

LLANGARRON NEIGHBOURHOOD PLAN

Llangarron Neighbourhood Plan Examination
A Report to Herefordshire Council

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November 2021



EST. 2011

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1. Summary

- 1 Subject to the recommendations within this Report, made in respect of enabling the Llangarron Neighbourhood Plan to meet the basic conditions, I confirm that:
 - 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 of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

- 2 Taking the above into account, I find that the Llangarron Neighbourhood Plan meets the basic conditions¹ and I recommend to Herefordshire Council that, subject to modifications, it should proceed to Referendum.

¹ It is confirmed in Chapter 3 of this Report that the Llangarron Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

2. Introduction

The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the Llangarron Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Llangarron Parish Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by Herefordshire Council.
- 5 The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Llangarron Neighbourhood Area.
- 6 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development.”

(Paragraph 29, National Planning Policy Framework)

- 7 As confirmed under “*Legal Requirements*” on page 3 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Llangarron Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 8 Section 2.0 of the Basic Conditions Statement confirms that the Neighbourhood Plan relates only to the designated Llangarron Neighbourhood Area and there is no other neighbourhood plan in place in the Llangarron Neighbourhood Area.

- 9 This meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2021) and Planning Practice Guidance (2014).

Role of the Independent Examiner

- 10 I was appointed by Herefordshire Council to conduct the examination of the Llangarron Neighbourhood Plan and to provide this Report.
- 11 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the relevant Local Authorities. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 12 I am a chartered town planner and have nine years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 13 As the Independent Examiner, I must make one of the following recommendations:
- that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - that the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements,
- 14 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Llangarron Neighbourhood Area to which the Plan relates.
- 15 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

Neighbourhood Plan Period

- 16 A neighbourhood plan must specify the period during which it is to have effect.
- 17 The title page of the Neighbourhood Plan refers to the plan period as "2021 – 2031."
- 18 Taking this into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

Public Hearing

- 19 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 20 However, it is also the case that *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 21 Further to consideration of the information submitted, I determined not to hold a public hearing as part of the examination of the Llangarron Neighbourhood Plan.
- 22 However, further to consideration of the submission documents, I wrote to the Qualifying Body in respect of matters where further information was sought. At the same time, in line with good practice, the Qualifying Body was provided with an opportunity to respond to representations received during the Submission consultation process.

3. Basic Conditions and Development Plan Status

Basic Conditions

- 23 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions*.” These were *set out in law*² following the Localism Act 2011.
- 24 Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the 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 of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - 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.
- 25 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28th December 2018, applies to neighbourhood plans:
- 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.³

² Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

³ *ibid* (same as above).

- 26 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check 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 (under Section 61G of the Town and Country Planning Act 1990 (as amended));
 - 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 in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 27 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁴
- 28 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan and this sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

⁴ The Convention rights has the same meaning as in the Human Rights Act 1998.

European Convention on Human Rights (ECHR) Obligations

- 29 I am satisfied, in the absence of any substantive evidence to the contrary, that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998.
- 30 In the above regard, information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. A Consultation Statement was submitted alongside the Neighbourhood Plan and the role of public consultation in the plan-making process is considered later in this Report.

European Union (EU) Obligations

- 31 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*
(Planning Practice Guidance⁵)
- 32 Further to screening, Herefordshire Council concluded that, due to a range of environmental designations in and around the Neighbourhood Area, there may be significant environmental effects and consequently, a Strategic Environmental Assessment and a Habitats Regulations Assessment would be required.
- 33 An Environmental Report, pursuant to the SEA Directive was subsequently produced by Herefordshire Council. This stated that:
- “On the whole, it is considered that the Llangarron group NDP is in general conformity with both national planning policy contained in the National Planning Policy Framework and strategic policies set within the Herefordshire Local Plan (Core Strategy). Nor does it propose any growth that would be over and above that prescribed by strategic policies.”*

⁵ Planning Guidance, Paragraph 027, Ref: 11-027-20150209.

- 34 In addition to SEA, a Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This Assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information⁶. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.
- 35 Further to this, in the case *People Over Wind & Sweetman v Coillte Teoranta* ("*People over Wind*" April 2018), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means that if a likely significant effect is identified at the screening stage of a habitats assessment, an Appropriate Assessment of those effects must be undertaken.
- 36 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, allowing neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or a planning application.
- 37 Herefordshire Council published a Habitats Regulations Assessment Report for the Llangarron Neighbourhood Area in February 2021. This recognised the presence of relevant Natura 2000 sites and concluded that the Neighbourhood Plan:
- "...will not have a likely significant effect on the River Wye SAC and the Wye Valley Woodland SAC."*
- 38 All of the statutory bodies were consulted as part of the consideration of EU obligations and none of these bodies disagreed with the conclusions reached by Herefordshire Council.

