

Herefordshire Council

**Bartestree with Lugwardine  
Neighbourhood Development  
Plan Review 2011 – 2031**

**Independent Examiner's Report**  
on the Neighbourhood Development Plan Review

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1 March 2023

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## Summary

I have been appointed by Herefordshire Council to carry out the independent examination of the review of the Bartestree with Lugwardine Review Neighbourhood Plan.

I examined the made Plan and it was a pleasure to revisit the area and to see how the Review Plan has taken forward the already commendable approach in the made Plan and made the Plan even more robust.

I firstly determined that the Review Plan includes modifications that are significant or substantial as to change the nature of the neighbourhood development plan which the plan would replace. This meant that the examination of the Review Plan should proceed under the provisions of Schedule 4B to the Town and Country Planning Act 1990 (as amended). In turn, this means a referendum would be required.

The Review Plan covers many different issues including three new site allocations, Local Green Spaces, community facilities, water quality and views. Many of the policies add a layer of local detail complementing County level policies.

I found the revised and new policies to be clearly worded. The Review Plan is accompanied by exemplary supporting documents including a clear Statement of Modifications, helpful Basic Conditions Statement and Consultation Statement. It is clear that the Review Plan has been the subject of careful thought.

From my examination of the Review Plan, its supporting documentation and the representations made, and subject to a series of recommended modifications set out in this report, I have concluded that the Review Plan meets the basic conditions and all the necessary legal requirements and therefore can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

I consider the Review Plan will help to guide the area's development in the future making a very positive contribution to the future planning of the area.

Ann Skippers MRTPI  
Ann Skippers Planning  
1 March 2023



## 1.0 Introduction

This is the report of the independent examiner into the Bartestree with Lugwardine Review Neighbourhood Development Plan (the Review Plan). The made Plan was made on 1 December 2016. I examined the made Plan.

I have been appointed by Herefordshire Council (HC) with the agreement of the Bartestree with Lugwardine Group 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 Review Plan. I am a chartered town planner with over thirty years experience in planning and have worked in 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 examination process and the role of the independent examiner

### ***Determination under Paragraph 10(1) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended) Procedural Matters***

The Review Plan was submitted for examination to HC on 13 October 2022.

My first task was to make a determination under paragraph 10(1) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended).

The purpose of this determination is to establish the appropriate examination process for the draft Plan which will, amongst other things, affect whether or not the draft Review Plan will need to be the subject of a referendum if it is to be made.

In this context, the Review Plan intends, amongst other things, to:

- Make changes to the vision and core objectives including the addition of new core objectives
- Make changes to all existing made policies through updating and/or making them clearer, more robust, specific or detailed including through the addition of new criteria
- Delete two made policies on housing in the countryside and working from home (made Policies BL5 and BL10)
- Propose three new areas for designation as Local Green Space
- Include four new policies (BL6, BL8, BL11 and BL12) on a variety of topics which

were either covered more briefly in existing made policies or the supporting text of the made Plan and/or are reflected in policies in the adopted Core Strategy and given a local interpretation

- Include two new policies (BL4 and BL5) which respectively refer to a new settlement gap and three site allocations for housing.

The Parish Council has submitted a comprehensive and very helpful and easy to use Statement of Modifications document that details the changes.

The Parish Council considers that the proposed modifications are not so significant or substantial as to change the nature of the made Plan. The local planning authority, HC, agree with this position.

I have considered the proposed modifications, the views of the Parish Council and the local planning authority and the representations received as well as the advice on updating neighbourhood plans in Planning Practice Guidance

I consider that the inclusion of a new policy that proposes three sites for new housing does constitute a change in nature of the made Plan. In reaching this conclusion, I have noted that the made Plan does not contain any housing allocations and that the three new sites now proposed are, of themselves, small scale in nature.

Therefore in my assessment, the modifications to the made Plan are so significant or substantial as to change the nature of the made Plan and I formally determine accordingly under paragraph 10(1) of Schedule A2.

Consequently, I consider the examination of the Bartestree with Lugwardine Review Neighbourhood Plan should proceed under the provisions of Schedule 4B to the Town and Country Planning Act 1990 (as amended). In turn, this means a referendum would be required.

Accordingly, I requested the formal consent of the Group Parish Council for the examination to proceed. This consent was duly given on 17 February 2023.

