policies in the Plan are presented.

Turning now to the policy itself, this is long policy with ten parts to it. There are a number of issues to address.

Criterion 1A reads to me as if it is the overarching element to the policy. I am also concerned about some of the language used, particularly the phrase "strongest possible efforts"; an applicant could allege that strong efforts have been made to safeguard the character of the area, but it was simply not possible to do so. In effect then some of the language is imprecise and has little 'bite'. I therefore suggest its wording is amended and it becomes the overarching paragraph for the policy.

Criterion 1B refers to the maintenance of woodlands and hedgerows. I assume, and the supporting text on page 15 of the Plan confirms, that the policy is seeking to retain and protect such features; maintenance may be interpreted as maintaining or managing any woodland which would not be a planning issue. Therefore a modification to clarify the language used is made.

Criterion 1C seeks to ensure development "will be implemented in such a way as to have no adverse impact on natural amenities..." and specifically refers to views and other features such as orchards. Whilst it is usually preferable to identify and show valued views on a map, given the particular nature of this Plan area, I do not consider this to be essential in this case. In fact it may be counter productive to do so when I saw during my visit that much of the Plan area benefited from views including long distance ones over undulating countryside that many would regard as beautiful. The wording used does not have the precision needed to provide a practical decision-making framework and so a modification is made to address this.

It also refers to no plans for new roads. This does not make sense to me in the context of this criterion and there is little supporting evidence or information as to what this refers too. It should therefore be removed.

Criterion 1D deals with redundant buildings. It refers to the Parishes' successful future and cross refers to another criterion in the policy and given the other modifications made, there is no longer a need for either. Together with some changes to the wording, the modification suggested will provide more clarity.

Criterion 1E refers to heritage assets and requires some changes to the language used and to make the intention of the policy align better with national policy and guidance and to help with clarity. The Plan refers to "nominated heritage sites" on pages 7 to 10 of the Plan, but these pages also contain other information. It is not clear to me whether the criterion only relates to these heritage assets or whether there is some differentiation between all the heritage assets in the Plan area and those where accessibility might be enhanced for residents and tourists.

From those referred to on pages 9 and 10 of the Plan it seems to me only the following should be included in relation to increased accessibility as others appear to be private:

- Village Church of St Andrew and St Mary, How Caple
- Village Church of St Michael, Sollershope
- Village Church of All Saints, Yatton

The language used in and the way criterion 1F is constructed is not clear. Therefore changes are made to include all the considerations but to make it more of a practical framework for decision-making.

Criteria 1G and 1H generally read well, but some minor wording changes are recommended to help with clarity and to ensure that they accord with the thrust of national policy and guidance and the CS.

Criterion 1J explains that there is no foreseeable need to change the extent of the AONB within the Parishes. This is not a development and use of land related policy but a statement of intent by the Group Parish Council. It can be retained in the supporting text as an indication of the Parishes' stance on this, but is not policy. It should therefore be deleted.

The last criterion, 1K, reads acceptably.

I can see from the consultation responses that the policy seeks to address the main issues raised by the community. I have suggested these modifications in the interests of ensuring the policy is clear and provides a practical framework for decision making in line with national policy and guidance and does not include any matters that are not related to the development and use of land.

HC recommends an additional criterion to ensure that the amenity of future occupiers of new houses are not adversely affected by existing agricultural or commercial activities. This seems to me to be a sensible safeguard given the nature of the area and the development supported. A modification is made to include this within the reworked policy.

The NPPF is clear that the planning system should contribute to and enhance the natural and local environment.²⁶ Subject to these modifications, the policy will protect and enhance the natural assets and features of the Plan area, generally conform to the CS and in particular CS Policies SS6, LD1, LD2, LD4, SD1 and SD2 and help to ensure that any new development is appropriate and encourage development that will ensure that the Parishes thrive.

- **Delete "Ref: NPPF sections 109, 111, 113 Hereford Council Core Strategy (in particular appx 8)" from the policy [the reference to the NDP objectives can be retained]**

²⁶ NPPF para 109

- **Reword the policy to read:**

“All development must protect or safeguard the character and natural amenities of the three parishes whilst ensuring the parishes thrive through support for sustainable development. Proposals within the Wye Valley Area of Outstanding Natural Beauty must conserve its landscape and scenic beauty in line with national policy and the Core Strategy.