⁶ Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

- 39 In addition to all of the above, I am mindful that national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)” (Planning Practice Guidance⁷).

- 40 Having completed the work that it has, Herefordshire Council has no outstanding concerns in respect of the Neighbourhood Plan's compatibility with EU obligations.
- 41 Taking this and the recommendations contained in this Report into account, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

⁷ ibid, Paragraph 031 Reference ID: 11-031-20150209.

4. Background Documents and the Llangarron Neighbourhood Area

Background Documents

- 42 In completing this examination, I have considered various information in addition to the Llangarron Neighbourhood Plan.
- 43 Information considered as part of this examination has included the following main documents and information:
- National Planning Policy Framework (referred to in this Report as "*the Framework*") (2021)⁸
 - Planning Practice Guidance (2014, as updated)
 - Town and Country Planning Act 1990 (as amended)
 - The Localism Act (2011)
 - The Neighbourhood Plan Regulations (2012) (as amended)
 - Herefordshire Core Strategy 2011-2031 (2015)
 - Basic Conditions Statement
 - Consultation Statement
 - Policies Maps
 - Representations received
 - Environmental Report and Habitat Regulations Assessment
- 44 In addition, I spent an unaccompanied day visiting the Llangarron Neighbourhood Area.

⁸ The government published a revised version of the National Planning Policy Framework on the 20th July 2021, after the submission of the Llangarron Neighbourhood Plan.

Llangarron Neighbourhood Area

- 45 The boundary of the Llangarron Neighbourhood Area is identified on a Map 1 on page 4 of the Neighbourhood Plan.
- 46 Herefordshire Council designated the Llangarron Neighbourhood Area on 6th December 2012.
- 47 The designation of the Neighbourhood Area satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

5. Public Consultation

Introduction

- 48 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 49 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Llangarron Neighbourhood Plan Consultation

- 50 A Consultation Statement was submitted to Herefordshire Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *Regulations*⁹.
- 51 In 2013, a Steering Group was established to lead the plan-making process on behalf of Llangarron Parish Council. In the same year, a questionnaire was distributed to all households and events were held to introduce and progress the plan-making process. In the following year, amongst other things, a further questionnaire was distributed and an open day event was held.
- 52 A first draft plan was produced and consulted upon in early 2017. Further to representations, the Parish Council determined to undertake a comprehensive review and prepare a revised draft plan.
- 53 A call for sites and a technical assessment process were undertaken prior to the Parish Council deciding not to allocate sites in the emerging plan. Settlement boundaries were considered and consulted upon during 2018 and 2019; and in 2019, there was a vote for settlement boundaries to be included in the draft plan.

⁹ Neighbourhood Planning (General) Regulations 2012.

- 54 The draft plan was consulted upon during September and October 2020, during the Covid-19 pandemic. All documents were published on the Parish Council website and hard copies of the draft plan made available. Flyers were sent out to local residents and posters and notices were displayed.
- 55 A large number of responses were received and these were duly recorded, considered and informed production of the submission version of the Neighbourhood Plan. The submitted Consultation Statement presents the Parish Council's detailed consideration of representations received.
- 56 Whilst there have been objections to the consultation process, I am satisfied that the Consultation Statement provides evidence to demonstrate that public consultation formed part of the plan-making process, that there were opportunities for people to have a say and that matters raised were duly considered.
- 57 Taking this and the submitted information into account, I am satisfied that the consultation process complied with the neighbourhood planning regulations referred to above.

6. The Neighbourhood Plan – Introductory Section

- 58 Parts of the Neighbourhood Plan have been overtaken by subsequent events, leading to a number of recommendations below.
- 59 The basic conditions have been carefully worded and it is important not to paraphrase them in a way that results in a different meaning to that intended. This is a matter addressed in the recommendations below.
- 60 There is no evidence to demonstrate that the Neighbourhood Plan *will deliver* the Objectives set out. The Neighbourhood Plan *aims* to meet the identified Objectives.
- 61 I recommend:
- **Delete Page 1**
 - **Para 1.5, update reference to “*National Planning Policy Framework, 2021*”**
 - **Para 1.5, change last sentence to “*...which the NDP was considered at examination...*”**
 - **Para 2.1, delete second sentence (“The Submission...residents.”)**
 - **Para 3.5. There were no Listed Buildings in 1372, delete last six words of para (“though...buildings”) and replace with “*...Llangarron. Llangrove has seven listed buildings.*”**
 - **Para 4.1, change sentence below Vision to “*...up to 2031 the Neighbourhood Plan aims to deliver this Vision through the following Objectives:*”**
 - **Pages 11 and 12, remove the Policy “delivery” references underneath each Objective. I note that the Objectives are, in any case, repeated in the Policy section of the Neighbourhood Plan**
 - **Para 5.1, delete first sentence (“The following...Parish.”) and change second sentence to “*Each of the following policies has...*”**

