

Herefordshire Council

**Allensmore  
Neighbourhood Development  
Plan 2019 - 2031**

**Independent Examiner's Report**

By Ann Skippers MRTPI FHEA FRSA AoU

20 March 2020

## Contents

	<b>Summary</b>	<b>3</b>
<b>1.0</b>	<b>Introduction</b>	<b>4</b>
<b>2.0</b>	<b>The role of the independent examiner</b>	<b>4</b>
<b>3.0</b>	<b>The examination process</b>	<b>6</b>
<b>4.0</b>	<b>Neighbourhood plan preparation</b>	<b>7</b>
<b>5.0</b>	<b>Compliance with matters other than the basic conditions</b>	<b>8</b>
<b>6.0</b>	<b>The basic conditions</b>	<b>9</b>
	<i>National policy and advice</i>	9
	<i>Sustainable development</i>	10
	<i>The development plan</i>	11
	<i>European Union (EU) obligations</i>	11
	<i>European Convention on Human Rights (ECHR)</i>	13
<b>7.0</b>	<b>Detailed comments on the Plan and its policies</b>	<b>13</b>
	1. <i>What is a Neighbourhood Development Plan?</i>	13
	2. <i>A Neighbourhood Development Plan for Allensmore</i>	13
	3. <i>A Portrait of Allensmore</i>	14
	4. <i>Vision and Objectives</i>	14
	5. <i>Planning Policies and Proposals</i>	14
	- <i>Policy A1</i>	14
	- <i>Policy A2</i>	15
	- <i>Policy A3</i>	17
	- <i>Policy A4</i>	19
	- <i>Policies A5 and A6</i>	22
	- <i>Policies A7 and A8</i>	24
	6. <i>Next Steps</i>	25
	<i>Appendices</i>	25
<b>8.0</b>	<b>Conclusions and recommendations</b>	<b>26</b>
	<b>Appendix 1 List of key documents</b>	<b>27</b>
	<b>Appendix 2 Questions from the examiner</b>	<b>28</b>

## Summary

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

The Plan covers the three main settlements of Allensmore, Cobhall Common and Winnal. The Parish lies about five miles southwest of Hereford and some 15 or so miles northwest of Ross-on-Wye. The A465 cuts through the eastern side of the area north-south. With a population of 566, the Plan seeks to safeguard the character of the area whilst ensuring that appropriate development is supported for this rural community.

The Plan contains eight policies covering a range of topics including site allocations and the definition of settlement boundaries for the three main settlements.

It has been necessary to recommend some modifications in the main to ensure that the Plan's application and clarity provide a practical framework for decision making. My reasoning is set out in detail in this report. In my view, these do not significantly or substantially alter the intention or overall nature of the Plan.

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 delighted to recommend to Herefordshire Council that the Allensmore Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area whilst I note the Plan area is smaller than the Parish administrative boundary, I see no reason to alter or extend this area for the purpose of holding a referendum

Ann Skippers MRTPI  
Ann Skippers Planning  
20 March 2020



## 1.0 Introduction

This is the report of the independent examiner into the Allensmore 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 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 thirty years experience in planning spanning 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 conditions<sup>1</sup> are:

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

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation

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

and referred to in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.<sup>2</sup> It states that:

- The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

The examiner is also required to check<sup>3</sup> whether the neighbourhood plan:

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

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.<sup>4</sup>

The examiner must then make one of the following recommendations:

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

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

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.

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<sup>2</sup> Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

<sup>3</sup> Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

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

### 3.0 The examination process

I have set out my remit in the previous section. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).<sup>5</sup>

PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.<sup>6</sup> 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.

PPG<sup>7</sup> 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.<sup>8</sup>

I sought clarification on a number of matters from the Parish Council and HC in writing and my list of questions is attached to this report as Appendix 2. I am very grateful to both Councils who have provided me with comprehensive answers to my questions. The responses received (all publicly available) have enabled me to examine the Plan without the need for a hearing.

In 2018, NPIERS published guidance to service users and examiners. Amongst other matters, the guidance indicates that the qualifying body 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 a qualifying body to make any comments; it is only if they wish to do so. The Parish Council made comments and I have taken these into account.

I am very grateful to everyone for ensuring that the examination has run smoothly.

I made an unaccompanied site visit to familiarise myself with the Plan area on 15 January 2020.

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, renumbering

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<sup>5</sup> PPG para 055 ref id 41-055-20180222

<sup>6</sup> *ibid*

<sup>7</sup> *ibid* para 056 ref id 41-056-20180222

<sup>8</sup> *ibid*

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 and the Plan's presentation made consistent.

## 4.0 Neighbourhood plan preparation

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

A launch event was held in July 2017. This was well attended and the opportunity was taken to find out what issues concerned residents as well as what was good about living in Allensmore.