Proposals will be assessed against all of the following criteria:

- i) Woodlands and hedgerows will be protected and new planting using native species will be encouraged in appropriate locations;***
 - ii) All new development must protect or enhance the natural features of the area including views and view corridors, river meadows, orchards as well as footpaths and comply with Core Strategy Policies LD1 and LD2;***
 - iii) The reuse of redundant rural buildings, farm expansion and tourism development will be encouraged in appropriate locations;***
 - iv) Heritage assets will be protected in a manner appropriate to their significance and enhanced wherever possible. Appropriate and increased accessibility to those heritage assets listed on pages [x] of the Plan will be particularly encouraged;***
 - v) For changes of use development, careful consideration will be given to the impacts on noise, smell, pollution, traffic generation and impact on rural roads and visual appearance. Development will not be permitted where such impacts singly or cumulatively result in any harm;***
 - vi) Individual development of renewable energy sources for private use will be encouraged. The provision of community-led energy generation, including bio-digesters, will be sympathetically considered as will some limited commercial development of water power and ground heat capture for community benefit where these accord with Core Strategy Policy SD2;***
 - vii) Installation of large scale photo-voltaic arrays or large installations of wind turbines or fracking will be supported only if they have an acceptable individual or cumulative impact on the landscape and visual appearance of the area and biodiversity and, where applicable, the Wye Valley Area of Outstanding Natural Beauty;***
 - viii) Redevelopment, alteration or extension of historic farmstead and agricultural buildings within the Parishes must be sensitive to their distinctive character, materials and form and***
 - ix) The promoters of new housing development should ensure that the living conditions of future occupiers will not be adversely affected by pre-existing agricultural or commercial activities.”***
- **Ensure that the heritage assets referred to in [new] criterion iv) are referenced fully and clearly on the relevant pages of the Plan and should only include the Village Church of St Andrew and St Mary, How Caple, Village Church of St Michael, Sollershope and the Village Church of All Saints, Yatton**

Two community actions follow the policy. In themselves the community actions are clearly articulated. However, they are followed by supporting information for the policy itself. In order to avoid any confusion between community actions and planning policy which may well occur because the community actions appear between policy and its accompanying explanation, I recommend that the community action section appears after the supporting text for the policy. This recommendation also applies to Economy Policy ECON-1 and Infrastructure Policy-INF-1, but is not repeated in my discussion of those policies later in this report.

- **Move the community action sections that appear after Environment Policy ENV-1, Economy Policy ECON-1 and Infrastructure Policy INF-1 to appear after the supporting information sections on each of these policies**

Housing Policy HSG-1

It is useful for me to set out the strategic context for the Plan.

CS Policy SS2 states that in the rural areas new housing development will be acceptable where it helps to meet housing needs, supports the rural economy and local services and is responsive to the needs of the community. In the wider rural areas new housing is “carefully controlled reflecting the need to recognise the intrinsic character and beauty of the countryside”.

The strategy for the rural areas in the CS²⁷ is positive growth. The strategy is based on seven housing market areas (HMA). This Plan falls within the Ross on Wye HMA. This HMA has an indicative housing growth target of 14% according to CS Policy RA1.

The CS explains that this indicative growth target in CS Policy RA1 will form the basis for the minimum level of new housing to be accommodated in neighbourhood plans across the County.

The CS states that the main focus for development is within or adjacent to existing settlements listed in two figures, 4.14 and 4.15. CS Policy RA2 translates this into policy. No settlements are identified in either figure for this Plan area. This means that the Plan area falls entirely within open countryside. Consequently there is no identified proportionate growth. No settlement boundaries or site allocations are identified in this Plan. Therefore any housing delivered will be through windfall development.

Outside the settlements the CS explains that new housing will be restricted to avoid unsustainable patterns of development. CS Policy RA3 applies and limits residential development to a limited set of circumstances. The Plan states that some of the criteria in CS Policy RA3 were only supported by a small proportion of the local community. Whilst this might be the case, the Plan needs to generally conform to this, and all other,

²⁷ Core Strategy Section 4.8

strategic policies in the CS. Although the Plan factually reports the community's views, it would be useful to also ensure that the community is aware that general conformity with CS policies is also needed. To address this, a modification is recommended.

The Plan area falls within the Wye Valley Area of Outstanding Natural Beauty. The NPPF states that great weight should be given to conserving landscape and scenic beauty of such areas which have the highest status in relation to landscape and scenic beauty.²⁸

The supporting text to CS Policy RA1 also indicates that new dwellings in such areas should make a positive contribution to their rural landscape. I have therefore included references to reflect this stance on areas of outstanding natural beauty to ensure the policy meets the basic conditions.