- **Delete Paras 5.3 and 5.4 (the Neighbourhood Plan does not need to set out what it does not include)**
- **Delete the last two sentences of Para 5.5 (“Where a...considerations.”) which are imprecise**

7. The Neighbourhood Plan – Neighbourhood Plan Policies

Sustainability

Policy SUS1: Sustainable Development

- 62 Whilst it is necessary for Neighbourhood Plans to contribute to the achievement of sustainable development, the Framework requires plans to be

“...prepared positively, in a way that is aspirational but deliverable.”
(Paragraph 16, the Framework)

- 63 Policy SUS1 requires all development to demonstrate how it achieves an extremely wide range of things, including onerous and ambiguous requirements – such as enhancing the vitality of local communities by supporting unspecified essential services, or recognising that the car is likely to remain an important mode of transport.

- 64 Most development proposals are small scale, such as householder development. No evidence has been provided to demonstrate that the requirements set out in Policy SUS1 are deliverable by such development, or even by larger proposals.

- 65 Further, there is little in the way of justification for the Policy to require all development proposals to “*demonstrate*” that they “*address*” the criteria set out. The Policy conflicts with and does not have regard to Paragraph 44 of the Framework, which states that information requirements for planning applications

“...should be kept to the minimum needed to make decisions...”

- 66 Notwithstanding the above, each of the topics referred to in Policy SUS1 – trees, landscaping, sustainable movement, highways, community services and facilities, housing, infrastructure – are covered in detailed Policies later in the Neighbourhood Plan.

- 67 Attempting to create a summary Policy, combining each of these matters, results in an overly vague Policy that does not, for this reason and for the reasons set out above, meet the basic conditions.
- 68 Given this and the fact that the various topics in the Policy are covered in more appropriate detail elsewhere, I note that the recommendation below promotes clarity and thus serves to enhance rather than impair the Neighbourhood Plan's contribution to the achievement of sustainable development.
- 69 I recommend:
- **Delete Policy SUS1 and supporting text (pages 14-16)**

The Environment

Policy ENV1: Landscape and biodiversity

- 70 National policy recognises the importance of the natural and local environment. Chapter 15 of the Framework, "*Conserving and enhancing the natural environment*," establishes a policy framework aimed at ensuring that planning policies and decisions contribute to and enhance it.
- 71 Amongst other things, Herefordshire Core Strategy (referred to below as the "*Core Strategy*") Policy LD1 ("*Landscape and townscape*") states that development should demonstrate that landscape and townscape character has positively influenced proposals and Core Strategy Policy LD2, ("*Biodiversity and geodiversity*") states that development proposals should conserve, restore and enhance biodiversity and geodiversity assets.
- 72 In general terms, Policy ENV1 aims to promote the protection and enhancement of the Neighbourhood Areas landscape and biodiversity. In this respect, the Policy has regard to national policy and is in general conformity with the Core Strategy.
- 73 As worded however, the Policy requires all development proposals to "*positively enhance*" the landscape. No substantive evidence is provided to demonstrate that such an approach is deliverable in respect of all development, or even that it would be relevant to all development. As noted earlier in this Report, most forms of development are small-scale and there is nothing to demonstrate that many of these, such as householder applications can, or should, enhance the existing landscape. This is a matter addressed in the recommendations below.
- 74 The Policy goes on to require development proposals to demonstrate how they have addressed "*the preservation and restoration*" of all green infrastructure. Again, this is an onerous requirement unsupported by evidence in respect of deliverability or relevance.
- 75 The final paragraph of the Policy is vague and subjective and does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.

76 I recommend:

- **Policy ENV1, change first paragraph to “*New proposals for development should seek to protect and enhance the biodiversity and the natural, historic and scenic beauty of important landscapes in the Neighbourhood Area. In so doing, proposals should consider their impacts on: 1. Important views...River Wye.*”**
- **Policy ENV1, change second paragraph to “*Development proposals that impact on green infrastructure, including trees, hedges and woodland, should demonstrate how they will protect and enhance biodiversity. The creation of new habitats will be supported, for example the planting of orchards as part of...enhance biodiversity.*”**
- **Policy ENV1 Delete last paragraph (“The priority...provided.”)**
- **Para 7.1, delete quote and replace with the revised Paragraph 174 of the Framework**
- **Delete Paragraph 7.2, which does not relate to the Policy**
- **Para 7.12, change first sentence to “...policy commitment to existing green infrastructure and to the creation of habitat as a resource for the community...”**

Policy ENV2: Protecting historic assets and settlement character

77 Chapter 16 of the Framework, "*Conserving and enhancing the historic environment*," recognises that the nation's heritage assets comprise an irreplaceable resource. Paragraph 189 of the Framework requires all heritage assets to:

"...be conserved in a manner appropriate to their significance..."