This day informed the 'Issues and Options' document published in January 2018. This document was an important foundation for the Plan and is referred to throughout in the Plan. It was consulted upon from 9 January – 11 February 2018. A drop in event was held during this period. This stage elicited a reasonable response from residents. The results of the consultation were used to inform the draft Plan.

A 'Call for Sites' was undertaken in March – April 2018. 23 sites came forward and were assessed independently by AECOM.

A First Draft Plan (Preferred Options) was consulted upon in January 2019. A drop in event was held during this period. There was a response rate of 21%. This stage of consultation was akin to a pre-submission consultation stage in its outreach and publicity.

Pre-submission consultation was held between 27 May – 12 July 2019. This stage was publicised through notices, posters and flyers on local noticeboards and other public places and in local newspapers. As well as being available on the website, hard copies of the Plan were placed at various location in the Plan area. The formal pre-submission stage did not generate many representations no doubt because of the consultation on the First Draft Plan held less than six months earlier.

The consultation and engagement carried out is satisfactory.

Submission (regulation 16) consultation was held between 7 October – 18 November 2019.

The Regulation 16 stage resulted in 11 representations including a representation received late from Natural England. I have considered all of the representations made

and taken them into account in preparing my report.

## 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

Allensmore Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

### Plan area

The Plan area is smaller than the Parish area because a small area of the Parish south of Clehonger has been included in the Clehonger neighbourhood plan area. The Plan area is shown on Map 1 on page 7 of the Plan. HC approved the designation of the area on 26 May 2017. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements.

### Plan period

The Plan indicates that the period it covers is 2019 – 2031. However, the Basic Conditions Statement states the Plan period is 2011 – 2031. In answer to a query on this point, it was confirmed that the time period covered is 2011 – 2031. These dates align with the time period for the Core Strategy. This requirement is therefore met.

- **Change the date on the front cover of the Plan from “2019 – 2031” to “2011 – 2031”**

### 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.<sup>9</sup>

In this case non-planning matters have been included in the Plan as a separate appendix.

## 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. On 19 February 2019, the revised NPPF was updated and replaces the previous NPPF published in March 2012 and revised last July.

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 delivery of strategic policies and should shape and direct development outside of these strategic policies.<sup>10</sup>

Non-strategic policies are more detailed for specific areas, neighbourhoods or types of development.<sup>11</sup> They can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment as well as set out other development management policies.<sup>12</sup>

The NPPF also makes it clear that neighbourhood plans should not promote less development than that set out in strategic policies or undermine those strategic policies.<sup>13</sup>

The NPPF states that all policies should be underpinned by relevant and up to date evidence; evidence should be adequate and proportionate, focused tightly on supporting and justifying policies and take into account relevant market signals.<sup>14</sup>

Policies should also be clearly written and unambiguous so that it is evident how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area including those in the NPPF.<sup>15</sup>

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<sup>9</sup> PPG para 004 ref id 41-004-20170728

<sup>10</sup> NPPF para 13

<sup>11</sup> Ibid para 28

<sup>12</sup> Ibid

<sup>13</sup> Ibid para 29

<sup>14</sup> Ibid para 31

<sup>15</sup> Ibid para 16

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 [www.gov.uk/government/collections/planning-practice-guidance](http://www.gov.uk/government/collections/planning-practice-guidance) 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 unambiguous<sup>16</sup> to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the planning context and the characteristics of the area.<sup>17</sup>

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.<sup>18</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>19</sup>

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan aligns with the NPPF. It does so in a way that seeks to be specific to this Plan and this is done successfully and so this approach is to be welcomed.

### **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 confirms that the purpose of the planning system is to contribute to the achievement of sustainable development.<sup>20</sup> This means that the planning system has three overarching and interdependent objectives which should be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives.<sup>21</sup> The objectives are economic, social and environmental.<sup>22</sup>

The NPPF confirms that planning policies should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account to reflect the character, needs and opportunities of each area.<sup>23</sup>

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

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<sup>16</sup> PPG para 041 ref id 41-041-20140306

<sup>17</sup> Ibid

<sup>18</sup> Ibid para 040 ref id 41-040-20160211

<sup>19</sup> Ibid

<sup>20</sup> NPPF para 7

<sup>21</sup> Ibid para 8

<sup>22</sup> Ibid

<sup>23</sup> Ibid para 9

## **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 offers an assessment of how each Plan policy generally relates to the relevant CS policies.

## **European Union Obligations**

A neighbourhood plan must be compatible with European Union (EU) obligations. A number of EU obligations may be of relevance for these purposes including in respect of Strategic Environmental Assessment, Environmental Impact Assessment, Habitats, Wild Birds, Waste, Air Quality and Water matters.

PPG<sup>24</sup> 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.

## ***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 October 2019 has been submitted as the initial screening assessment of July 2017 indicated a SEA was needed.