Housing policy HSG-1 has nine criteria.

Criterion 1A refers to the Plan area as "open countryside" and restricts development. It reads more like an opening to a policy and it would make more sense to have it as this given the remainder of the criteria. A modification is made to address this in the interests of clarity.

Criterion 1B cross references CS Policy RA4, but does not include the full context of CS Policies RA3 or RA4. This therefore means it should be deleted or changed. A modification is made to ensure it generally conforms to the CS policies and takes account of national policy and guidance.

Criterion 1C refers to redundant farm buildings and their reuse. The NPPF²⁹ refers to rural buildings rather than only farm buildings. The NPPF also refers to disused buildings as well as redundant buildings. This also accords with the wording of CS Policy RA5. The policy then refers to "appropriate safeguards to prevent misuse of this policy", but it is difficult to know what is sought. A modification is therefore made to ensure the criterion takes account of national policy and guidance, reflects CS Policy RA5 and to add precision and clarify the language used.

Criterion 1D refers to priority for local people, starter homes, smaller homes and "easy access" homes. Whilst this is laudable, it is difficult to see how this would apply to anything other than new housing. There is evidence from the community engagement and HC assessments to support the encouragement given to smaller homes and those suitable for older people. A modification is made to make the language clearer.

Criterion 1E permits extensions "in line with overall planning constraints and...agreed objectives". It is not clear when an extension would be acceptable and I am unsure of the intent of this part of the policy. Therefore the clarity required by national policy and guidance is absent. As a result this should be deleted.

²⁸ NPPF para 115

²⁹ *Ibid* paras 28 and 55

Criterion 1F expresses preference for proposals that retain adequate garden and parking space and gaps to adjacent properties. The supporting text indicates that this relates to new housing and the local community felt parking, gardens and spacing important. As currently worded, I find it hard to see how this criterion would be used in reaching planning decisions because of the lack of precision and it does not have any 'bite'. Therefore a modification is suggested to ensure that proposals meet this criterion. The gap/spacing issue is covered by the modification to existing criterion 1H.

The next criterion relates to materials and is clearly written. It therefore does not require any modification and can be retained.

Criterion 1H seeks to ensure that development does not have an adverse impact on neighbours or the character of the Parishes. The intention of this is clear and so with some rewording can be retained, but I have separated out these two important issues.

The last criterion refers to flood zones and simply repeats national policy. Duplication should be avoided between the different 'layers' of planning documents and so there is no need to retain it.

Subject to these modifications, the policy will take account of national policy and guidance, generally confirm to CS Policies SS2, RA1, RA2, RA3, RA4, LD1 and SD1 and help to achieve sustainable development.

- **Add new sentences/paragraph [as preferred] after the sentence that begins "The first four criteria..." on page 18 of the Plan that reads: *"It is however recognised that in order to meet the basic conditions, this Plan needs to be in general conformity with the strategic policies of the Core Strategy. Proposals for rural exception housing, houses of innovative design and provision for the needs of gypsies or travellers are satisfactorily addressed by policies in the Core Strategy."***

- **Reword the policy to read:**

"How Caple, Sollershope and Yatton neighbourhood plan area is classified as open countryside where new housing is restricted to avoid unsustainable patterns of development in the rural areas. The following criteria guide new housing development:
 - i) Homes which meet an agricultural or forestry need or other farm diversification or rural enterprise need will be supported in line with Core Strategy Policies RA3 and RA4;***
 - ii) Proposals for the reuse of genuinely redundant or disused rural buildings including barns and the replacement of existing dwellings will be supported provided they are of a similar size and scale and have an acceptable impact on the area's character and appearance;***
 - iii) Where new homes are provided, preference will be given to local people and those with local connections, to dwellings suitable as***

- starter homes or for older people or for smaller homes of up to three bedrooms;*
- iv) New homes should ensure that sufficient garden area and parking spaces are provided;*
 - v) The use of traditional building materials e.g. stone, brick and slate will be encouraged;*
 - vi) Development must ensure that it does not adversely affect the living conditions of the occupiers of nearby properties*
 - vii) Development must protect or enhance the character and appearance of How Caple, Sollershope and Yatton. Particular regard will be given to conserving the landscape and scenic beauty of the Wye Valley Area of Outstanding Natural Beauty.”*

Economy Policy ECON-1

There are four criteria in this policy. The first, 1A, supports the identification of sites suitable for employment “within overall planning constraints”. This is essentially meaningless for the purposes of decision-making because it does not indicate where those sites might be or what criteria might be applied to determine whether any coming forward would be acceptable. It does not provide the practical framework sought by national policy and guidance. Therefore the criterion should be deleted.

