

Almeley Parish Neighbourhood Development Plan

Independent Examiner's Report

January 2019

Barbara Maksymiw

Independent Examiner BSc (Hons), MSc, MRTPI

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Summary

I have been appointed by Hereford Council to carry out an independent examination of the Almeley Parish Neighbourhood Development Plan.

The examination was carried out in November 2018 and was undertaken by considering all the documents submitted to me, including the written representations. I visited the Neighbourhood Plan area on 9 November 2018.

The plan is based on extensive engagement with the local community and provides a distinct set of policies, relevant to the needs of local people. Almeley is a predominantly rural parish and the plan provides for limited new housing development, as the very modest needs identified in the Herefordshire Local Plan Core Strategy can be met through windfalls and infilling within newly defined settlement boundaries.

Subject to a number of modifications set out in this report, I conclude that the Almeley Parish Neighbourhood Development Plan meets the Basic Conditions and I am pleased to recommend that it should proceed to referendum.

I recommend that the referendum should be confined to the Neighbourhood Plan area.

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1. Introduction

1. Neighbourhood planning is a relatively new process, introduced by the Localism Act 2011, which enables local communities to develop planning policies to guide development in their area and help to shape the places where they live and work.

2. Almeley Parish is situated in north Herefordshire, to the north west of Hereford. The Parish's principal settlement is Almeley village which is located in the centre of the Parish and Woonton is the next sizeable settlement which lies around one mile to the south east of Almeley. The rest of the parish is made up of a number of scattered hamlets. There are no major employers in the parish and most economically active people have to travel outside the parish for work; an increasing number of people are self-employed and work from home. The rural character and historic environment are important aspects of the parish which are highly valued by local people.

3. The purpose of this report is to assess whether the Almeley Parish Neighbourhood Development Plan (NDP) complies with the relevant legislation and meets the Basic Conditions, which such plans are required to meet. Where necessary, the report makes recommendations about changes or modifications to the plan to ensure that it meets the legislative requirements.

4. The report also makes a recommendation about whether the NDP should proceed to the referendum stage. If there is a positive recommendation at referendum, the NDP can be "made" by Herefordshire Council and so become part of the wider development plan and then used by Herefordshire Council to determine planning applications in the plan area.

2. Appointment of the independent examiner

5. I have been appointed by Herefordshire Council with the agreement of Almeley Parish Council to carry out this independent examination. The Neighbourhood Planning Independent Referral Service (NPIERS) has facilitated my appointment. I am a chartered town planner with extensive planning experience in local government and therefore have the appropriate qualifications and experience to carry out this examination. I am independent of the qualifying body and have no land interest in the area that might be affected by the plan.

3. The role of the independent examiner

6. The role of the independent examiner is to ensure that the submitted NDP meets the Basic Conditions together with a number of legal requirements.

7. In examining the NP I am required, under Paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990, to check ¹ that:

- the policies in the plan related to the development and use of land for a designated ! neighbourhood area; and !
- the policies in the plan meets the requirements of Section 38 of the Planning and Compulsory Purchase Act (that is, it specifies the period to which it has effect, does not include provision about excluded development and does not relate to more than one neighbourhood area); and
- the plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body

8. I must also consider whether the NDP meets the Basic Conditions set out in Schedule 4B of the Town and Country Planning Act 1990 (as amended). A plan meets the basic conditions² if:

- 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 plan contributes to the achievement of sustainable development
- the making of the neighbourhood plan is in general conformity with the strategic policies of the development plan for the area
- the making of the neighbourhood plan does not breach, and is otherwise compatible with European Union (EU) obligations

9. Regulations 32 and 33 of the Neighbourhood Planning Regulations 2012 (as amended) set out two additional basic conditions. These are:

- the making of the neighbourhood plan is not likely to have significant effects on a European site ³ or a European offshore marine site ⁴ either alone or in combination with other plans or projects and
- having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this does not apply to this examination as

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

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

³ As defined in the Conservation of Habitats and Species Regulations 2012 !

⁴ As defined in the Offshore Marine Conservation (Natural Habitats &c) Regulations 2007 !

it is not about a neighbourhood development order).

10. As independent examiner, having examined the plan, I am required to make one of the following recommendations:

- that the plan as submitted can proceed to a referendum; or
- that the plan with recommended modifications can proceed to referendum; or
- that the plan does not meet the necessary legal requirements and cannot proceed to referendum

11. The independent examiner can only recommend modifications to ensure that the NDP meets the Basic Conditions and other legislative requirements, or for the purpose of correcting errors.

12. If the plan can proceed to 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.

13. Herefordshire Council will consider the examiner's report and decide whether it is satisfied with the examiner's recommendations and will publicise its decision on whether the plan will be subject to referendum, with or without modifications. If a referendum is held and results in more than half of those voting in favour of the plan, the Council must "make" the neighbourhood plan a part of its development plan. The plan then becomes part of the development plan for the area and is a statutory consideration in guiding future development and determining planning applications in the area.

4. Compliance with matters other than the basic conditions

14. Almeley Parish Council applied for the Parish to be designated as a neighbourhood planning area in May 2012. On 6 July 2012 Herefordshire Council designated Almeley Parish as a Neighbourhood Area in accordance with the Neighbourhood Planning (General) Regulations 2012. The designated area covers the parish and does not cover any other Neighbourhood Area and the qualifying body is Almeley Parish Council.

15. The preparation of the plan has been managed by a Steering Group of Parish Councillors and members of the community, with professional support from Data Orchard.

