

ROSS-ON-WYE NEIGHBOURHOOD PLAN

RESPONSES TO EXAMINER'S QUESTIONS

INTRODUCTION

We were pleased to receive the questions and fully appreciate this opportunity to clarify and sharpen up some of the policies in response. This response has been formulated by our consultants.

We had no fundamental query with any of the questions, so what follows is primarily a restatement of each question followed by our proposal for changes that might now be made. In many cases, a simple rephrasing removes the issue raised by the question. On occasion we have added some explanatory text or further question and one proof-reading note. *That text is in red.*

QUESTIONS AND RESPONSES

Herefordshire Council have undertaken to submit a response to **Question 1**.

We have submitted our response to **Question 2** to Herefordshire Council for your attention.

The remaining questions (3 — 21) are addressed below.

3a) Policy EN1

Please could you point me to information in respect of how "being clearly of its time" will be judged, who by and on what basis?

National and local policy requires heritage assets to be conserved in accordance with their significance. Please can you point me to information in respect of how a decision maker should interpret "particular importance" and "especially within" in respect of the Conservation Area and the rest of the Neighbourhood Area. As worded, the Policy infers that good design is considered less important outside the Conservation Area – is that the intention of the Policy?

Response

Change policy to:

The design of all new development within the town should demonstrate its relationship and applicability to its site, setting and context in terms of scale, materials, form, details, layout, public realm and historic character.

Planning Applications should demonstrate how new development contributes positively to Ross with reference to the criteria above and utilising the Ross-on-Wye Character Assessment Portfolio.

In line with NPPF (2019) paragraph 131: "*great weight should be given to outstanding or innovative designs*".

3b) Policy EN2

This is our own proof-reading note – singular for the word 'contribute'! The second paragraph should now read as follows:

Planning Applications should demonstrate how shopfronts and signage development contribute positively to the street scene utilising the Ross-on-Wye Character Assessment Portfolio.

4) Policy EN3

Please can you point me to the justification for the Policy's direct conflict with national and local policy in seeking to prevent all development except rural exception sites outside the settlement boundary?

Response

The policy drew from experience in another area. It has now been amended as below, notably by reference to Core Strategy policies.

Change policy to:

Development will be limited to within the Settlement Boundary as shown on Figure 9, other than where proposals meet the criteria in Core Strategy policies, especially RA3 and RA4.

5) Policy EN4

The phrases "can be supported" and "could be supported" are ambiguous. Is the Policy intended to provide support?

Response

Change policy to:

Infill development, where small gaps in an otherwise built up frontage are developed, will be supported where:

- i. Development has regard to the character of the surrounding townscape.
- ii. The proposed development reflects the density, form and pattern of existing development in Ross (as addressed in the Ross-on-Wye Character Assessment Portfolio), or otherwise enhances character.

Backland development will be supported where:

- i. It is not contrary to the character of the area (as addressed in the Ross-on-Wye Character Assessment Portfolio).
- ii. It is well related and appropriate in height, scale, mass and form to the frontage buildings.
- iii. There is no adverse impact to the character, appearance and safety of the frontage development.
- iv. It is not harmful to residential amenity.

Planning applications should demonstrate how infill or backland development contributes positively to Ross with reference to the criteria above and utilising information in the Ross-on-Wye Character Assessment Portfolio.

6) Policy EN5

For clarity, please could you confirm whether the intention of the Policy is to support any form of development that in any way includes the methods referred to (as set out), or it is to support the use of the stated methods themselves? (ie, taken to its extreme, a nuclear power station might make use of waste reduction)

Response

Change policy to:

For proposed developments that comply with all other relevant policies, applicants are encouraged to make use of a range of 'eco-building' methods such as low carbon and renewable energy, water use reduction, waste water management and the use of locally sourced materials.

7) Policy EN6

Please can you point me to information in respect of what would comprise acceptable harm and what would comprise unacceptable harm (or to information that would provide a decision maker with a clear indication of this)?

Response

As well as a revised policy, this requires some additions to the Explanation text.

