

Neighbourhood Planning Guidance Note

Review of made/adopted Neighbourhood Development Plans



March 2020

This document is copyright of Herefordshire Council, please contact the Neighbourhood Planning team if you wish to reuse it in whole or part

Review of made/adopted Neighbourhood Development Plans

Herefordshire now has a significant number of made/adopted neighbourhood plans which form part of the statutory development plan.

The National Planning Policy Framework (NPPF) indicates that the Core Strategy requires a review to be undertaken at least every five years in order to determine whether its policies and strategy are in need of updating. The Herefordshire Core Strategy was adopted in October 2015 and therefore a review is required to be completed before October 2020.

There is no similar requirement for neighbourhood plans to be reviewed on a regular basis. However, there are circumstances that may mean that you want to consider a review:

- Change in local circumstances;
- Monitoring of your plan reveals an issue with policy wording;
- Plan being made/adopted for over two years causing the housing policies to be deemed 'out of date';
- The update of the Core Strategy, national planning policy or Ministerial Statement.

The first step to any review is to monitor your plan and assess whether it is still providing the planning policy you intended it to when it was first produced.

Monitoring of your NDPs

It is important that your Parish Council is commenting on planning applications within your neighbourhood area. This will not only highlight to the Development Management Officers the policies of your plan but also give you an indication of any policies which maybe not be working so effectively.

It's crucial to understand which policies are 'working' when it comes to determining applications.

- Are the policies being interpreted by the applicant, Development Management and Planning Committee how you expected them to be?
- Are there any interpretation issues with any of the wording and meaning?
- Are there any policies missing?
- Have your policies ever been tested at a planning appeal?
- Has this highlighted any issues with the interpretation of policy wording and the strategy?
- Have there been any issues with the clarity of the mapping of policies?

Sometimes circumstances could change locally which means that your plan is not as responsive as it previously was.

Regular monitoring of your plan and how effective it is will help you decide when is the right time to undertake a review and update of the neighbourhood plan.

Feedback from Herefordshire Council regarding your existing policies

If you are considering a review of your neighbourhood plan, let the Neighbourhood Planning team know. They can not only give you advice on the review process but will also liaise with the Development Management team to provide you with comments on how your plan is performing from their perspective. This will provide an insight on how the plan is regularly being interpreted by the decision makers, any issues, conflicting policies or missing elements.

The Neighbourhood Planning team can provide you with the latest housing figures for the parish (April to April) and whether the proportional growth targets are being achieved.

Neighbourhood Plans adopted over two years ago

It is clear within the National Planning Policy Framework that where a planning application conflicts with an up to date development plan permission should not usually be granted.

In Local Planning Authority areas that can not demonstrate a five year land supply, the housing supply policies of a development plan are deemed as 'out of date'. However, para 14 gives protection to neighbourhood plans in the following circumstances:

- Where a neighbourhood plan has been part of the development plan for 2 years or less;
- It contains policies and allocations to meet its identified housing requirements;
- The local planning authority has at least a 3 year supply of deliverable housing sites; and
- The local planning authority has delivered at least 45% of their housing requirement over previous 3 years.

It is acknowledged that many parishes will be concerned about the implications of this national planning criteria and it is important to remember that adopted (made) Neighbourhood Plans, even if they have been adopted for longer than 2 years, will still have significant weight in the planning balance. Therefore this does not render the whole of the neighbourhood plan out of date.

Although you are not required to update you plan after two years, many parishes may consider this as an option if Herefordshire continues to not being able to demonstrate a 5 year supply of housing sites. For up to date information about the housing land supply and delivery test, please see: https://www.herefordshire.gov.uk/info/200185/local_plan/142/authority_monitoring_reports

Herefordshire Core Strategy review and update

It should be borne in mind that a review of the adopted Herefordshire Core Strategy has been agreed in early 2020. It is not known at this stage (February 2020) what impact that may have on housing strategy or proportional growth numbers for individual parishes.

At the time of your neighbourhood plan examination, you will need to consider that your plan must ensure it is in general conformity with the strategic policies of the development plan to meet the 'Basic Conditions'. This could be the current adopted Core Strategy or the emerging Core Strategy depending on the timeframes.