The ER confirms that a Scoping Report dated October 2017 was prepared and sent to the statutory consultees from 23 October – 27 November 2017. Responses were received from Natural England and Historic England.

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<sup>24</sup> PPG para 031 ref id 11-031-20150209

A draft ER underwent a period of consultation alongside the pre-submission version of the Plan. Following the Regulation 14 stage, changes to two policies were made. Both policies were reviewed as a result of these changes.

The ER concludes that the Plan “...is in general conformity with both national planning policy...and strategic policies...” and “...the plan is positive and would have a positive impact upon the SEA baseline data...”.<sup>25</sup> 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.<sup>26</sup> In my view, it has been prepared in accordance with Regulation 12 of the Regulations.

Therefore EU obligations in respect of SEA have been satisfied.

### ***Habitats Regulations Assessment***

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.<sup>27</sup> The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

A HRA dated October 2019 has been submitted. This explains that an initial screening undertaken in July 2017 concluded that a full HRA screening would be needed. This was because the western part of the Plan area falls within the hydrological catchment of the River Wye (including the River Lugg) Special Area of Conservation (SAC).

The HRA concludes that the Plan “will not have a likely significant effect”<sup>28</sup> on the European site. This related both to alone and in combination effects. It also included a rescreen of the two amended policies following the pre-submission stage.

On 28 December 2018, the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) was substituted by a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

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<sup>25</sup> Environmental Report Non-technical summary

<sup>26</sup> PPG para 030 ref id 11-030-20150209

<sup>27</sup> Ibid para 047 ref id 11-047-20150209

<sup>28</sup> HRA Report October 2019 para 9.1

Given the nature and characteristics of the SAC concerned and the nature and contents of this Plan, I consider that the requisite requirements have been met and that the prescribed basic condition is complied with.

National guidance establishes that the ultimate responsibility for determining whether a plan meets EU obligations lies with the local planning authority.<sup>29</sup> In undertaking work on HRA, HC has considered the compatibility of the Plan in regard to EU obligations, including with the Water Framework Directive, and does not raise any concerns in this regard.

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

The Basic Conditions Statement contains a statement in relation to human rights. Having regard to the Basic Conditions Statement, there is nothing in the Plan that leads me to conclude there is any breach or incompatibility with Convention rights.

## **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**. Where I suggest specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is presented very well. There are eight policies. It starts with a useful contents page and an introductory foreword that sets the scene well and outlines the next stages. The foreword will of course need some natural updating as the Plan progresses towards being made.

### **1. What is a Neighbourhood Development Plan?**

This is a helpful introduction to the Plan that sets out the key stages and context for the Plan. This section will also need some natural updating as the Plan progresses through the various stages referred to.

### **2. A Neighbourhood Development Plan for Allensmore**

This is an informative and well written section that explains the evolution of the Plan and signposts other documents and other resources for further, more detailed information.

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<sup>29</sup> PPG para 031 ref id 11-031-20150209

### 3. A Portrait of Allensmore

This well written and informative section sets the context by providing a wealth of information about the Parish and its settlements and characteristics.

### 4. Vision and Objectives

The clearly articulated vision for the area is:

“ To protect and enhance the parish’s rural character through gradual evolution and appropriate development, which improves the quality of life for current and future generations of residents by creating a sustainable environment, enhancing wellbeing and promoting community cohesion.”

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

The fourth objective is in the same colour text as the headings which gives it an over emphasis perhaps; this is a minor editing matter.

### 5. Planning Policies and Proposals

#### 5.1 Environment and Biodiversity

#### Policy A1 – Protecting and Enhancing Local Landscape Character

This is a relatively long policy which covers significant views, landscaping and local built character. Its overall aim is to ensure that any new development takes account of local landscape character and those features that the local community especially value. The NPPF is clear that the planning system should contribute to and enhance the natural and local environment.<sup>30</sup> Given the rural nature of this Plan area, the distinguishing features are its openness, its views both short and longer distance, the woodlands and orchards, trees and hedgerows and ponds. I saw all of these features during my visit.

The policy wording is generally clear, but there is one element which I consider could be clearer and provide more of a practical framework for decision making. This modification will also help with how the policy is applied for development management purposes.

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<sup>30</sup> NPPF para 170, 171, 174

With this modification, the policy will take account of national policy and guidance. It will generally conform to CS Policies SS6, LD1, LD2 and LD3 and will help to achieve sustainable development.