Insert new paragraph 4.3.2:

4.3.2 The NPPF 2019 (paragraphs 151-154) supports plans that encourage provision for renewable energy generation. The Building Research Establishment and CPRE have produced a guide specifically about the use of solar/photovoltaic installations¹. This highlights a number of design factors that should be taken into account generally, and especially in AONBs and Conservation Areas, to ensure appropriate visual impact.

Change policy to:

Where planning permission is required, proposals by householders, businesses or community groups owning premises to use solar/photovoltaic panels will be supported if it can be demonstrated that they have taken account of the guidance referenced in paragraph 4.3.2.

8) Policy EN7

Please can you point me to national policy or national guidance, or any evidence, which enables an adopted policy in a development plan to apply to something to which it cannot apply?

Response

We are assuming (let us know if this is incorrect) that this refers to what we now know to have been a mapping error, i.e. figure 10 suggested that all of the hatched area was MoD land. It is not; it is just a very just a small strip. A new map (replacement Figure 10) to accompany EN7 is attached with these notes, excluding the existing MoD land. This necessitates a small change to paragraph 4.4.5 as follows:

¹ <https://www.cpre.org.uk/resources/ensuring-place-responsive-design-for-solar-photovoltaics-on-buildings/>

4.4.5 An area shown highlighted on Figure 10 is currently in the ownership, and under the control of, the Ministry of Defence. The associated policy cannot apply to that land at present. At such time as the MoD release the land or their control over it, Policy EN7 will apply to that area.

9) Policy EN8

The first part of the Policy is clear. In respect of the second part, please can you point me to national policy or guidance that supports the prevention of any development at all that may have an impact on a view (as per 4.5.4 in the Explanation) along with detailed information demonstrating when the Neighbourhood Plan would expect such an approach to be taken?

“Protecting” a view suggests no change. Views change all of the time (hourly to seasonally). Please can you point me to substantive evidence in respect of the precise details of each of the extensive views to be protected, having regard to changes and which provides for sustainable development having regard to national policy. Alternatively, would a requirement to ensure that key views are “respected” by all development achieve the aims of the Policy?

Please can you point me to information in respect of what development “might” impact on key views, who will judge this and on what basis?

Response

The suggested text below comes from an Examiner of another plan.

Change policy to:

Any development proposals that are likely to affect any of the views shown on Figure 11 and detailed in the Views report should assess the effect of the proposals on the view(s) and demonstrate how any adverse effects have been addressed.

10) Policy EN9

Please can you point me to evidence in respect of the deliverability of the requirement for any development affecting green infrastructure to enhance green and open space provision and provide good connections, having regard to Paragraph 56 of the National Planning Policy Framework?

Response

Change policy to:

The Neighbourhood Plan proposes the establishment of a green infrastructure network connecting green spaces across the whole plan area, as indicated in the Green Infrastructure Report.

Any development proposed on land within or adjoining the green infrastructure network will be required to demonstrate that it does not damage the green infrastructure links.

Opportunities should be seized to enhance and maintain such links and support biodiversity, and meet the tests laid down in paragraph 157 of the NPPF 2019.

11) Policy EN10

Please can you point me to information in respect of what a decision maker would do if it were not possible or appropriate to retain boundary treatment features?

Response

Change first paragraph of policy to:

Where Planning Permission is required, permeable paving of front gardens and hardstandings will be supported where all aspects of the proposals are in keeping with the character of the street, including those features of area distinctiveness such as boundary treatments, as highlighted in the relevant Character Area Appraisals (in the Character Assessment Portfolio).

12) Policy H3

Please can you point me to evidence in respect of the terms of reference, legal agreements, funding etc. of the Ross-on-Wye Community Land Trust?

Response

This policy may have been premature as the Ross-on-Wye CLT has been slow to become formally established. Given the national push towards more community-led housing, we would hope to keep at least some mention of this in the plan. Could the following be an amended policy? Alternatively, can something of this sort be added as an aspiration rather than a policy?

Where developments are of a scale that triggers a proportion of affordable housing, or on exceptions sites, any formally established local Community Land Trust, or the existing Ross Almshouse Charity (Registration no. 216162), should be offered the opportunity to deliver that housing.

13) Policy H4

The Policy would prevent any housing in the town centre that doesn't comprise a flat above a ground floor (which conflicts with the Explanation). Is this the intention of the Policy?