78 Chapter 16 goes on to set out a detailed and carefully nuanced approach to the conservation of heritage assets.

79 In general terms, Policy ENV2 seeks to protect heritage assets. However, as set out, the Policy paraphrases and misinterprets national policy to such an extent that it results in an approach that is in direct conflict with the Framework and thus does not have regard to national policy.

80 By simply stating that development proposals should not adversely affect heritage assets, the Policy fails to provide for the balanced approach to conserving assets in a manner appropriate to their significance, as required by national policy. Further, Policy ENV2's reference to "*special attention*" is subjective, ambiguous and unsupported by any detailed information; and the "*need to enhance*" is unreflective of national policy and is not supported by any substantive evidence to justify such a departure.

81 All heritage assets and their settings should be conserved in a manner according to their significance. Naming just five of the many heritage assets in the Neighbourhood Area along with the phrase "*but not limited to*" is unnecessary and detracts from the precise nature of the Policy.

82 It is unclear, in the absence of substantive information, how development proposals might "*preserve*" character, or why they should do so; and it is unclear how a scheme might contribute to light pollution, who would be a judge of this and on what basis. There is no information, for example, of the current levels of light pollution or how sources of light might be controlled through the planning system, when planning permission is not required for most forms of lighting.

- 83 The lack of clarity, precision and the ambiguous nature of parts of the Policy result in it failing to have regard to national planning guidance, which calls for clarity in planning policies¹⁰:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

- 84 Further to all of the above, nowhere does national or local planning policy seek to simply prevent development in the countryside, or demand “*special justification*” for any form of development in the countryside. Rather, existing planning policy recognises that there is a wide variety of development can be appropriate to and within the countryside.

- 85 Part of the supporting text to Policy ENV2 appears written as though it comprises policy requirements, which it does not.

- 86 Taking everything into account, I recommend:

- **Policy ENV2, delete the bullet points 1., 2. and 3. and replace with:**

“Development proposals must conserve designated and non-designated heritage assets and their settings in a manner appropriate to their significance.

- **Policy ENV2, change bullet point 4. to “*Development proposals must respect local character. They should take opportunities to use designs and building materials...window frames is preferred.*” (delete reference to light pollution)**
- **Policy ENV2, delete bullet point 5.**
- **Para 7.13, delete quote and replace with revised Paragraph 190 from the Framework**

¹⁰ Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

- Para 7.16, change to “...local importance and this *should be protected in a manner appropriate to its significance.*”
- Page 26, change line two to “...existing *character and that any new development should include suitable...*”
- Page 26, third para, line four, change to “asset. *Parishioners are keen to ensure that any new development in Llancloudy reflects the...half storey dwellings and that any new development includes suitable...*”
- Page 27, second para, line six, change to “...character to the village *and Parishioners consider that these should be retained. Parishioners are also concerned that new development should take...the skyline and that any new development includes suitable...*”
- Page 27, fourth para, line five, change to “...plots. *Parishioners expect new development to reflect...area and to include suitable boundary...*”

Policy ENV3: Flooding

- 87 Policy ENV3 recognises issues arising from climate change and seeks to ensure that development reduces flood risk.
- 88 The Policy has regard to Chapter 14 of the Framework, "*Meeting the challenge of climate change, flooding and coastal change,*" and is in general conformity with Core Strategy Policy SD3 ("*Sustainable water management and water resources*"), which together amongst other things, seek to ensure that development addresses flooding and flood risk.
- 89 The Policy meets the basic conditions and no changes are recommended.

Policy ENV4: Public sewerage network and wastewater treatment works (WwTW)

- 90 The first part of Policy ENV4 goes beyond the scope of the Neighbourhood Plan. No substantive information is provided in respect of current or future capacities and the Policy fails to provide a decision maker with a clear indication of how to react to a proposal.
- 91 Further, the Water Industry Act (1991) and the role of Welsh Water are separate to and outside the control of the Neighbourhood Plan and there is no information to demonstrate that Section 106 Agreements will be necessary, directly related to, and fairly and reasonably related in scale and kind to development, having regard to Paragraph 57 of the Framework. In this regard I am mindful that bodies such as Welsh Water have statutory duties in respect of sewerage and waste water treatment.
- 92 Core Strategy Policy SD4 ("*Wastewater treatment and river water quality*") supports the use of soakaways and the final paragraph of Policy ENV2 has regard to this.
- 93 I recommend:
- **Policy ENV4, delete the first two paras ("*Development...1990*")**
 - **Change the title of the Policy to "*Sewerage*"**
 - **Para 7.23, replace with Paragraph 152 of the Framework**
 - **Delete Paras 7.28 and 7.29**