- **Add after “Development proposals will be required...” the words “...to provide a proportional statement and/or plan...” at the end of the first sentence of the policy**

## **Policy A2 – Protecting and Enhancing Local Wildlife**

The NPPF is clear that planning policies should contribute to and enhance the natural and local environment. One of the ways in which this can be done is through the protection and enhancement of biodiversity.<sup>31</sup>

Policy A2 sets out a priority for development whereby any harmful impact should be avoided but when it cannot be avoided, in exceptional circumstances, then mitigation should be provided. I am not convinced this takes account of the NPPF which seeks to, amongst other things, minimise impacts on biodiversity and provide net gains for biodiversity.<sup>32</sup> The NPPF goes on to state that if significant harm cannot be avoided, adequately mitigated or compensated for, development should be refused. The same applies to the loss or deterioration of irreplaceable habitats such as ancient woodland. Therefore the first element of the policy needs to be strengthened to take account of the NPPF.

In relation to landscaping, the policy needs strengthening to reflect the net gain for biodiversity sought by the NPPF.<sup>33</sup>

The next element of the policy requires strengthening because as it currently reads, applicants could consider wildlife, but then do nothing else about it.

The final element of the policy relates to lighting and the protection of dark skies. This is an important element of ensuring that any new development is appropriate to its location. It is clearly worded.

With these modifications, made in the main to help with the application and robustness of the policy, the policy will take account of national policy and guidance. It will generally conform to CS Policies SS6, LD1, LD2 and LD3 and will help to achieve sustainable development.

- **Reword the first paragraph of the policy to read: “New development should avoid harmful impacts on biodiversity and provide net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, then mitigation or**

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<sup>31</sup> NPPF para 170

<sup>32</sup> Ibid

<sup>33</sup> Ibid

***compensation should be considered in exceptional circumstances. Where this cannot satisfactorily occur, permission should be refused.”***

- **Change the third paragraph of the policy (Landscaping) to: “Landscaping schemes should include wildlife enhancements *to provide a net gain for biodiversity, for example...*” [retain remainder of paragraph as existing]**
- **Change the fourth paragraph of the policy (Buildings) to read: “Development *must protect and encourage...*” [retain remainder of paragraph as existing]**

## **5.2 Housing**

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

The strategy for the rural areas in the CS<sup>34</sup> is positive growth. CS Policies SS2 and RA1 indicate that 5,300 dwellings will be delivered throughout the rural housing market areas (HMA).

The strategy is based on seven HMAs. This Plan area falls within the Ross-on-Wye HMA. This HMA has an indicative housing growth target of 14% according to CS Policy RA1. This equates to 32 dwellings in the Parish (rather than the Plan area) over the Plan period.

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 each neighbourhood plan across the County.

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. Winnal is identified in Figure 4.14 as a settlement which will be the main focus of proportionate housing development. Allensmore and Cobhall Common are identified in Figure 4.15 as settlements where proportionate housing is appropriate.

In Parishes which have more than one settlement listed in Figure 4.14 and 4.15, then the Plan has appropriate flexibility to apportion the minimum housing requirement between the settlements concerned.<sup>35</sup>

The Plan indicates that recent developments and existing commitments mean the minimum housing requirement has already been met. I requested the most up to date information on this point. I am informed that there was a residual housing growth figure of three as at April 2019. However, based on the most up to date information provided to me in response to my queries, the proportional growth target has been met and exceeded as at the end of February 2020.

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<sup>34</sup> Core Strategy Section 4.8

<sup>35</sup> Ibid page 107



The Plan explains that although Winnal is the main focus for development in the CS, HC's Strategic Housing Land Availability Assessment (SHLAA) of 2012 identified one site and no further sites were considered in the updated SHLAA of 2015. No sites in Allensmore or Cobhall Common were considered in the SHLAA. In response to my query, it is confirmed that there is a more recent SHLAA from March 2019. It may be useful to do some natural updating to the Plan as it progresses towards adoption.

A 'Call for Sites' was undertaken as part of the work on the Plan in March 2018. 23 sites came forward and were independently assessed by AECOM. Seven sites were considered suitable as potential site allocations including one conversion of a barn. The sites allocated in the Plan are those AECOM considered suitable for allocation.

The supporting text refers to a standard national indication in relation to density of 30 dwellings per hectare. Whilst I do not disagree that this is widely regarded and used as a 'benchmark' and is more than appropriate for the exercise described in this part of the Plan, as far as I am aware it is not a standard or national formula. A modification is therefore made to ensure this is clear.

The text then seeks to set out the density of the existing settlements. In response to a query on how the capacity of the site allocations has come about, work has been done as part of the Plan to consider the average housing density of settlements and their surrounding areas and this is explained in the Plan on pages 22 and 23.

With these modifications, I consider this section will be clearer.

- **Change the sentence which begins "Residents should note..." in paragraph 5.2.12 on page 22 of the Plan to: "Residents should note that 30 dwellings per hectare is *commonly used and accepted as a benchmark for density across England.*"**
- **Delete the words "standard national formula" from the last sentence in paragraph 5.2.13 on page 22 and replace with "*notional benchmark*"**

### **Policy A3 – Proposed Site Allocations**

This policy seeks out seven site allocations. All the sites are clearly shown on Maps 2, 3 and 4.