16. I am satisfied that the NDP includes policies that relate to the development and use of land and does not include provision for any excluded development. The Almeley NDP therefore meets the requirements set out in para 7 above.

5. The examination process

17. The documents which I considered during the course of the examination are listed in Appendix 1.

18. The general rule⁵ is that an examination is undertaken by the consideration of written representations only. Having considered all the information before me, including the representations made to the submitted plan (the Regulation 16 responses), I was satisfied that the Almeley NDP could be examined without the need for a public hearing.

19. During the course of the examination it was necessary to clarify several matters with Herefordshire Council and the Parish Council. These are set out in Appendix 2 to this report. I was provided with prompt and helpful responses to my questions and I am satisfied that I had all the information I required to carry out the examination.

20. As part of the Neighbourhood Plan Examination process, it is important for the examiner to understand the context of the neighbourhood plan in the wider area and its overall character, as these shape the issues and policies set out in the plan. I therefore made an unaccompanied site visit to the area on 9 November 2018.

21. On 5 March 2018 an updated version of the National Planning Policy Framework (NPPF) was published for consultation and on 24 July 2018 the final version of the NPPF was subsequently published. Paragraph 214 of the Framework confirms the transitional arrangements for plans which were already under examination:

*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.*⁶

22. As the Almeley NP was submitted for examination in summer 2018 and the Regulation 16 consultation was carried out between 27 June and 22 August 2018, well in advance of the 24 January 2019 deadline, the NDP has been assessed against the guidance in the former NPPF.

⁵ PPG para 004 ref id 41-004-20140306

⁶ National Planning Policy Framework: 24 July 2018

6. Consultation

Consultation process

23. Effective consultation and engagement with the local community is an essential component of a successful neighbourhood plan, bringing a sense of public ownership to its proposals and helping to achieve consensus. The policies set out in the NDP will be used as the basis for planning decisions – both on local planning and on planning applications – and, as such, legislation requires neighbourhood plans to be supported by public consultation.

24. In line with the Neighbourhood Planning (General) Regulations 2012⁷, the Steering Group has prepared a Consultation Statement for the NDP which sets out how the group approached public consultation, who was consulted and the outcomes.

25. Throughout the plan preparation process, the Steering Group sought to consult and engage as wide a range of people as possible and feedback has been used to inform the content and scope of the Plan. In the early stages of preparing the plan, a household questionnaire was circulated, generating a response from almost of the local residents. As the preparation of the plan got under way, the public and other interested parties were kept informed by means of an NDP website, the Offa Tree news (local magazine), noticeboards, newsletter, fliers, exhibitions and drop-in events. Steering Group meetings were open to the public and were well attended.

26. The first formal consultation on the Almeley Parish Regulation 14 Draft Neighbourhood Development Plan took place between 19 February and 9 April 2018.

27. It is clear from the Consultation Statement that the Steering Group has engaged widely with the local community and kept people informed as the plan progressed. This consultation process has helped to develop the vision for the plan and ensure that the community's vision for the Group Parish has been clearly shaped by the views and priorities of the community. This is:

In 2031, Almeley Parish will remain an unspoilt, rural and scenic part of Herefordshire, providing homes for its families and elderly residents, supporting local businesses, such as small family farms and an increase in home working through a fast broadband network.

⁷ Regulation 15 of the Neighbourhood Planning (General) Regulations 2012

Representations received

28. Preparing the NDP has involved two statutory six-week periods of public consultation. The first, on the Regulation 14 Draft Plan, took place between 19 February and 9 April 2018. In all, twenty-eight representations were received – nineteen from members of the community, six from statutory bodies, two from external consultees and one from Herefordshire Council.

29. The second consultation on the Submission Draft NDP was managed by Herefordshire Council and took place between 27 June and 22 August 2018. This generated eleven responses – two from agents on behalf of local residents, four from statutory bodies, two from external consultees and two from Herefordshire Council.

30. Occasionally in this report I refer to representations and identify the organisation making that particular comment. However, I have not referred to every representation in my report. Nonetheless, I can assure everyone that each comment made has been looked at and carefully considered.

31. From the evidence in front of me, it is apparent that the Almeley NDP has been subject to appropriate and extensive community engagement involving much time and effort by the Steering Group. They are to be congratulated for all their sustained effort and for producing a comprehensive NDP. I am therefore satisfied that the consultation process which has been followed complies with the requirements of the Regulations.

7. Compliance with the basic conditions

32. In my role as independent examiner I must assess whether the NDP meets the Basic Conditions⁸ set out in the Regulations as described in paras 7-8 above.

33. I have considered the Almeley Neighbourhood Development Plan Basic Conditions Statement produced by the Steering Group, and other supporting documentation, to assist my assessment which is set out below.

National Policy

34. National planning policy is set out in the National Planning Policy Framework (NPPF) and in the supporting Planning Practice Guidance (PPG). At the heart of the planning system is a presumption in

⁸ Para 8(2) of Schedule 4B of the Town and Country Planning Act (as amended)

favour of sustainable development, which applies to all levels of plan making. For neighbourhood plans, this means that neighbourhood plans should support the strategic development needs set out in Local Plans and plan positively to shape local development. Included in the twelve core principles of the NPPF⁹ is a requirement for neighbourhood plans which provide a practical framework within which decisions on planning applications can be made in a confident and consistent manner. Policies also should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.

35. Section 2 of the Basic Conditions Statement sets out a very comprehensive assessment of how each of the policies in the NP has regard to the twelve core principles of the NPPF. The NDP therefore satisfies the basic condition that it has regard to national policies and advice.