Employment

Policy EMP1: New agricultural buildings and poly tunnels

- 94 As presented, Policy EMP1 supports the development of any new rural business buildings anywhere in the Neighbourhood Area, so long as visual intrusion is not “*significant*” and buildings are screened and landscaped. The Policy goes on to refer to matters outside the scope of the Neighbourhood Plan and is unsupported by any substantive justification, including matters related to planning application requirements and planning conditions.
- 95 Further to the above, it is difficult to reconcile the Policy's approach with other Policies in the Neighbourhood Plan, which present a more controlled approach to new development in the countryside. Notwithstanding this, the approach set out does not have regard to Paragraph 84 of the Framework, which establishes that planning policies should enable *sustainable* growth and expansion of rural businesses through *well-designed* new buildings and through tourism and leisure developments which *respect the character of the countryside*.
- 96 Taking the above into account, I recommend:
- **Delete the wording of Policy EMP1 and replace with:**

“The growth and expansion of rural businesses through conversions and through well-designed new buildings that respect the character of the countryside will be supported. Development proposals must respect the amenity of neighbours, with regards to noise, odour and outlook. New buildings should be sited to minimise visual and landscape impacts and larger buildings should be “broken up” via the sensitive use of materials, colour or ridge height. Natural materials, including wood and the use of neutral, earth tones should be used to help blend new buildings into their surroundings. Proposals for new buildings should demonstrate the use of energy and resource efficiency measures.”
 - **Change title of Policy EMP1 to “Rural business development including agricultural buildings and poly tunnels requiring planning permission”**

- **Para 8.1, replace quotes with Paragraphs 81 and 84 of the Framework**
- **Para 8.10, delete last sentence (“Development...Strategy”)**
- **Para 8.12, delete second sentence (“Proposals...Strategy”)**
- **Para 8.14, change last sentence to “...local industry and the *Policy below is intended to provide an appropriate, positive policy framework for such development.*”**
- **Para 8.14, change to “...used to inform *the Policy below.*”**

Policy EMP2: Tourism and rural diversification

97 Paragraph 84 of the Framework is explicit in stating that planning policies should enable

"...sustainable rural tourism and leisure developments which respect the character of the countryside."

98 Given the above, it is not clear, in the absence of any information, why Policy EMP2 seeks to limit tourism development to that related to *"agricultural diversification."*

99 Further, in the absence of any substantive evidence to the contrary, the criteria set out in the Policy appear to amount to significant and onerous hurdles to the deliverability of tourism and rural diversification.

100 No information is provided in respect of how such development might, in all cases, viably make a positive contribution to the protection, conservation and enhancement of the landscape around the Parish; or promote and support quiet enjoyment or promote access by public transport. Without detailed information, these appear as vague and subjective requirements, with little to demonstrate that they are deliverable.

101 The Qualifying Body is not the Local Planning Authority and consequently, the Neighbourhood Plan cannot *"permit"* development.

102 Taking the above into account, I recommend:

- **Policy EMP2, change first sentence to *"...tourist economy will be supported. Such..."***
- **Policy EMP2, delete bullet points (1. to 4.) and change second para to *"Proposals for new, sustainable tourism facilities or the enhancement of existing visitor facilities will be supported where they respect local character, residential amenity and highway safety. Such proposals should also seek to promote sustainable patterns of movement."***

- Policy EMP2, retain final para
- Para 8.15, change to “...home-working. *The Parish Council will seek to encourage the provision of this facility where possible and will seek to promote collaborative working with...growth. The Parish Council will also support proposals...parish. A Communication Policy, COM1, is set out later in the Neighbourhood Plan.*”

Housing

Policy HOU1: New housing development

103 There is no requirement for the Neighbourhood Plan to allocate land for development and it does not do so.

104 However, whilst substantive evidence is provided to demonstrate that the Neighbourhood Area has already provided well in excess of its housing requirement in accordance with the Core Strategy, the Housing Chapter of the Neighbourhood Plan establishes a positive policy framework for the development of further housing in the Neighbourhood Area over the plan period by supporting some additional residential development within settlement boundaries.

105 Taking the above into account, whilst the settlement boundaries are drawn in such a way as to only provide for limited additional new housing development, they still enable the Neighbourhood Plan to make a small positive contribution to

"...the Government's objective of significantly boosting the supply of homes..."

(Paragraph 60, the Framework)

106 In this way, the first part of Policy HOU1, which provides a positive policy framework for residential development within the Neighbourhood Area's settlements, contributes to the achievement of sustainable development and meets the basic conditions.

107 In respect of the above, I am mindful that Core Strategy Policy RA3 ("*Herefordshire's countryside*") provides for the definition of settlement boundaries in Neighbourhood Development Plans; and that there is evidence to demonstrate that the consideration of settlement boundaries formed part of the consultation process and followed guidance provided by Herefordshire Council.