Taking each in turn:

Site 1 Cats Whiskers Boarding Cattery, Winnal. This site is allocated for one dwelling subject to site layout criteria. The policy also indicates the site's suitability for holiday accommodation.

Site 4 Willoughby Cottage Garden, Winnal. This site is allocated for one dwelling subject to suitable access and replacement planting of any removed hedgerows.

Site 6 Church Road, Allensmore. This site is allocated for “up to” two dwellings. It is not usually appropriate to impose a cap on housing numbers in site allocations as this can often stifle a design led approach and the achievement of sustainable development. However, I note planning permission has been granted for two units (application reference 183052). The policy includes other criteria on access and surface water drainage. The criteria in relation to surface water drainage is unclear and goes beyond what could be reasonably expected of a development on this site. A modification is therefore made to address this concern.

Site 14 South of Winnal Farm, Winnal. This is one of the larger land areas for allocation. The policy indicates that the whole site may not be suitable for development, but this may be difficult to control given the whole site has been included in the settlement boundary. The policy supports development for 13 dwellings in the south east corner of the site subject to suitable screening and landscaping. The AECOM Report suggests that the south west corner of the site is appropriate for allocation. In response to my query on this matter, it is helpfully confirmed that it is the south east area. This area also adjoining the proposed settlement boundary in the neighbouring Kilpeck Neighbourhood Development Plan, currently being developed and at the pre-submission stage. However, a cap is not appropriate and a modification is made to reflect this.

Site 15 Cobhall Lane, Cobhall Common. Allocated for “up to” four dwellings, the policy explains the capacity may be limited by the nature of Cobhall Lane which is borne out by comments in the AECOM Report. Development is permitted subject to three criteria relating to siting and design, amenity and hedgerows and trees. Planning permission has been granted for seven units (planning application reference 174681) in March 2019. I consider that the Plan should reflect this position. A modification is therefore made.

Site 20 Cobhall Common. Allocated for “up to” eight dwellings subject to siting, layout, density and design considerations. Again a cap is not appropriate to impose although I note that planning permission has been granted for four dwellings (application reference 182371). Modifications are therefore made in the interests of consistency.

Site 16 Courts Plocks is allocated for a barn conversion to a single dwelling. I am not sure this is a necessary allocation, but it sets out the acceptability of such a proposal. The barn would be suitable for such a conversion as it is adjacent to a residential property and the access to it is via a narrow road making commercial or other non-residential uses likely to be inappropriate.

There are also some modifications to the wording of the policy to ensure it provides a practical framework for decision making.

With these modifications, the policy will take account of national policy and guidance, be in general conformity with CS Policies SS2, RA1 and RA2 and help to achieve sustainable development.

- **Delete the word “Proposed” in the policy’s title**
- **Delete the words “...as Preferred Options...” from the first paragraph of the policy**
- **Delete the words “up to” in relation to Site 6**
- **Change criterion 2. in relation to Site 6 to read: “Development proposals provide effective surface water drainage measures *that ensure that the surface water drainage onsite is satisfactorily dealt with and that the development does not result in increasing the risk of flooding onsite or elsewhere.* Sustainable drainage systems (SuDs) should be implemented in accordance with the SuDs hierarchy unless deemed inappropriate.”**
- **Change the words “for 13 dwellings” in relation to Site 14 to “*approximately 13 dwellings*”**
- **Replace the words “up to 4 dwellings” in relation to Site 15 with “*7 dwellings*”**
- **Replace the words “up to” in relation to Site 20 with “*approximately*”**
- **Delete “(below 30 dwellings per hectare)” from criterion 1. in relation to Site 20**

#### **Policy A4 – Criteria for Development in Settlement Boundaries**

CS Policy RA2 supports sustainable housing growth in or adjacent to the settlements listed in Figures 4.14 and 4.15 of the CS. The CS explains that settlement boundaries for settlements identified in CS Policy RA2 will be defined in neighbourhood plans or in the Rural Areas Sites Allocation Development Plan Document. In the period leading up to the definition of appropriate settlement boundaries, development proposals will be assessed against their relationship to the main built up form of the settlements (if they are listed in Figures 4.14 or 4.15 of the CS).<sup>36</sup> Once a settlement boundary is defined, CS Policy RA3 will apply to land outside of settlements. Therefore once a settlement boundary is defined, land outside it is regarded as countryside.

CS Policy RA3 applies to rural areas and restricts housing development to certain categories including agricultural or other rural workers, replacement dwellings, reuse of

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<sup>36</sup> Core Strategy page 111

existing buildings, rural exception housing, design of exceptional quality or gypsy and traveller sites.