If you undertake an early partial review prior to 2021 you may be required to undertake a second review to ensure conformity with the revised Core Strategy in due course. Parish Councils will need to consider the priorities and desire to review prior to the emerging Core Strategy.

The Neighbourhood Planning team will offer further advice to any parishes who are considering a review or who wish to know what the implications would be.

Things to consider since you last produced your NDP

For some the work on your neighbourhood plan may have been over two years ago, for some of the early adopted plans this is nearly four years. Some things may have changed since the last time you produced your first edition of the plan.

- The production of NDPs is no longer a 'light touch' approach.

It has been clear during the production of the 100+ neighbourhood plans within Herefordshire,

that both the examination and the need for evidence has become more complicated since the initial plans commenced in 2012. This is because there are more challenges made and more case law established as the time has passed.

- There is far more scrutiny of NDPs from local community, landowners and other 3rd parties than with the first wave of neighbourhood plan production.

The awareness of neighbourhood plans has grown over the past eight years and as a result more representations are being made during formal consultations. These now include the development industry, landowners, statutory consultees and members of the public. This includes questioning the evidence and reasoning behind decisions and preferred options.

- The National Planning Policy Framework indicates that site allocations will give NDPs more weight if the local authority can't demonstrate five year land supply.

Previous advice gave neighbourhood planning groups the option to produce a plan which is criteria policy based or contained site allocations. However, since the update of the National Planning Policy Framework, you are strongly advised to consider the inclusion of a site allocation within your plan. This is to ensure that in the continuing likelihood that a five year supply is not demonstrated, your plan will retain full weight in any planning decisions.

- Review of the Core Strategy

During the previous production of your neighbourhood plan, the Core Strategy was in its final stages of production and the settlement hierarchy and proportional growth figures were available. The strategic policies that your plan would be based on were also already established. During this initial review period, the Core Strategy will be in the process of being updated and consulted upon and therefore subject to change before final adoption. This will mean that developing your plan in general conformity will be a slightly trickier task this time.

Scope of the review

As you will ascertain from above, the need and level of review will vary from neighbourhood plan to neighbourhood plan. There is not a one size fits all solution.

This guidance note is aiming to give some general principles but it is highly recommended that you discuss your review in the first instance with the Neighbourhood Planning team.

The review process

If you do decide to review your made neighbourhood plan, there are a number of options available.

Minor – Non-material updates

This is essentially for minor typographical errors, updating inconsistencies and adding information for clarification. This would not result in any changes to the policy stance or interpretation.

Because these changes are so minor in nature, no consultation needs to be undertaken and thus there would be no requirement for an examination or referendum. Non-material updates can be agreed between the parish council and Herefordshire Council. This would not result in the 'remaking' of the neighbourhood plan and therefore the adoption/made date of the original plan would still apply.