Criterion 1B relates to the reuse of buildings for business use. It refers to small businesses “of a kind favoured by residents”. The supporting text sets out what these and I have altered criterion 1C to specify these. With some modification, this criterion can be retained to reflect national policy and CS Policy RA5.

The next criterion refers to the development of serviced workshops, live work units and small businesses. With some modification to make it clearer, this can be retained.

I have cross referenced CS Policy RA5 in the modifications for 1B and 1C to ensure that the safeguards provided by the CS are brought forward into this Plan.

The last criterion seeks to support tourism but with “appropriate safeguards”. It is difficult to be certain what safeguards the community might seek. Despite this lack of precision, it is nevertheless possible to reword this criterion to retain it in this policy. The CS recognises that tourism has become an important part of the local economy and that there is potential for this sector to expand.

Subject to these modifications, the policy will take account of national policy and guidance, be in general conformity with the CS and in particular CS Policies SS5, RA5, RA6, E3 and E4 and help to achieve sustainable development.

- **Delete criterion ECON-1A in its entirety**

- **Reword criterion 1B to read: “The change of use of redundant or disused rural buildings for small business uses will generally be supported in line with Core Strategy Policy RA5;**
- **Reword criterion 1C to read: “The development of serviced workshops, work units attached to dwellings and small stand-alone businesses (e.g. information technology) are particularly encouraged and will generally be supported where they meet the criteria outlined in Core Strategy Policy RA5;**
- **Reword criterion 1D to read: “Tourism related development will be supported where it benefits the local economy and safeguards the natural and built environment of the parishes. Particular regard will be given to conserving the landscape and scenic beauty of the Wye Valley Area of Outstanding Natural Beauty.”**

Community actions on telecommunications and footpaths are worded well. I have earlier recommended that community actions be moved after the supporting information. The potential for confusion is apparent on page 23 of the Plan where a paragraph in brackets refers to the policy, but is underneath the second community action. Whilst I do not repeat the modification on moving the community actions here, a further modification in relation to that paragraph is needed so the Plan is presented clearly.

- **Remove the brackets from the paragraph that begins “(The main economic contributor within...” on page 23 of the Plan**

Community Facilities Policy CF-1

There are no facilities within these rural Parishes with the exception of the Churches and a post office in How Caple Court.

The policy has three criteria; two are not development and use of land related, but are community aspirations. For this reason they should be moved from the policy to a community actions section (there currently is no such section in this part of the Plan). In line with this, supporting text for CF-1A and CF-1C will also move to this new section. The other criterion can be retained subject to some minor rewording.

With these modifications, the policy will support new community facilities taking account of the NPPF³⁰ which promotes the retention, and development, of local services and community facilities. It will generally conform to CS Policies RA6 and SC1 in particular which protects, retains and enhances existing social and community infrastructure. It will help to achieve sustainable development.

³⁰ NPPF para 28

- **Move criteria CF-1A and CF-1C to a new Community Action section to be located after the supporting information for this policy**
- **Move supporting text for CF-1A on page 26 and CF-1C on page 27 to the new Community Action section alongside the criteria**
- **Reword [existing] criterion CF-1B to read: “Proposals for farm shops or other small trading outlets will be encouraged where they accord with the relevant policies of the development plan.”**

Infrastructure Policy INF-1

Policy INF-1 has three criteria. Similar to the previous policy, two of the three criteria do not relate to development and use of land and therefore cannot be planning policy, but can be community aspirations. It should be moved to the Community Action section that sits alongside this policy. The accompanying supporting text also needs to be moved.

The third criterion, 1C can be retained as it supports cycleways in appropriate locations. It would also be useful to add footpaths given that these are mentioned.

Other supporting text that does not relate to the policy should also be moved.

Subject to these modifications, the policy will take account of national policy, reflect the general thrust of Core Strategy Policies MT1, E4 and ID1 and help to achieve sustainable development.