108 The second part of Policy HOU1 seeks to impose various criteria upon new housing development. Taken together, there is no substantive evidence to demonstrate that all of the criteria are deliverable or that this part of the Policy has regard to national policy.

109 Criterion 1 requires all housing development to support a mix of housing types and tenure, with an emphasis on smaller starter homes and affordable family housing. However, national policy does not require the provision of affordable housing on sites of less than ten dwellings. There is no substantive evidence to demonstrate that the Neighbourhood Plan provides any scope for new residential development sites capable of providing for more than ten dwellings.

110 Criterion 2 is entirely dependent upon another plan outside the control of the Neighbourhood Plan. National policy states that plans should

"...serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area..."

(Paragraph 16, the Framework)

111 Criterion 7 repeats parts of an earlier Policy and seeks to impose requirements in respect of land outside of an application site, without any evidence in respect of deliverability.

112 The development of contaminated land is subject to a range of detailed controls. By way of contrast, Criterion 9 comprises a vague statement in respect of the development of contaminated land and its ambiguous nature does not have regard to national planning advice, referred to earlier in this Report.

113 Similarly, the last criterion is ambiguous to the point of failing to make it evident how a decision maker should react to development proposals. The Neighbourhood Plan provides no indication of what a live/work unit might comprise or how "*close to*" and "*minimal adverse impact*" will be judged, who by and on what basis. There is no robust evidence justify support for residential development in the open countryside subject only to a vague residential amenity requirement and no indication is provided in respect of what "*occupancy conditions*" would apply. Criterion 11 does not meet the basic conditions.

114 Taking all of the above into account, I recommend:

- **Policy HOU1, change second sentence to "*New residential development should take account of the following:*"**
- **Policy HOU1, delete Criteria 1, 2, 7, 10 and 11**

- Provide a new Criterion 1, "*Sites of ten or more dwellings should support a mix of house types and tenures, with an emphasis upon smaller starter homes and affordable family accommodation;*"
- Para 9.1, replace quote with Paragraph 79 of the Framework
- Para 9.36, last sentence, change to "...agreed for inclusion in *the NDP.*"

Policy HOU2: Replacement dwellings in the countryside

- 115 Together, Core Strategy Policies RA3 ("*Herefordshire's Countryside*") and RA5 ("*Re-use of rural buildings*") set out a clear and detailed policy framework supporting the appropriate re-use and replacement of rural dwellings.
- 116 These County-wide policies align with the Framework which, in Chapter 5, "*Delivering a sufficient supply of homes,*" supports the development of housing in the countryside, subject to it meeting one or more of the various criteria set out in Paragraph 80.
- 117 By way of contrast, whilst Policy HOU2 repeats, unnecessarily, existing policy, it does so only in part and consequently, lacks the clarity and detail of national and local policy for residential development in the countryside. Further, it contains ambiguous and subjective references to development being "*acceptable in principle*" and "*a sustainable option.*"
- 118 The Policy does not have regard to Paragraph 16 of the Framework and does not meet the basic conditions.
- 119 I recommend:
- **Delete Policy HOU2 and supporting text (Paras 9.45 and 9.46)**

Policy HOU3: Change of use of agricultural buildings to dwellings and holiday use

120 Like Policy HOU2, Policy HOU3 repeats existing policy, but only in part and adds ambiguous and confusing elements, in conflict with national and local policy, such that it results in a Policy that does not meet the basic conditions.

121 As set out, Policy HOU3 would support the change of use of any agricultural building in the Neighbourhood Area to residential use so long as the building is capable of conversion and there is no harm to local character or residential amenity.

122 Such an approach does not provide for the balanced consideration of development proposals and in this way, runs the risk of failing to contribute to the achievement of sustainable development. Notwithstanding this, it presents a far less detailed and nuanced approach than existing strategic and even national planning policy, contrary to Paragraph 28 of the Framework, which states that

“Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development.”

123 Further to the above, the Policy includes a confusing and ambiguous reference to extensions, ancillary buildings and areas of hardstanding in that, as worded, it supports the additional development of these in direct conflict with the approach set out Core Strategy RA5. Whilst this may comprise a drafting error, it further demonstrates Policy HOU3's lack of clarity and precision, contrary to national guidance and policy.