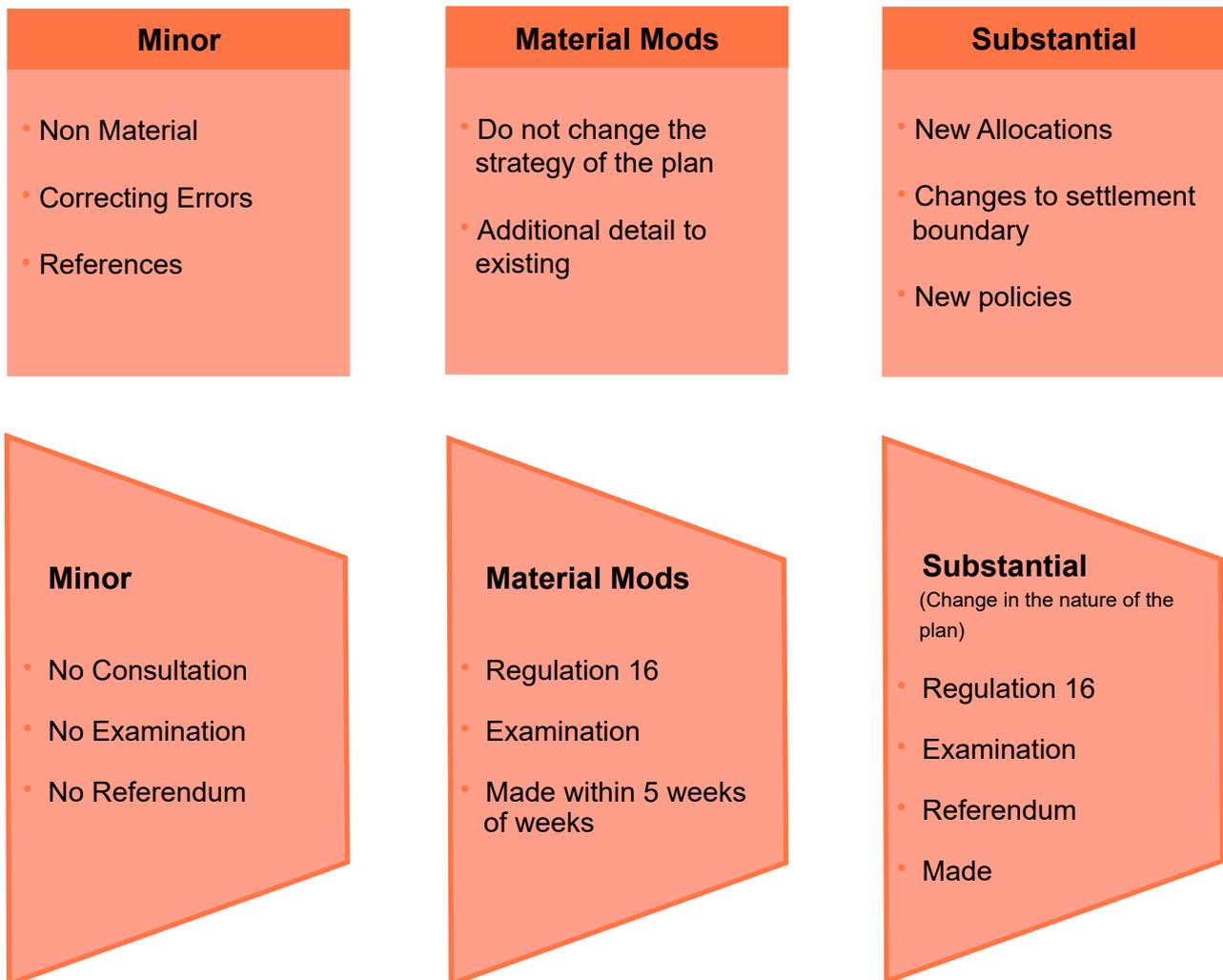
The next two review methods follow similar routes during the review process with the examination determining the final process. At the time of writing, there is very little case law or examples of second generation plans, therefore where the line is between material modifications and substantial modification will become clearly over time.

Material modifications

A material modification would be considered as a change which does not alter the overall strategy of the plan but adds additional details to the existing policies. This method would require a Regulation 16 consultation to be undertaken and an examination. The parish council and Herefordshire Council need to submit a statement to the examiner indicating whether they consider the modifications to be of a material or substantial nature. It will be the examiner who makes the final decision as to whether the modifications would require a referendum (if seen as substantial) or the plan could just move to made/adoption within a 5 week period.

Substantial modifications

If you are considering including additional site allocations, a new or changes to a settlement boundary or new policy areas, then this would constitute a substantial review. The plan would be required to follow the same process as your first neighbourhood plan i.e. regulation 16, examination and referendum. The plan will require a successful referendum result in order to be made.



It is suggested that parish councils discuss their potential modifications with the Neighbourhood Planning team so that individual and clear advice can be given.

Funding your neighbourhood plan review

Locality funding is currently available for any parish council who is seeking to review and update their made/adopted neighbourhood plan. This is a new round of grant and technical support funding.

Further details can be obtained from:

<https://mycommunity.org.uk/2018/03/15/new-neighbourhood-planning-programme-changes-to-my-community-everything-you-need-to-know/>