Sustainable development

36. The qualifying body also has to demonstrate how a neighbourhood plan contributes to the achievement of sustainable development as set out in the NPPF¹⁰.

37. Section 3 of the Basic Conditions Statement provides a comprehensive explanation of how the Almeley Parish NDP contributes to the economic, social and environmental aspects of sustainable development, alongside an assessment of how it complies with the relevant Herefordshire Local Plan Core Strategy policies. I therefore conclude that this Basic Condition is met.

Development Plan

38. The NDP also has to demonstrate that it accords with the strategic policies of the Development Plan. In terms of the wider planning of Herefordshire as a whole, the Neighbourhood Development Plan has been prepared in the context of the Herefordshire Local Plan Core Strategy (HLPCS), which was adopted on 16 October 2015. There is therefore an up to date development plan in place.

39. Section 3 of the Basic Conditions Statement sets out a very comprehensive assessment of how each of the policies in the NDP conforms generally with the relevant strategic policies in the HLPCS. A number of the policies are designed to support and amplify the policies in the HLPCS so that they are relevant to the particular needs and priorities of the parish.

40. Various departments in Herefordshire Council have provided comments on the plan as it has

⁹ NPPF (2012) para 16 and 17

¹⁰ NPPF 2012) para 18-219

progressed through each stage of preparation and the Council's Progression to Examination Decision Document dated 4 September 2018 confirms the Council's view that the NDP is legally compliant and can proceed to examination.

41. From my assessment of the plan's policies in the rest of my report, it is evident that the strategic policies of the adopted HLPCS have generally been carried through to the NDP. Therefore, subject to the recommended changes set out in Section 8 below, I conclude that the NDP is in general conformity with the strategic policies of the development plan and therefore this basic condition is met.

Basic Conditions – conclusions

42. I have considered the Basic Conditions Statement, the supporting evidence and representations made to the Almeley NDP and I am satisfied that the Plan as submitted follows the general principles set out in national planning policy and contributes to the achievement of sustainable development. It sets out a positive vision for the parish and policies to protect its distinctive character while accommodating development needs.

43. At a practical level, however, a few of the policies in the Submission NDP need some minor adjustment to ensure that they comply with the NPPF and the strategic guidance in the HLPCS. I have therefore suggested a number of modifications in Section 8 below to help ensure that the plan accords with national and strategic guidance and therefore meets the basic conditions.

European obligations and Human Rights Requirements

Strategic Environmental Assessment (SEA)

44. The SEA Directive aims to provide a high level of protection to the environment by ensuring that environmental considerations are included in the process of preparing plans and programmes. The Steering Group's approach is set out in two Environmental Reports, dated January 2017 and March 2018.

45. A screening opinion was carried out by Herefordshire Council in 2013 at the initial stages of preparing the NDP which concluded that the Neighbourhood Development Plan for the Almeley Neighbourhood Area would require further environmental assessment for Habitat Regulations Assessment and Strategic Environmental Assessment.

46. The Environmental Report produced in January 2018 concluded that none of the NDP policies are considered to be in direct conflict with or propose greater levels of growth and development than strategic policies contained in the Local Plan (Core Strategy), which themselves have undergone a full Sustainability Appraisal.

47. A screening report was also carried out in January 2018 to assess whether a Habitats Regulation Assessment (HRA) would be required. This was necessary because the Parish falls within the catchment for the River Wye (including River Lugg) which is designated as a Special Area of Conservation (SAC) under European legislation. This concluded that the Almeley Parish NDP is not have likely to have a significant effect on the River Wye SAC.

48. Updated versions of these reports were produced for the Regulation 16 consultation on the NDP, both reaching the same conclusions as the earlier reports.

49. In light of Counsel Advice on the implications of the recent European judgment in 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, Herefordshire Council issued a Briefing Note to neighbourhood planning bodies. As a result, a rescreening of the Almeley NDP was carried out in August 2018. The purpose of the final HRA Report is to detail the findings of the screening of proposed changes to policies and consider if they significantly affect the conclusions of the earlier HRA Report and reviewed in terms of the implications of Sweetman. The report concluded that the earlier conclusions that the Almeley NDP will not have a likely significant effect on the River Wye SAC remains valid. This reassessment was subject to public consultation between 29 August to 3 October 2018.

50. Only one comment was received in response to the consultation. This was from Historic England and confirmed that they had no objections.

51. I have considered all the relevant background material and I am therefore satisfied that the submitted Almeley Parish NDP meets the requirements set out in the SEA Directive so this basic condition is met.

Human rights requirements

52. Section 4 of the Basic Conditions Statement provides a very brief statement which confirms that it is considered that the NDP is compatible with the requirements of EU obligations in relation to

human rights. In addition, I could see from the Consultation Statement that consultation activities carried out for the NDP have been wide ranging and the Steering Group had sought to engage with all members of the community and relevant stakeholders.

53. I am satisfied therefore that the NDP is compatible with the requirements of EU obligations in relation to human rights and no evidence has been submitted to me to suggest otherwise. I am satisfied, then, that the Plan does not breach the European Convention on Human Rights obligations and therefore meets the Basic Conditions.

Other Directives

54. I am not aware of any other European Directives that would apply to this NDP, and in the absence of any evidence to the contrary, I am satisfied that the plan is compatible with EU obligations.