- **Move criteria INF-1A and INF-1B to the Community Action section [which is to be relocated after the supporting information for this policy]**
- **Move the paragraph on page 28 of the Plan which begins: “We will maintain pressure...” to the Community Action section as it relates to criterion INF-1B**
- **Move the header to and the paragraph on page 28 of the Plan which begins: “There are several “dead” spots...” and its two accompanying paragraphs on page 29 to the Community Action section as it relates to criterion INF-1A**
- **Move the header to and the paragraph on page 29 of the Plan which begins: “This question in the survey (Q39)...” and its six accompanying paragraphs on page 30 to the Community Action section**
- **Change [existing] criterion INF-1C to read: “Proposals for the establishment of cycle paths *and footpaths* in appropriate locations will be considered subject to their relationship to existing footways and other cycle ways.”**

An existing community action reads well.

Note that some revisions to this section may be required as a result of modifications to Environment Policy ENV-1.

10. Implementation and monitoring

It is good to see thought has been given to how the Group Parish Council might monitor the Plan and its effectiveness. Whilst monitoring is not currently a requirement of neighbourhood planning, I regard this as good practice and commend it to others.

Annexes

A number of annexes are included at the end of the Plan. Whilst some could now be moved from the Plan itself or to the Consultation Statement given the stage the Plan has now reached, they do form an integral part of this particular Plan given the way in which it is written and presented.

Annex 6 which shows the flood risk map and Annex 14 would benefit from a caveat to ensure users of the Plan seek the most up to date information.

- **Add a sentence that reads: “Users of the Plan are advised to seek the most up to date information available from the relevant agencies and organisations.” to Annexes 6 and 14**

8.0 Conclusions and recommendations

I am satisfied that the How Caple, Sollershope and Yatton 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 How Caple, Sollershope and Yatton 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 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 How Caple, Sollershope and Yatton Neighbourhood Development Plan should proceed to a referendum based on the How Caple, Sollershope and Yatton Neighbourhood Plan area as approved by Herefordshire Council on 4 October 2013.

Ann Skippers MRTPI

Ann Skippers Planning

17 December 2018

Appendix 1 List of key documents specific to this examination

How Caple, Sollershope and Yatton Neighbourhood Development Plan 2011 – 2031 V. 080118

Basic Conditions Statement December 2017

Consultation Statement undated

Environmental Report December 2017

Habitats Regulations Assessment Report July 2017

Habitats Regulations Assessment Report December 2017

Habitats Regulations Assessment Report August 2018

How Caple, Sollershope and Yatton Parish Policies Map

Herefordshire Core Strategy 2011-2031 October 2015 and Appendices

Saved Policies of the Unitary Development Plan 2007

Other supporting documents on the joint neighbourhood plan website:
<http://www.howcaplesollershopeyatton.org.uk>

List ends

Appendix 2 Note from the examiner about the revised NPPF

Independent Examination of the How Caple, Sollers Hope and Yatton Neighbourhood Plan

Information Note from the Independent Examiner on the publication of a revised National Planning Policy Framework

The Government published a revised National Planning Policy Framework (NPPF) on 24 July 2018.

I would like to draw your attention to paragraph 214 of the document which states:

“The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted⁶⁹ on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.”

The accompanying footnote 69 explains that:

“For neighbourhood plans, ‘submission’ in this context means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.”

It is therefore not my intention to invite or accept any representations or comments on the revised NPPF in relation to this examination.

This note is of course a matter of public record and should be placed on the relevant websites.

With many thanks,

Ann Skippers MRTPI
Ann Skippers Planning
Independent Examiner

Appendix 3 Note from the examiner on habitats

Letter to Karla Johnson
Herefordshire Council

cc How Caple, Sollars Hope and Yatton Group Parish Council

10 July 2018

Dear Karla,

Examination of the How Caple, Sollars Hope and Yatton Group Neighbourhood Plan

The examination of the How Caple, Sollars Hope and Yatton Group Neighbourhood Plan is due to commence in September 2018, but I am writing to draw your attention to a recent judgment of the Court of Justice of the European Union now so that any delay to the examination process can be minimised.

In the case of *People Over Wind, Peter Sweetman v Coillte Teoranta*, the Court ruled that Article 6 (3) of the Habitats Directive must be interpreted as meaning that mitigation measures (referred to in the judgment as measures which are intended to avoid or reduce effects) should be assessed within the framework of appropriate assessment (AA) and that it is not permissible to take account of measures intended to reduce or avoid any harmful effects of a plan or project on a European site at the screening stage.

Earlier case law had established that reduction or avoidance measures could be taken into account when considering whether a plan or proposal would be likely to have a significant effect on a European site. However, the implications of the more recent judgment is that this is no longer the case.