124 I recommend:

- **Delete Policy HOU3 and supporting text (Paras 9.47 and 9.48)**

Policy HOU4: House Extensions

- 125 Householders have the right to apply for planning permission to alter and/or extend their properties. Subsequent planning applications will be considered by planning authorities on their merits.
- 126 As set out in Para 9.49, Policy HOU4 seeks to impose a new regime, based on limiting the scope for houses to become larger in response to a *“trend for extending properties (which) is reducing the housing stock of smaller more affordable homes in the area.”*
- 127 Whilst Neighbourhood Plans can allocate land for development, the Llangarron Neighbourhood Plan does not do so. The supporting text to Policy HOU4 suggests that instead, the Neighbourhood Plan seeks to tackle a *“reducing stock”* of small affordable homes by severely limiting the ability of householders to extend their properties.
- 128 Criterion 1 of the Policy prevents the consideration of a planning proposal on its merits and simply states that house extensions should have no adverse impacts on residential amenity. This approach places an obstacle in the way of the Neighbourhood Plan contributing to the achievement of sustainable development.
- 129 Criteria 2 to 7 present subjective requirements unsupported by detail in respect of how such matters will be judged, who by and on what basis. There is no reference to any supporting design guidance, for example. They do not provide a decision maker with a clear indication of how to react to a development proposal.
- 130 Criteria 8 and 9 are not supported by any information in respect of deliverability or viability. Consequently, there is nothing to demonstrate that this part of the Policy is deliverable.
- 131 The final Criterion refers to matters covered elsewhere in the Neighbourhood Plan and fails to provide detail in respect of references to *“significant frontage gaps or green spaces.”*
- 132 It is not clear, in the absence of any information, how the Neighbourhood Plan will *“encourage”* live/work proposals.

133 Taking all of the above into account, Policy HOU4 does not meet the basic conditions and I recommend:

- **Delete Policy HOU4 and supporting text (Para 9.49)**

Roads and Traffic

Policy TRA1: Promoting Sustainable Transport in New Developments

134 Chapter 9 of the Framework, "*Promoting sustainable transport,*" promotes sustainable patterns of movement and Paragraph 100 of the Framework states that

"Planning policies and decisions should protect and enhance public rights of way and access..."

135 Whilst elements of Policy TRA1 have regard to this, much of the Policy appears out of place in a Neighbourhood Plan which does not provide for any major development.

136 Imposing a long list of requirements on small scale development, without any evidence at all to demonstrate the deliverability of such, conflicts with Paragraph 16 of the Framework, which requires plans to be deliverable.

137 Further to the above, parts of the Policy are reliant on other plans and policies that do not form part of the Neighbourhood Plan and include ambiguous references, such as *encouragement, appropriate public car-parking, unacceptable risk, suitable provision, well thought out* etc.

138 Taking the above into account, I recommend:

- **Policy TRA1, change title to "*Sustainable Patterns of Movement*"**
- **Policy TRA1, delete wording and replace with "*Improvements to public rights of way and access throughout the Neighbourhood Area will be supported. Development must respect highway safety and new car parks should respect local character, include permeable surfaces to reduce surface water run-off and provide electric charging points.*"**
- **Create a new paragraph of supporting text after Para 10.14 comprising the final ten lines of the deleted Policy, changed to "*The Parish Council will seek to encourage developers to support improvements in public transport...and beyond.*" NB, delete the numbers "10. 11. 12."**

- **Delete Para 10.1**
- **Para 10.3, change to “...different communities and paragraph 105 sets out that...”**
- **Para 10.10, delete last sentence (“None...pandemic.”)**
- **Para 10.11, change to “...countryside. *The Parish Council considers that wherever...enhanced and that cycling should be...*”**

Community Facilities

Policy CSU1: Protecting Existing Community Facilities and Supporting Investment in New and Improved Facilities

139 Chapter 8 of the Framework, "*Promoting healthy and safe communities,*" requires planning policies to:

"...guard against the unnecessary loss of valued facilities...ensure that...facilities and services...are retained for the benefit of the community."

(Paragraph 93, the Framework)

140 In order to provide the services that communities need, Paragraph 93 of the Framework also requires planning policies to:

"...plan positively for the provision and use of shared spaces, community facilities...and other local services to enhance the sustainability of communities and residential environments."

141 Core Strategy Policy SC1 ("*Social and community facilities*") supports development proposals to provide, retain or enhance community facilities.

142 Generally, Policy CSU1 seeks to retain or improve the Neighbourhood Area's community facilities and services and in this way, it has regard to national policy and is in general conformity with the Core Strategy.

143 As set out, the first paragraph of the Policy identifies community facilities and goes on to state that they are "*protected*" without clarifying what this means. The ensuing paragraph provides a less ambiguous approach in this regard, although the reference to "*an agreed marketing strategy*" could be made clearer and this is addressed in the recommendations below.

144 The third paragraph supports proposals to improve community facilities but includes a vague reference to "*no significant adverse impact*" which, without supporting information, is open to wide interpretation.