8. Neighbourhood Plan policies

55. This section of my report considers the NDP policies against the basic conditions.

56. The Plan is clearly written and is very well presented, with a clear structure distinguished by separate sections. The plan policies are grouped by objective and for each policy there is a short introduction followed by the policy, which is set out in a coloured text box and then some supporting text to justify the policy. This is a very clear approach and the Steering Group are to be commended on the presentation of the policies. As a general commentary, however, most of the policies are very long and complex and, in a number of cases, they overlap with the guidance in other policies in the plan. This means that the plan does not provide clear and unambiguous guidance for future users of the plan. In my comments on the policies which follow I have therefore made a number of recommendations which aim to clarify the guidance which the plan provides.

57. All of the policies relate to the development and use of land and none cover excluded development, such as minerals and waste, so the statutory requirements and guidance set out in Planning Practice Guidance¹¹ are met. I have commented separately on the policy which deals with agricultural waste arising from intensive livestock units.

58. As part of this examination, my report includes a series of recommended modifications to ensure that the policies are expressed concisely and precisely in order to comply with the basic conditions.

¹¹ Planning Practice Guidance PPG para 004

Where I have suggested modifications, these are identified in **bold text**. The recommended modifications relate mainly to issues of clarity and precision and are designed to ensure that the plan fully accords with national and strategic policies. I have considered the policies in the order they appear in the Plan, by section and comment on all of the policies, whether I have suggested modifications or not. Where I consider that the supporting paragraphs need amendment to help explain and justify the plan policy, I have made comments to that effect.

1. Introduction

59. This section introduces the Neighbourhood Development Plan, explains why an NDP is being prepared and the approach taken to community involvement. I have no comments to make.

2. Background to the Plan Area

60. This section outlines the key characteristics and main features of the parish and I have no comments to make.

3. Issues for the Plan

62. This section outlines the key issues for the plan. My only comment relates to the issue of intensive livestock units and I have commented on this in para 83 below.

4. Development Options

63. This section outlines the options for development in the parish which were considered as part of the NDP preparation process, and explains that Option 6 – a small extension to Almeley village settlement boundary with limited further development in Woonton – was selected as it was the most practicable option while respecting the community's wishes. This accords with the strategic guidance in the HLPCS so the basic conditions are met.

5. Vision, Objectives and Strategic Policy

64. This section sets out the vision for the NDP, which is:

"In 2031, Almeley Parish will remain an unspoilt, rural and scenic part of Herefordshire, providing homes for its families and elderly residents, supporting local businesses, such as small family farms, and an increase in home-working through a fast-broadband network"

65. This section also introduces the first two policies which relate to sustainable development.

Policy ALM1: Promoting Sustainable Development

66. This policy seeks to promote sustainable development in the NDP area and complements HPLCS Policy SS1 in that it provides a distinctive sense of what is important to the Parish and its communities.

67. It does however require some fine tuning to improve clarity.

- **Recommendation: Reword ALM1 (c) to read “Support local economic development appropriate to the capacity of the highway network, the local landscape and the existing settlement pattern”**

Policy ALM2: Development Strategy

68. Policy ALM2 sets out the development strategy for the parish. However, the policy overlaps with and, in some cases (notably policies ALM10-13), duplicates other policy guidance later in the plan. This means that there is potentially unclear guidance for future decision takers. In order to meet the requirements of the NPPF at para 154, which confirms the need for clarity in policy, ALM2 and its supporting text should be deleted.

- **Recommendation: Delete ALM2 and paragraphs 5.9 and 5.10. Renumber subsequent policies accordingly**

[6. Environmental Policies](#)

69. This section introduces the environmental policies.

Policy ALM3: Maintaining and Protecting the Landscape and its Features

70. This policy seeks to maintain and protect the rural landscape of the parish and its features. In response to my query, the Steering Group confirmed that the “local sites and green infrastructure” referred to in ALM3(f) are all mapped in the Almeley Parish Biodiversity Conservation and Enhancement Plan which was produced in June 2018. I have looked at this document and I can see that it is important supporting evidence for the NDP, so I suggest that a more prominent reference is made to it in paragraph 6.2.

71. I also suggest some minor rewording of the policy to improve clarity.

- **Recommendation:** Replace “and reinforce” with “restore and enhance” in first line of ALM3. Add “to enhance landscape character” after “schemes” in ALM3(c). Delete “Ensure the integrity of the views by protecting the foreground” and add “Protect landscape views” before “across” in ALM3(d). Add after “traditional orchards” in fifth sentence of paragraph 6.2 “; these are described and mapped in the Almeley Parish Biodiversity Conservation and Enhancement Plan: June 2018.” Amend Footnote 10 on page 26 to read <http://almeleypc.org/wp-content/uploads/2018/07/Almeley-Parish-Council-Nature-Conservation-Plan-June-2018.pdf>

Policy ALM4: Protecting Heritage Assets

72. This policy seeks to protect the heritage assets of the parish. Again, I suggest some rewording to improve clarity. In particular, ALM4(b) needs to be strengthened so that it ties in with the guidance in the supporting text about Heritage Impact Assessments.

73. In response to my query, the Steering Group suggested that the two plans on pages 52 and 53 should be deleted as there were small differences between these maps and those prepared by Herefordshire Council and I agree this would be helpful. I also suggest that both natural and heritage assets are listed in Appendix 2 and the title of the Appendix amended accordingly.

- **Recommendation:** Add “affecting heritage assets” after “proposals” in line 1 of ALM4 (b) and delete “elsewhere”. Add “a Heritage Impact Assessment or” after “accompanied by” in ALM4(b). Add “the significance of” after “affect” in ALM4(f). Delete maps on pages 52 and 53 and substitute Almeley Policies and Woonton Policies Maps prepared by Herefordshire Council. Add list of Natural Assets to Appendix 2 and change title of Appendix 2 to “List of Heritage and Natural Assets”.