I would therefore be grateful if the Council could consider the HRA Screening Report and advise me on whether it considers it to be legally compliant in the light of the judgment. If it is considered not to be legally compliant and to have fallen foul of the judgment, I would ask that the Council advises me of what further work would be required to rectify this, together with an indicative timescale for that work, including any further consultation.

I will clearly reach my own view on this matter as well. Once you have had an opportunity to consider what, if any, further work needs to be undertaken, I suggest that we agree a way forward for the examination of the Neighbourhood Plan.

This letter is of course a matter of public record and should be placed on the relevant websites.

With many thanks,

Ann Skippers MRTPI
Independent Examiner

Appendix 4 HC Briefing Note on HRA



Habitat Regulation Assessments (HRA) of Neighbourhood Development Plans

Statement in relation to CASE 323/1/COURT OF JUSTICE OF THE EUROPEAN UNION

People over Wind and Peter Sweetman v Coillte

Update following Counsel Advice

13 September 2018

Herefordshire Council has sought Counsel advice in light of the implication of the recent European judgment *the case of People Over Wind and Sweetman v Coillte Teoranta (C-323/17)* ("*Sweetman*") and the representations from Natural England to a number of Habitat Regulation Assessment consultations undertaken post the judgment.

These revised Habitat Regulations Assessments (post *Sweetman*) relied on policies within the Core Strategy; namely policy SD4 and LD2 to indicate that there was unlikely to be any 'likely significant effects' and that an Appropriate Assessment would not be required and the NDPs met the EU obligations.

The key issue has been whether policies within the Core Strategy are classified as 'mitigation' and therefore cannot be used within an initial screening. Resulting in the need for Appropriate Assessment which NDPs cannot be subject to.

Counsel advice has indicated that Policy SD4 (for example) is part of the development plan and importantly it has been considered through the Core Strategy assessment as removing the pathway to harm and 'likely significant effects'. As all neighbourhood plans need to be in conformity with the Core Strategy and the policies of the development plan read as a whole, there is no need for the NDPs to include additional mitigation covered within these policies as it is within the higher level plan (the Core Strategy).

The advice gives a clear conclusion that the Council can and should make the NDPs and examinations could be concluded, where either there is an adequate sewerage treatment capacity; or there is not but SD4 applies.



Habitat Regulation Assessments (HRA) of Neighbourhood Development Plans

Statement in relation to CASE 293/17 COURT OF JUSTICE OF THE EUROPEAN UNION

Cooperation Mobilisation for the Environment v Verenigin Leefmilieu (Dutch Nitrogen)

Update following Counsel Advice

13 December 2018

Herefordshire Council has sought Counsel advice in light of the implication of the recent European judgment *the case of People Over Wind and Sweetman v Coillte Teoranta (C-323/17) ("Sweetman")* and the representations from Natural England to a number of Habitat Regulation Assessment consultations undertaken post the judgment.

Additional advice has now been sought regarding the judgment on *Cooperation Mobilisation for the Environment v Verenigin Leefmilieu (Dutch Nitrogen)* which was published on the 7 November 2018 (after the previous advice was issued).

The Herefordshire Core Strategy was subject to a detailed Appropriate Assessment (AA). Being prior to *Sweetman* the various stage of the AA addressed mitigation and built that mitigation into the Core Strategy to avoid significant effect including Policy SD4. It assessed the position of Policy RA1 and RA2 given Policy SD4 and assumes that SD4 will be applied correctly to any application including the provision of phasing and Appropriate Assessments of individual planning applications.

However, in stark contrast to *Dutch Nitrogen* the Core Strategy does not given a green light to the development envisaged in it. Development under the Core Strategy is expressed subject to specific restrictions which will remove any likely significant effects, this is the whole premise of Policy SD4. No permission could be granted (reg 63(5)) without meeting the requirements of Policy SD4.

The advice indicates that Policy SD4 as a measure to prevent harm is sufficiently certain to meet the Dutch Nitrogen tests. Compliance with it is a fundamental requirement before any permission could be granted.

The proposed Neighbourhood Development Plans do not undermine or change this and in screening the NDPs, the proper application under current case law of Policy SD4 (under s38(6) and reg 63(5)) will ensure that the NDP provides no pathway to adverse effects on the integrity.

The advice concludes that the overall package will ensure that the NDP is not adopted in breach of reg 63(5) and that, assuming SD4 is properly applied, any permission under Policy RA1, RA2, SD4 and compliant neighbourhood development plans would not breach reg 63(5).