The Plan explains that during the evolution of the Plan, a number of different options for the settlement boundaries for Allensmore, Cobhall Common and Winnal were put forward. After various rounds of consultation, the proposed settlement boundaries for the three settlements are shown on Maps 2, 3 and 4. The boundaries include the proposed allocations subject of Policy A3.

Whilst there are always different ways to designate settlement boundaries and at the end of the day these matters are largely one of judgement, I consider the settlement boundaries to reflect the existing predominant character and built form of the settlements concerned. This is in line with HC's Guide to settlement boundaries April 2013 - Revised June 2015 and I note that HC consider this policy to be in general conformity with the CS.

However, over the passage of time, planning permission has been granted for a number of schemes. I consider that where these sites adjoin the proposed settlement boundary, these should now be brought into the settlement boundary to recognise the planning status of these permissioned sites. This is also in line with the guidance issued by HC and referred to above.

In making these modifications, I am conscious that the Guidance Note rightly indicates that inclusion within a settlement boundary does not guarantee any grant of planning permission and there are other policies which ensure that the character and linear form of the village are respected. This then in itself does not mean that development on these sites would be acceptable although I am recommending their inclusion because they have an extant planning permission. I appreciate this recommendation may be controversial with the community, but for me to recommend otherwise would not properly recognise the status of these sites.

The NPPF states that good design is a key aspect of sustainable development.<sup>37</sup> It explains that neighbourhood plans play an important role in explaining how the special qualities of an area should be reflected in development.<sup>38</sup> Policy A4 sets out the criteria for development within the settlement boundaries. Although this is a relatively long policy, it seeks to ensure that development respects and reflects the locally distinguishing features and character of the settlements concerned adding a local level of detail to CS policies.

However, a number of concerns arise. The first is that the policy prefers no more than three dwellings but there is no explanation as to why more than three would be unacceptable.

The second is that on brownfield sites, the policy states that new housing development should not be adversely impacted by existing agricultural or commercial activities or

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<sup>37</sup> NPPF para 124

<sup>38</sup> Ibid para 125

vice versa. The NPPF outlines the agent of change principle.<sup>39</sup> The agent of change principle is important because it means existing agricultural or commercial uses should not be adversely affected by new residential development or have undue restrictions placed upon them as a result of new development. Rather it is the new development which should make sure it can be satisfactorily located with the existing uses. A modification is then made to correct this in the policy. In addition, there is no reason why this should only apply to brownfield land and so this reference is removed.

The next criterion imposes a height restriction; I can find no justification for this. A modification is therefore made to criterion 2..

Criteria 3., 4. and 5. are worded appropriately.

Criterion 6. refers to traffic speed which is not a development and use of land matter. This reference then needs to be removed.

Criteria 7., 8. and 9. are appropriate in this local context and clearly worded.

With these modifications, the policy will take account of the NPPF's stance on achieving well designed places, will be in general conformity with the CS and Policies SS2, RA1, RA2 and SD1 in particular and will help to achieve sustainable development.

- **Include the site known as Land behind Murrayfield, Cobhall Common as shown on the Commitment sites Map and indicated as 182938 in the Cobhall Common settlement boundary**
- **Include the site known as Church Road, Allensmore as shown on the Commitment sites Map and indicated as 190650 in the Allensmore settlement boundary**
- **Revise criterion 1. of the policy to read: “Development is small in scale *on infill sites of single depth* (that is, not behind other houses) and where *the occupiers of new housing* development will not be adversely *affected* by existing agricultural or commercial *activities*.”**
- **Revise criterion 2. To read: “Properties and extensions *reflect the* character of the settlements with housing set back in large plots (appropriate to the size of the dwelling) and interspersed amongst green spaces. Considerations include size, scale, density, *height*, layout and landscaping.”**
- **Delete “...and suitable measures should be proposed to encourage appropriate traffic speeds” from criterion 6.**

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<sup>39</sup> NPPF para 182

## Policy A5 – Housing Mix

This policy seeks to ensure new housing development provides for a mix of sizes, types and tenures to meet local needs which are specified in the policy. The local needs in the policy for smaller homes is borne out by HC's Local Housing Market Assessment 2013 which found that within the Ross-on-Wye Housing Market Area, the greatest need is for one bed units, then 3 bed, followed by 2 bed homes. I consider the policy should be 'future proofed' by adding a sentence on the latest housing needs.

Density and plot size are also referred to. More flexibility is needed on these issues.

The requirement that any affordable housing should be integrated across the site is to be welcomed.

I also queried whether the policy was intended to apply to the Parish or Allensmore. Appropriately, I feel, it was confirmed the policy applies to the Plan area. A modification is made to ensure this is clearer.

With these modifications, the policy will take account of the NPPF's support for housing of different sizes, types and tenures to meet the needs of different groups,<sup>40</sup> be a local expression of CS Policy H3 in particular and will help to achieve sustainable development.