74. As there is more detailed guidance on development affecting historic farmsteads elsewhere in the NDP - notably in ALM2(c) and ALM14 - the guidance in ALM4(h) is superfluous and should be deleted. The supporting paragraph 6.4 would then be better located as the first, introductory paragraph below Policy ALM14.

- **Recommendation:** Delete ALM4(h) and renumber ALM4(i) as ALM4(h). Move paragraph 6.4 to become the first paragraph under Policy ALM14 and renumber as paragraph 8.6. Renumber remaining affected paragraphs in sections 6 and 8 accordingly

Policy ALM5: Protection of Local Green Space

75. This policy proposes three areas of local green space. The NPPF at paragraph 77 states;

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

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

76. In response to a related question, the Steering Group confirmed that they had carried out an assessment of the areas for potential inclusion as Local Green Space and that this is set out in supporting documents to the NDP. As this is important evidence I suggest that it is referred to more directly in the supporting text to Policy ALM5.

- **Recommendation: Add new sentence at start of paragraph 6.6 to read. “The Steering Group carried out an assessment of potential areas for inclusion as Local Green Space in the NDP and this is set out in <http://almeleypc.org/local-green-space-assessments/>”**

77. From my site visit I could see that the land at Spearmarsh Common and Pool Common were both open areas of land which were well maintained and used by the community going about their day to day activities. They both contribute to and enhance the character of the settlements of Almeley and Woonton respectively. On the other hand, The Batch at Almeley, is an area of dense woodland, with public access afforded by means of a public footpath. It is also an extensive tract of land which raises questions about whether it complies with NPPF guidance. Furthermore, it is protected though other planning designations, as it is identified as a Local Wildlife Site and is part of the Almeley Conservation Area so development here would be highly unlikely to be permitted. In these circumstances I conclude that it would not be appropriate to designate it as a Local Green Space. The wording of policy ALM5 also needs to be improved so that it provides clearer guidance.

- **Recommendation: Delete ALM5(b) from Policy ALM5 and Almeley Village Policies Map. Renumber ALM5(C) as ALM5(b) and amend Woonton Village Policies Map accordingly. Delete para 6.6(ii) and move Figure 10 to Appendix 2 . Renumber 6.6 (iii) as 6.6(ii) and renumber**

Figure 11 as Figure 10 and renumber all subsequent Figures accordingly. Reword third sentence of ALM5 to read “Proposals for any development on these sites will be resisted unless they are directly related to the retention, management or enhancement of the green space and there is no significant adverse effect on residential amenity.”

Policy ALM6: Design Appearance

78. This policy deals with the design of new development and I have no comments to make, beyond suggesting that the title might be more simply stated as just “Design”

- **Recommendation: Delete “Appearance “from title of policy ALM6.**

Policy ALM7: Sustainable Design

79. This policy deals with Sustainable Design and I have no comments to make.

[7. Economic Development](#)

Policy ALM8: Diversification through Live/Work Units

80. This policy helps support rural diversification which is important to the Parish as it has no major employers or businesses. It includes guidance on the use of historic farmsteads for economic and business purposes, so is distinct from Policy ALM14 which deals with proposals for residential use of such properties. The policies are therefore complementary and I have no comments to make.

Policy ALM9: General Purpose Agricultural Buildings and Intensive Livestock Units

81. This policy covers general purpose agricultural buildings and intensive livestock units, with most of the policy dealing with the latter.

82. A representation from the NFU raised concerns about this policy, suggesting that it is not in line with national or local policy and could unduly restrict the growth of farm businesses and curtail their ability to comply with legislation.

83. I understand from the response I received from Almeley Parish Council to my query, that this policy had been developed in response to local concerns about a number of planning applications for intensive livestock units within and surrounding the parish. I note, however, that it is not mentioned in the Issues for the Plan, which are set out in Section 5, although there is a detailed Appendix

outlining the concerns related to intensive livestock units appended to the Consultation Statement. If such units are an issue of concern to the general community, warranting a standalone policy in the Neighbourhood Development Plan, then this should be referred to in the Issues Section of the plan under the economic development heading in para 3.11.

- **Recommendation: Add as new sentences at the end of paragraph 3.11, “Public consultations, including in relation to the NDP, revealed considerable community concern over the potential harmful effects of intensive livestock operations to public health and the environment. Support for traditional farming is, however, strong.”**

84. The NFU representation expressed concern that the policy not only provides guidance for general agricultural buildings but in dealing with intensive livestock units it also overlaps with Environment Agency regulations, particularly in relation to manure spreading. Policy RA6 of the HLPCS and the NPPF provides guidance on general agricultural buildings so there is no need for the policy to refer to these and thus reference to them should be removed from the policy.

- **Recommendation: Delete “General purpose agricultural buildings requiring planning permission,” from the first sentence of ALM9 and from the title of ALM9**

85. In ALM9 (a) it is not clear what is meant by “full mitigation” and the term “environmental effects” is not sufficiently precise. To meet the basic conditions, revised wording is required to improve clarity.