Response

Change policy to:

New housing will be encouraged and supported in the defined town centre if in accordance with all other policies.

Where residential accommodation is provided above other ground floor uses, their access(es) should be from a separate ground level entrance.

Details of car parking arrangements, whether on-site or off-site (or on a car-free basis), must be provided.

14) Policy E1

Please can you point me to information in respect of how a decision maker is expected to apply the term "especially"?

Response

Change policy to:

New employment development is encouraged within the wider town area (outside of the defined town centre). Encouragement will be given to proposals that address one or more of the following:

- The provision of starter units and/or shared serviced accommodation.
- Enhancement to the leisure and tourism offer of the town as a whole, while not threatening the vitality and viability of the town centre or conflicting with established uses.
- The provision of higher grade jobs.

15) Policy E3

Please can you point me to evidence to demonstrate that the third bullet point of the Policy does not effectively restrict any new use or change of use to a tourism or cultural use? Please can you point me to information in respect of how other uses would demonstrate such enhancement and why it is necessary, directly related to development and deliverable for them to do so?

Response

Change policy to:

The town centre will continue to be a focus for retail, commercial, leisure and cultural uses. Proposals that add to the tourism offer of the town are particularly encouraged.

Proposals for changed uses which contribute to the vitality and viability of Ross will be supported provided that they meet all other policy requirements and can demonstrate that the original use is no longer viable, that it has sustained a vacancy period of over 12 months and that it has been marketed within the Ross Market Area.

16) Policy A1

Please can you point me to evidence in respect of the deliverability of the requirements set out for all development and information in respect of how a decision maker is expected to interpret the phrase "in particular".

Response

Reflecting on policies A1 and A2, they are repetitive so can be combined into a single new policy A1: Active Travel. In addition, policy A2 included items better addressed as projects.

This necessitates some changes to the explanatory text. New suggested text:

4.22.1 Most importantly, any proposals and projects should operate within the principles of the well-established transport hierarchy that suggests that, to deliver genuinely sustainable movement and access, priority in any plan or development proposal should always be given to those higher up the list below:

- Pedestrians
- Cyclists
- Public Transport
- Private vehicles.

4.22.2 This plan can do very little to address the last two items in the hierarchy above but it can and should do so in relation to pedestrians and cyclists, in line with the recommendations of Public Health England's report on 'Working Together to Promote Active Travel'².

Then previous paragraph 4.23.1 but now 4.22.3 and paragraph 4.32.2 now paragraph 4.22.4.

Change policy to:

Any major developments will be expected to show how they contribute to encouraging active travel – more and safer walking and cycling – for pedestrians, cyclists and those facing mobility challenges. This can include walking and cycling routes within and connecting beyond the site, cycle parking facilities, safe routes to and from the town centre and to key facilities such as the schools and to public transport provision.

17) Policy A2

Please can you point me to information and evidence in respect of who will seek opportunities and who will deliver the four requirements (bullet points) and how?

See above.

18) Policy A3

Please can you point me to information in respect of how "prejudice" will be judged?

Response

Change policy to:

Any applications to develop on all or part of town centre car parks will need to be accompanied by a report to demonstrate the impact on overall town centre parking and how any impacts will be addressed.

19) Policy A4

Please can you point me to a definition of "charging point" and evidence that the cost of a residential charging point will be £100/minimal.

Please can you point me to evidence in respect of the stated "national commitment to replace carbon fuel road vehicles with electric vehicles"?

Please can you point me to evidence of the stated "commercial advantage for places that provide charging points"?

² <https://www.gov.uk/government/publications/active-travel-a-briefing-for-local-authorities>

Response

Because this was a relatively new issue when the plan was being developed, no other plan policies addressing the issue could be found. Since then, the necessary background situation has changed and there is now experience of text and a policy accepted by an Examiner. This therefore necessitates some changes to the Explanation text, as follows:

4.26.1 In 2018, the government welcomed the Business, Energy and Industrial Strategy Committee's report "*Electric vehicles: driving the transition*", stating that it "*shares the Committee's view that electric vehicles represent exciting opportunities for the UK as a tool to address greenhouse gas emissions, reduce air pollution, and as a new economic opportunity*". This was followed up in July 2019 when the Department for Transport, Office of Low Emission Vehicles, launched a consultation on "*proposing that new-build homes are fitted with an electric car charging point*"³.