- **Add the words "*Neighbourhood Plan area*" at the end of the first paragraph of the policy**
- **Add at the end of the first sentence in the second paragraph of the policy "*or to other local needs if up to date housing needs information demonstrates a different mix is required*"**
- **Change the second sentence in the second paragraph of the policy to read: "*Whilst plot size should have regard to the prevailing plot size and density of the area in which the development is situated, any development should be designed according to the type and size of dwelling being proposed, so as to balance the need for efficient use of available plots.*"**

### ***5.3 The Economy of Allensmore, Cobhall and Winnal***

## Policy A6 – Conversion of Former Agricultural Buildings

Employment in the Plan area is in a variety of sectors.

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<sup>40</sup> NPPF para 61

This policy supports proposals for the appropriate reuse of redundant or disused agricultural buildings for small scale business use.

The NPPF is clear that the sustainable growth and expansion of all types of business in rural areas is supported. This is through both the conversion of existing buildings and well-designed new ones.<sup>41</sup>

Secondly, in line with earlier comments in relation to Policy A4, a change in stance in relation to the agent of change is needed.

Therefore modifications are made to the policy to ensure that it takes account of the stance in the NPPF.

The third paragraph of the policy refers to Policy A4. Cross references to other policies are rarely needed in my view as the development plan is read as a whole, but in this case, Policy A4 relates to development within settlement boundaries. It therefore is inappropriate to reference this policy anyway as much of the conversions are likely to be outside the settlements by their very nature.

The other criteria in the policy read well and are appropriate given the nature of the local area.

With the recommended modifications, the policy will take account of national policy and guidance, be a local expression of, and be in line with, the general thrust of CS Policies SS5, RA5 and RA6 and will help to achieve sustainable development.

- **Change the first paragraph to read: “The sensitive re-use of redundant or disused former agricultural *or other rural* buildings, including farmsteads, for residential or small-scale business use such as workshops, offices and studios will be supported where it does not lead to *unacceptable impacts* on local residents or on existing agricultural or commercial activities. *The operation of existing agricultural or other commercial practices such as dairy/poultry farming, muck spreading etc. should not be adversely affected by new residential development and schemes should be designed to ensure that suitable mitigation is in place before first occupation.*”**
- **Delete “(see also Policy A4, Criteria for Development)” from the third paragraph of the policy**

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<sup>41</sup> NPPF para 83

## 5.4 Improving Local Accessibility and Infrastructure

### Policy A7 – Drainage, Flooding and Sewerage

The supporting text to the policy explains that whilst mains water is available in all three settlements, mains sewage is not available in the Plan area. Surface water is an issue in the area. There is widespread concern about drainage flooding, sewage and the high water table in Cobhall Common and Winnal Common.

Maps 6 and 7 on page 43 of the Plan illustrate the flood risk from surface water and rivers. It would be useful to add a note to encourage users of the Plan to seek the most up to date information on these matters.

There is little doubt that consideration of flood risk will proactively help to meet one of the challenges of climate change. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.<sup>42</sup> It advocates a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property.<sup>43</sup>

The policy seeks to help to address flood risk and encourage appropriate surface water and sustainable drainage systems. It takes account of national policy and guidance, generally conforms to CS Policies SS7 and SD3 in particular and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are made except to the Maps.

- **Add a sentence to Maps 6 and 7 on page 43 of the Plan that reads: “Users of the Plan are encouraged to seek the most up to date information from the Environment Agency or other reliable sources of information.”**

## 5.5. Community Facilities

### Policy A8 – Protecting the Church and Village Hall and Supporting Investment in Improved Facilities

Apart from the Village Hall and Church there are no other community facilities within the Plan area. The local community therefore values both very highly.

This policy protects both the Church and Village Hall for community type uses.

Guarding against the loss of valued facilities and services is an important element of the promotion of healthy and safe communities found in the NPPF.<sup>44</sup>

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<sup>42</sup> NPPF para 155

<sup>43</sup> Ibid para 157

<sup>44</sup> Ibid para 92



It also supports development that would improve or provide new recreational, community educational resources or infrastructure. This is in line with the NPPF's encouragement to the provision of social, recreational and cultural facilities and services which the community needs and their protection.<sup>45</sup>

The policy is clearly worded. Given the nature of the local area, there is sufficient flexibility within the policy.

The policy takes account of take account of the NPPF<sup>46</sup> which promotes the retention, and development, of local services and community facilities, is a local expression of CS Policy SC1 in particular which protects, retains and enhances existing social and community infrastructure and helps to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

## 6. Next Steps

This section sets out the next steps. It will of course need updating or removing as the Plan progresses towards being made.

## Appendices

A number of appendices are attached to the Plan.