- **Recommendation: Delete “the environmental” and substitute “adverse visual and landscape” and delete “full mitigation” and substitute “effective mitigation of the adverse impact” in second sentence of ALM9(a)**

86. In response to my queries and in their comments on the responses to the Reg 16 consultation, the Parish Council has explained the background to the policy and I am grateful for this information. Essentially the concerns centre around the disposal of waste associated with intensive livestock units. Manure or slurry spreading is a traditional method of maintaining soil fertility; it is only when it is spread in such a way that it exceeds crop requirements, is of no benefit to the land or provides no ecological improvement that it would be classed as waste¹². There is therefore a question as to whether this is an issue of waste disposal - which a neighbourhood plan would not be expected to

¹² <https://www.gov.uk/government/publications/legal-definition-of-waste-guidance/decide-if-a-material-is-waste-or-not>

cover as it is excluded development - or whether such developments raise planning issues which it would be reasonable for a NDP to address. There is also the matter of potential overlap with Environment Agency guidance and regulation regimes and the extent to which potentially adverse impacts would be managed through the planning application process or permitted through permitted development rights.

87. The situation is complex and I therefore have spent some time considering the background evidence submitted by the Parish Council, adopted Local Plans and Core Strategies, interim guidance from other local planning authorities and considered other Neighbourhood Plans in Herefordshire, notably Pembridge Neighbourhood Plan.

88. It is a concern that some of the wording of policy ALM9 seems to have been copied from the Beverley Borough Local Plan dated 1992, which itself was based on the Humberside Intensive Livestock Units Local Plan which was adopted in 1984 and subsequently amended in 1992. There are inherent risks, therefore, in preparing policies based on evidence from a different local authority area and on dated information which may have been superseded by other, more recent consent regimes or planning guidance. There is particular concern about the lack of evidence to justify the distances from the villages of Almeley and Woonton specified in ALM9(c). The references to precise distances from the two settlements should therefore be deleted from ALM9(c). A policy in the former Herefordshire UDP stated that development within 400m of an intensive livestock unit could potentially be sensitive to adverse effects on amenity, due to the proximity of the unit. Also, the GDPO 2015¹³ removes permitted development rights for intensive livestock units which are located within 400m of a protected building – one usually occupied by people. However, each case will need to be judged depending on the particular circumstances - for example, taking account of the site location and the size of the unit - so some flexibility needs to be incorporated into the policy.

- **Recommendation: Delete ALM9 (c) and replace with “proposals involving intensive livestock units and/or associated walled storage compounds or lagoons should be sited no closer than 400m from a protected building or residential property which is not associated with the operation. Where it can be demonstrated that a small-scale operation will have no impact at a closer distance due to the size of the operation or other factors, then this distance requirement may be reduced”**

¹³ <http://www.legislation.gov.uk/uksi/2015/596/schedule/2/made>

89. Criteria ALM9(d) and sub policies ALM9(d) (i) to (vi) deal with very detailed criteria regarding the handling, collection storage, treatment, transportation and disposal of manure waste. A neighbourhood plan can only deal with land use planning matters, not issues that are more appropriately considered by other consenting regimes, through the planning application process or, in some cases through a method statement submitted alongside a planning application. Amendments to ALM9(d) are therefore required to focus on the land use planning matters relevant to a neighbourhood plan, in order to ensure that it meets the Basic Conditions.

90. Criteria ALM9(d) (iii) deals with potential impacts on the River Wye Special Area of Conservation and “in combination” effects so is a land use planning matter on which the NDP could provide guidance. The SAC is an important national asset which could be vulnerable to nitrate pollution. Development affecting Scheduled Ancient Monuments and archaeological sites are covered by other policies in the plan so do not need be referred to in ALM9. The same applies to Local Nature Conservation Sites, Almeley Conservation Area and archaeological sites of Lesser Regional or Local Importance referred to in ALM9(d)(iv). Clause (v) and (vii) are superfluous as they overlap with other clauses. To provide clarity and to meet the basic conditions, amendments are required.

- **Recommendation: Delete ALM9(d) (iii) and replace with “Require the location of manure disposal or manure spreading areas for waste arising from intensive livestock units to be located where they would not have an adverse effect on the River Wye Special Area of Conservation. The in-combination effects of a number of such operations will also be a consideration”. Delete ALM9(d) (iv) and (v).**

91. Clauses (i) and (ii) deal with other matters which would be relevant when a planning application for an intensive livestock unit was being considered - such as the technological aspects of waste disposal methods - which are, in many cases, subject to other consent regimes. They are also outside the scope of a neighbourhood plan, which must be confined to land use planning issues. In response to my queries, the Parish Council has provided useful information about emerging practice elsewhere, including recent interim guidance for planning applications for intensive livestock units produced by Shropshire Council ¹⁴. I have also considered the approach used in the Pembridge NDP. I therefore suggest that these clauses are deleted and instead reference is made to a working method

¹⁴ <https://shropshire.gov.uk/environment/biodiversity-ecology-and-planning/new-interim-guidance-for-livestock-unit-lsu-applications/>

statement which could be requested by the local planning authority to accompany any planning application for an intensive livestock unit.

- **Recommendation: Delete ALM9 (d) (i), (ii), (vi) and (vii). Insert new final clause to read “Require any planning application for an intensive livestock unit to be accompanied by a working method statement that includes clear details on the number and quantity of animals and by products, methods of dealing with inputs and outputs from the process and pollution controls, transportation requirements and any other relevant matters as specified by the local planning authority. The in-combination effects of a number of such units on the environment should also be considered.” Renumber all clauses of ALM9 accordingly**

92. Consequential changes are required to the supporting text.

- **Recommendation: Delete “Protection zones settlement areas” and “These distancesplan making process” from paragraph 7.4. After “and lighting.” add “A working method statement setting out provisions and appropriate agreements is necessary to ensure the provisions of NPPF paras 120-124 are taken into account and this should cover all forms of pollution including noise, emissions to air and light pollution.” Delete last sentence of para 7.4. In first sentence of para 7.5 change “these protection zones” to “this protection zone”. Delete first and second sentences of paragraph 7.6. Add as new sentence at end of paragraph 7.7 “In addition, it is important that any proposals do not harm the parish’s heritage assets or its community facilities and services in accordance with other policies in this NDP”.**

8.Housing Policies

93. This section introduces the housing policies. As suggested in paragraph 102, below, I suggest that paragraphs 8.9 and 8.10 and Table 1 are moved to this section as they explain the housing requirements for the plan area and the approach taken to the housing allocations.