- 145 Core Policy SC1 is explicit in supporting the provision of such development "*close to settlements*" and it is unclear, in the absence of any information or justification, why the Policy places an obstacle in the way of the provision of new community facilities and services outside of settlement boundaries. Such an approach runs the risk of the Neighbourhood Plan failing to contribute to the achievement of sustainable development.
- 146 The final paragraph of Policy CSU1 is unsupported by any detail. It appears ambiguous and does not provide a decision maker with a clear indication of how to react to a development proposal.
- 147 Taking the above into account, I recommend:
- **Policy CSU1, first sentence, delete "and protected"**
 - **Policy CSU1, second paragraph, change to "*...where it has been clearly demonstrated, following at least 12 months open marketing at a price reflective of market value, that the use is no longer viable, or it will be replaced by an equivalent or enhanced community use in an equally accessible location.*"**
 - **Policy CSU1, change third paragraph to "*...services available within the Neighbourhood Area will be supported subject to development respecting local character, residential amenity and highway safety. Such proposals...charging points.*"**
 - **Delete final two paras ("Provision...the Plan")**
 - **Delete Para 11.1**
 - **Para 11.2, replace with the precise excerpts from Paragraphs 92 and 93 of the Framework**
 - **Para 11.3, change to "Core Strategy Policy SC1 – Social..."**
 - **Para 11.21, delete second sentence**

Communication

Policy COM1: Communication

148 National policy recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. It states that planning policies should

"...support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections."

(Paragraph 114, the Framework)

149 In general terms, Policy COM1 seeks to provide for high speed broadband and supports the expansion of electronic communications networks. In this way, the Policy meets the basic conditions.

150 As worded, the Policy requires all forms of development to allow for the provision of high speed broadband. Such a requirement may not be deliverable for many forms of development and this is reflected in the recommendations below.

151 The Policy goes on to support telecommunications development, but subject to the unduly onerous provision of *"no adverse impact"* on local character and residential amenity. As with previous policies, such an approach fails to provide for the balanced consideration of development proposals.

152 I recommend:

- **Policy COM1, change to "Proposals for *new dwellings and business uses* should allow for the provision of a high speed broadband network within the site.**

Proposals for well-designed...throughout the Neighbourhood Area will be supported subject to proposals respecting local character and residential amenity and demonstrating that mast sharing is not feasible."

- Para 12.1, change to “Paragraph 114 of the...”
- Para 12.3, change to “...is welcomed *and the Parish Council is keen to ensure that where possible, new development incorporates suitable*
- Para 12.6, change to “*The Parish Council will seek to encourage collaborative working between Herefordshire Council and other agencies to support the delivery of high speed...*”
(NB, this change recognises that the Neighbourhood Plan cannot impose a requirement upon the Local Authority)

Energy

Policy ENG1: Proposals for Incorporating Renewable Technology in New Developments

153 Core Strategy Policy SS7 (*“Addressing climate change”*) promotes the use of renewable or low carbon energy and national policy states that

“Plans should take a proactive approach to mitigating and adapting to climate change...”

(Paragraph 153, the Framework)

154 Whilst as set out, Policy ENG1 appears ambiguous and unsupported by any substantive evidence to demonstrate that its vague requirements are deliverable, its general aspiration – to promote the use of renewable technologies – has regard to national policy and is in general conformity with the Core Strategy.

155 I recommend:

- **Policy ENG1, change to *“The use of renewable energy technologies in new development will be supported. Such technologies could include...future”***
- **Para 13.1, change to *“Paragraph 153 of...paragraph 156 that...”***

Policy ENG2: Proposals for New Renewable Energy Technology

156 Paragraph 156 of the Framework requires local planning authorities to support

"..community-led initiatives for renewable and low carbon energy."

157 Notwithstanding the reference to "*suitable*" resulting in an ambiguous and subjective Policy and the requirement for "*no detrimental impact*" placing an obstacle in the way of the achievement of sustainable development, the overall aim of Policy ENG2 to support a community renewable energy scheme has regard to national policy.

158 I recommend:

- **Policy ENG2, change to "*Community-led renewable energy or low carbon energy proposals that respect local character, residential amenity and highway safety will be supported.*"**

8. The Neighbourhood Plan: Other Matters

159 The recommendations made in this Report will have a subsequent impact on Contents, including Policy, Figure, paragraph and page numbering.

160 I recommend:

- **Update the Contents, Policy, Figure, paragraph and page numbering to take into account the recommendations contained in this Report**

9. Referendum

161 I recommend to Herefordshire Council that, subject to the recommended modifications, **the Llangarron Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

162 I am required to consider whether the Referendum Area should be extended beyond the LLangarron Neighbourhood Area.

163 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

164 Consequently, I recommend that the Plan should proceed to a Referendum based on the Llangarron Neighbourhood Area approved on the 6th December 2012.

Nigel McGurk, November 2021
Erimax – Land, Planning and Communities