4.26.2 A key element of the necessary infrastructure for low emission vehicles is currently the provision of electric charging points at homes, at places of work, at places of leisure and so forth and at general public (and private) car parks. While all this plan can do for existing developments and car parks is to encourage the provision of charging points, it includes a policy to ensure provision in new housing developments.

4.26.3 While the emphasis here has been on charging points for cars, consideration should also be given to provision for vehicle charging at non-domestic locations for e-bikes.

Change policy to:

Provision should be made for charging of electric vehicles for all new houses where this can be done on-plot. The addition of charging facilities to places of work or leisure is encouraged.

20) Policy SC1

Please can you point me to information in respect of which new developments will finance community facilities and provide new facilities, including why is this necessary, directly related to the developments and reasonably related in scale and kind to the developments?

Response

An update is now necessary to paragraph 4.27.4 as follows:

4.27.4 Towards the end of the Regulation 14 consultation, the owners of the Chase hotel announced that they would be closing the hotel in September 2019. That closure has now taken place. This is a serious loss for the town in terms of its tourism role but also in terms of its long-standing use as a local venue for community events. It is also a loss that has caused considerable local concern, even a petition about keeping the hotel open. Any opportunities to bring the hotel back into use would be greatly valued, either through the existing owners or new owners.

Change policy to:

There will be a presumption in favour of safeguarding existing facilities against any proposals that would result in their loss. Proposals that would result in loss of a community facility will only be supported where it is clearly demonstrated they are no longer fit for purpose or viable, or that an equivalent alternative facility is available within Ross Parish.

³ <https://www.gov.uk/government/news/electric-car-chargepoints-to-be-installed-in-all-future-homes-in-world-first>

Infrastructure requirements will be sought in accordance with Herefordshire Core Strategy Policy ID1 and the Herefordshire Planning Obligations SPD. The Projects list in Section 6 highlights key local priorities in terms of facilities to which contributions would be directed.

21) Policy SC6

Please can you point me to the justification for all development proposals to include provision for broadband and ducting linked to the national network, including why is this necessary, directly related to development and reasonably related in scale and kind to development?

Response

As well as a revised policy, this requires amendment to the Explanation text in 4.34.2 as follows:

4.34.2 Improvements to services are crucial to the future performance not just of the Ross-on-Wye economy (see section 4.20 – Town Centre uses) but also for households – it can now be considered as basic a service as water or electricity supply. What follows is that provision for access to broadband in particular in all new developments can be regarded in planning terms as necessary and, given the technologies available, appropriate in scale and kind.

Change policy to:

New development proposals will be expected to demonstrate how they make provision for connection to high speed broadband and mobile phone services.

Ross on Wye NDP examination

Request for clarification Question 1

A Strategic Environmental Assessment (SEA) and a Habitats Regulations Assessment (HRA) were submitted alongside the Neighbourhood Plan. Neither Herefordshire Council nor any of the statutory consultees (Historic England, Natural England² and the Environment Agency) have expressed any substantive concerns in respect of the Neighbourhood Plan's compatibility with European obligations.

- ***Taking all of the above into account, please can Herefordshire Council confirm that it has considered all relevant information and that it is satisfied (or is not satisfied) that the Neighbourhood Plan is compatible with European obligations ?***

Response:

Herefordshire Council have sought Counsel advice with regards to recent European Court judgments concerning Habitat Regulation Assessments (HRA)

https://www.herefordshire.gov.uk/download/downloads/id/16662/briefing_note_following_legal_advice_-_hra_sweetman_-_update_september_2018.pdf

https://www.herefordshire.gov.uk/download/downloads/id/16539/habitats_regulations_assessment_dutch_nitrogen.pdf

Therefore the impacts of both 'People of Wind' and the 'Dutch Nitrate' cases have been taken in to consideration when the assessments were undertaken.

Legal advice has indicated that policy SD4 is part of the development plan and importantly removes that pathway to harm and 'likely significant effects'.

Herefordshire Council have considered all the relevant information when undertaking the assessments.

No concerns have arising during the consultations from the statutory consultees to the conclusions reached within the assessment.