Policy ALM10: Housing Development in Almeley

94. This policy sets out the general approach to housing development within the defined settlement boundary of Almeley. There is some overlap with Policy ALM11 which allocates the site to the North of West View for housing development and I suggest some rewording to improve clarity.

- **Recommendation: Delete “a site identified for development upon Almeley Village Policies Map” from the first sentence of ALM10 and substitute with “the site allocated to the north of West View (ALM11)”**

95. In response to my query, Almeley Parish Council has pointed out that there is an error in para 8.2; it should be redrafted to take account of the housing allocation at Land to North of West View, Almeley as covered by Policy ALM11.

- **Recommendation: Redraft second sentence of para 8.2 to read “That proposed in this NDP reflects those previous boundaries and a site identified as suitable and available through the assessment if sites put forward within the local “Call for Sites””**

96. A representation sought to allocate an additional area of land within the development boundary to the East of The Manor. The site is located within the Almeley Conservation Area and its development would impact on the settings of nearby listed buildings and ancient monuments. In addition, the plan already allocates sufficient sites to meet its requirement so no change to the NDP is required.

Policy ALM11: Land to North of West View

97. This policy provides detailed guidance for the development of the site to the North of West View. I suggest some minor rewording to improve clarity.

- **Recommendation: In first sentence of ALM11 substitute “allocated” for “proposed” and delete “additional”**

Policy ALM12 : Housing development in Woonton

98. This policy sets out the general approach to housing development within the defined settlement boundary of Woonton. There is some overlap with Policy ALM13 which allocates a site suitable for redevelopment at Woonton Farm and I suggest some rewording to improve clarity.

- **Recommendation: Delete “the retention of sites already granted planning permission and the redevelopment of a site shown upon Almeley Woonton Policies Map” from the first sentence of ALM12 and substitute with “sites already granted planning permission and the site allocated at Woonton Farm (ALM13)”**

99. A representation sought the allocation of a further area of land to the south west of The Orchards. In response to my query, the Parish Council confirmed that the site had not been put forward as part of the Call for Sites exercise and had only recently been granted planning consent. It therefore had not been included in the Reg 16 version of the NDP and should it be developed, it would fall into the category of windfall development. No change to the NDP is therefore required.

Policy ALM13 : Redevelopment of Land at Woonton Farm

100. This policy provides detailed guidance for the redevelopment of land at Woonton Farm. I suggest some minor rewording to improve clarity.

- **Recommendation: Delete “may be redeveloped” and substitute “is allocated for redevelopment”**

Policy ALM14 : Residential Use Associated with Historic Farmsteads

101. Historic farmsteads form an important part of the Parish’s heritage and a number of these have been or are in the process of being sold off. In response to my query, the Steering Group explained that the approach they had taken in the NDP was to set out the strategic guidance for development affecting these properties in policy ALM2 with more detailed guidance on particular aspects of their development elsewhere in the plan. In order to ensure that there is no potential overlap in policy guidance I have suggested in my comments on ALM4 in para 74 above that ALM4(h) is deleted. In terms of policy ALM14 itself, I have no further comments to make.

102. In terms of the supporting text, the last sentence of para 8.8, paras 8.9 and 8.10 and Table 1 all sit rather oddly under ALM14 as they deal with the plan’s housing requirements. I therefore suggest that they are moved so that they sit as introductory paragraphs to the Housing Policies section.

- **Recommendation: Delete last sentence of para 8.8. Move Paragraph 8.9, 8.10 and Table 1 and insert as introductory paragraph under Section 8 Housing Policies on Page 38. Renumber all subsequent policies in Section 8 accordingly**

Policy ALM15: Providing for Local Housing Need

103. This policy provides guidance on how local housing needs will be met. However, it only seems to cover existing dwellings, not any new dwellings which could be provided as part of new housing development proposals which could be permitted as rural exception sites under Herefordshire Local Plan Core Strategy Policy RA2. I therefore suggest that the policy is amended so that it is aligned with the strategic guidance in the HPLCS and thereby meets the basic conditions.

- **Recommendation: Add “provided or” after “dwellings are” in first line of Policy ALM15**

9. Parish Infrastructure

Policy ALM16: Highway Requirements

104. This policy provides guidance on highway requirements and I have no comments to make.

Policy ALM17 : Sewerage Infrastructure

105. This policy requires some minor rewording to improve clarity and to strengthen the requirement on developers to contribute to remedial works at the Eardisley Waste Water Treatment Works (WwWTs), if they wish to advance proposals more swiftly.

- **Recommendation: In second line of ALM17, delete “development, sites” and replace with “the development of sites”. In second sentence of ALM17, add “be required to” after “Developers may”**

Policy ALM18 : Protection from Flood Risk

106. Herefordshire Council has pointed out that this policy requires some amendment as the statement regarding housing development not being permitted in flood zones 2 and 3 does not comply with the NPPF and PPG. I therefore suggest that this sentence is deleted from the policy and a more direct cross reference to HLPCS policy SD3 is added at the end of the previous sentence. With this change, the policy meets the basic conditions.