Appendix I is details of the launch event. This is referred to in Section 2 of the Plan and does add some context although consideration could now be given to removing this and retaining it as a separate document.

Appendix II contains details of listed buildings in the Parish. This is referred to in Section 3 of the Plan. This should be 'future proofed'.

Appendix III has details of recent planning applications. I consider this could become out of date very quickly. It is unnecessary to include this in the Plan. Information on these matters should be sought from HC. There is also no reference to this appendix in the body of the Plan. Therefore in the interests of clarity, it should be removed from the Plan.

Appendix IV is a definition of affordable housing. It is referred to in the Plan and reflects the NPPF.

Appendix V is Proposed non-planning actions for the Parish Council. This is referred to clearly in paragraph 5.4.15 on page 40 of the Plan. Its presentation in this way and

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<sup>45</sup> NPPF para 92

<sup>46</sup> Ibid

inclusion is in line with PPG advice. However, references to “page 10” should be updated.

Appendix VI is a map showing the sites subject of the ‘Call for Sites’ and summary of the AECOM Site Assessment Report. This is referred to in the Plan, but may now be more appropriately removed given the stage the Plan has reached. This is not a recommendation I need to make in respect of the basic conditions.

Appendix VII is a list of Steering Group members.

- **Add a sentence to Appendix II that reads: “*The information in this appendix is correct at the time of writing the Plan. Up to date information on heritage assets should always be sought from Historic England or other reliable sources of information.*”**
- **Delete Appendix III**
- **Ensure references to other documents and parts of the plan in Appendix V are correct**
- **Consequential amendments will be necessary**

## 8.0 Conclusions and recommendations

I am satisfied that the Allensmore 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 Allensmore 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 have been mindful that the Plan area is smaller than the Parish area, but I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the Plan should proceed to a referendum based on the Allensmore Neighbourhood Plan area as approved by Herefordshire Council on 26 May 2017.

*Ann Skippers* MRTPI  
Ann Skippers Planning  
20 March 2020

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

Neighbourhood Development Plan 2019 – 2031 Submission Plan September 2019

Basic Conditions Statement

Consultation Statement

Environmental Report October 2019

Habitats Regulations Assessment Report October 2019

Allensmore village Policies Map

Cobhall Common village Policies Map

Winnal village Policies Map

Court Plocks Policies Map

Herefordshire Core Strategy 2011-2031 October 2015 and Appendices

Saved Policies of the Unitary Development Plan 2007

Documents on the Parish Council website [www.allensmore.org.uk](http://www.allensmore.org.uk) including AECOM Site Assessment Report (September 2018), Issues and Options Consultation Winter 2017-18 and Issues and Options Consultation Survey Report Issue 1.2 February 2018

Parish Council comments on Regulation 16 representations

**List ends**

## Appendix 2 Questions from the examiner

### Allensmore Neighbourhood Plan Examination

#### Questions of clarification from the Examiner to the Parish Council and HC

Having completed my initial review of the Neighbourhood Plan (the Plan), I would be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information. Please do not send or direct me to evidence that is not already publicly available.

1. The Plan indicates that the period it covers is 2019 – 2031. However, the Basic Conditions Statement states the Plan period is 2011 – 2031. Which is right please?
2. The Plan indicates that recent developments and existing commitments mean the minimum housing requirement has already been met. Please could HC confirm whether this is the case and whether the answer to question 1 above on the Plan period affects this answer?
3. Please update me on any completions, commitments or planning permissions which have occurred since the submission plan was written. It appears as though some of the proposed allocation sites are now being built out or have permission? Please provide a roughly annotated map for the three settlements showing completions, commitments or permissions so that the settlement boundaries can be updated to include any sites now built or with planning permission and Policy A3 can be updated to remove any sites as necessary as they already have permission etc.
4. Is the SHLAA Update of 2015 the most recently available document?
5. How has the capacity of the sites allocated in Policy A3 been reached? AECOM has used a 30 dwellings per hectare benchmark, but the allocation figures are lower so how have the figures come about?
6. In relation to Site 14 South of Winnal Farm, Winnal, Policy A3 focuses development to the south east corner of the site. Two queries arise: a) the AECOM Report variously indicates the most appropriate area for development as the south west or the south east – which should it be?; b) would it be helpful to show this area on a map that sits alongside the policy? If so, please provide this.
7. Policy A5 appears to only apply to Allensmore – was it the intention this policy should apply to Allensmore village only? And if so, why? Or is it meant to be the Parish?
8. Appendix V of the Plan refers in three places to “page 10”; is this the correct reference and if not what should it be?

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. These queries are raised without prejudice to the outcome of the examination.

Please note that this list of clarification questions is a public document and that your answers will also be in the public domain. Both my questions and your responses should be placed on the Councils’ websites as appropriate.

With many thanks, Ann Skippers 21 February 2020