- **Recommendation: Add “and Herefordshire LPCS Policy SD3” at end of first sentence of ALM18. Delete second sentence of ALM18**

Policy ALM19 : Protection and Enhancement of Community Facilities and Services

107. This policy deals with the protection and enhancement of community services and I have no comments to make.

Policy ALM20 : Contributions to Community Services, Youth Provision and Recreation Facilities

108. This policy deals with developer contributions towards community facilities and I have no comments to make.

10. Delivering the Plan

109. This is a very useful section which sets out how the NDP will be delivered and monitored. I have no comments to make.

9. Conclusions and Recommendations

110. I have examined the Almeley Parish NDP and I have concluded that, subject to the modifications set out in my report, it meets the basic conditions and other statutory requirements.

111. I am therefore pleased to recommend to Herefordshire Council that, subject to the modifications set out in my report, the Almeley Parish NDP should proceed to referendum.

112. I am also required to consider whether the referendum area should be extended beyond the Almeley Parish NDP area. I see no reason why it would be necessary to alter or extend the plan area for the purposes of holding a referendum, nor have I received any representations to that effect. I therefore conclude that the plan should proceed to referendum based on the neighbourhood area approved by Herefordshire in July 2012.

APPENDIX 1: Background Documents

In undertaking this examination, I have considered the following documents:

- Almeley Parish Neighbourhood Development Plan 2011-2031 Submission Draft: May 2018 and associated Policies Maps
- Almeley Neighbourhood Development Plan Consultation Statement: June 2018
- Almeley Neighbourhood Development Plan Basic Conditions Statement: June 2018
- Herefordshire Council: Almeley Neighbourhood Development Plan - Progression to ! Examination Decision Document: 4 September 2018 !
- Environmental Report for Almeley Neighbourhood Area: Herefordshire Council: January 2018
- Habitats Regulations Assessment Report for Almeley Neighbourhood Area: Herefordshire Council: January 2018
- Environmental Report for Almeley Neighbourhood Area: Herefordshire Council: June 2018
- Habitats Regulations Assessment Report for Almeley Neighbourhood Area: Herefordshire Council: June 2018
- 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: Herefordshire Council 13 September 2018
- Habitats Regulations Assessment Final Report for Almeley Neighbourhood Area: ! Herefordshire Council: August 2018 !
- Almeley Parish Biodiversity Conservation and Enhancement Plan: Herefordshire Wildlife Trust : June 2018
- National Planning Policy Framework (NPPF) 2012
- National Planning Policy Framework (NPPF) 24 July 2018

- Planning Practice Guidance March 2014 and subsequent updates !

APPENDIX 2:

Almeley Parish Neighbourhood Development Plan Examination

Request for further information and questions from the Examiner to Herefordshire Council and Almeley Parish Council

I have carried out a preliminary review of the Neighbourhood Development Plan and the evidence submitted in support of it and there are a few points where I need some clarification or further information. I would therefore be grateful if both Councils could assist me, as appropriate, in answering the following questions.

1. Local sites and green infrastructure

In Policy ALM3 (f) Reference is made to “local sites and green infrastructure within the parish”. Are these mapped or documented either in the NDP or elsewhere?

2. Heritage Assets

In Policy ALM4(f) reference is made to Nieuport and Broxwood Court Registered Park and Gardens but these are not marked on the two Policies Maps on pages 52 and 53, nor are they listed in Appendix 2 – the List of Heritage Assets. Similarly, ALM4(i) refers to a network of commons but these do not seem to be mapped. Are these the same as or different to the areas at Spearmarsh Common and Pool Common which are proposed as Local Green Space in Policy ALM5? Please can I have your comments?

3. Historic farmsteads

The NDP contains a number of policies that set out guidance on historic farmsteads – notably ALM2(c), ALM4(h), ALM8 (e) and ALM14. I think there is a risk that all this guidance overlaps and

could cause difficulties when the plan is used in future. I am minded to suggest that there is only one overarching policy to cover these – please can I have your views?

4. Intensive livestock units

Policy ALM9 deals with agricultural buildings and intensive livestock units, though the focus of most of the policy is on the latter. I am interested in knowing a bit more about why intensive livestock units are regarded as a concern for the NDP, as I can see no mention of the issue in the Issues for the Plan section or the Consultation Statement. I also note that the Beverley Borough Local Plan, on which I think ALM9 is based, has been superseded by other Local Plan policies in the former Humberside area which are now more up to date. I would appreciate any comments you wish to make.

5. Housing Sites

I have received a representation from Bernard Eatock Ltd regarding land to the East of The Manor in which he mentions correspondence with a representative of the NDP Group regarding the possible inclusion of the site within the settlement boundary. Please can you confirm whether this site was considered as part of the call for sites exercise and any other information that may be relevant to my consideration of this representation?

6. Land at Woonton

I have received a representation from McCartney's regarding land to the south west of The Orchards at Woonton. A planning application was granted for residential development on the site on 27 June 2018. However, the site has not been included within the settlement boundary for Woonton in the NDP. I note that two other sites in Woonton, to the east of Pool Cottage and south of the Hopley's Green junction have also been recently been granted planning consent, yet these are included within the settlement boundary. Please can you explain the differences in approach?

Thank you for your assistance with these questions. Once I have received your responses, I may need to ask for further clarification or further queries may arise as the examination progresses.

Please note that these questions and requests for information is a public document and the answers and any associated documents will also be in the public domain. Both my questions and the responses should be placed on the Councils' websites as appropriate.

Barbara Maksymiw

23 November 2018