The Examination Note I sent on these matters dated 31 January 2023, is appended to this report as Appendix 2.

Examination Note 2 regarding general procedural matters and dated 20 February 2023 is appended as Appendix 3.

### ***Scope of the Examination***

It is important to recognise that the examination has considered the entirety of the Review Plan and not just those elements of the Review Plan that have been modified. Although my detailed comments focus on the changes to policies and text, I have considered the policies 'in the round'.

## ***Role of the 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, retained European Union (EU) obligations<sup>2</sup>
- 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 and referred to in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.<sup>3</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>4</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.

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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 paragraph 11(2) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended)

<sup>2</sup> Substituted by the Environmental Assessments and Miscellaneous Planning (Amendment) (EU Exit) Regulations 2018/1232 which came into force on 31 December 2020

<sup>3</sup> Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

<sup>4</sup> Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act and paragraph 11(2) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended)

The examiner must also consider whether the draft neighbourhood plan is compatible with Convention rights.<sup>5</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 HC. 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.

### ***Examination Process***

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) and paragraph 11 of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended).<sup>6</sup>

PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.<sup>7</sup> Often representations suggest amendments to policies or additional policies. 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.

In addition, PPG is clear that neighbourhood plans are not obliged to include policies on all types of development.<sup>8</sup>

Schedule A2 of the Planning and Compulsory Purchase Act 2004 (as amended) explains that the general rule is that the examination of the issues is to take the form of written representations. A hearing can be held for the purpose of oral representation about a particular issue where there are exceptional reasons for doing so or in other prescribed

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<sup>5</sup> The combined effect of the Town and Country Planning Act Schedule 4B paragraph 8(6) and paragraph 10 (3)(b) and the Human Rights Act 1998

<sup>6</sup> Paragraph 11(3) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended) and PPG para 055 ref id 41-055-20180222,

<sup>7</sup> PPG para 055 ref id 41-055-20180222

<sup>8</sup> Ibid para 040 ref id 41-040-20160211

cases. PPG<sup>9</sup> explains that it is expected that the examination will not include a public hearing. However, 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>10</sup>

I sought clarification on one matter from the Group Parish Council and HC in writing on 6 February 2023 and my question is attached to this report as Appendix 4. I am grateful to both Councils who provided me with a comprehensive answer. This response (publicly available) together with consideration of all the documentation and the representations made, have enabled me to examine the Plan without the need for a hearing.

In 2018, the Neighbourhood Planning Independent Examiner Referral Service (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 Group Parish Council made comments and I have taken these into account.

I made an unaccompanied site visit to familiarise myself with the Plan area on 22 January 2023.

I am very grateful to everyone for ensuring that the examination has run so smoothly and in particular Sam Banks at HC.

### ***Modifications and how to read this report***

Where modifications are recommended they appear in a bullet point list of **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics*** in the bullet point list of recommendations. Modifications will always appear in a bullet point list.

As a result of some modifications consequential amendments may be required. These can include changing policy numbering, section headings, amending the contents page, renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Review 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 will be carried out and the Review Plan's presentation made consistent.

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<sup>9</sup> *ibid* para 056 ref id 41-056-20180222

<sup>10</sup> PPG para 056 ref id 41-056-20180222



### 3.0 Compliance with matters other than the basic conditions

#### ***Qualifying body***

The Review Plan has been prepared and submitted by the Bartestree with Lugwardine Group Parish Council which is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

#### ***Plan area***

The Plan area is coterminous with the Group Parish administrative boundary. HC approved the designation of the area on 6 September 2012.

The Plan relates to this area and does not relate to more than one neighbourhood area. It has not changed from the area covered by the made Plan. It is shown on Map A of the Review Plan. It therefore complies with these requirements.

#### ***Plan period***

The Review Plan period is 2011 – 2031. This is clearly stated in the Review Plan itself. This requirement is therefore satisfactorily met.

#### ***Excluded development***

The Review Plan does not include policies that relate to any of the categories of excluded development. This is also helpfully confirmed in the Basic Conditions Statement. The Review Plan therefore meets this requirement.

#### ***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>11</sup> Subject to any such recommendations, this requirement can be satisfactorily met.

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<sup>11</sup> PPG para 004 ref id 41-004-20190509

## 4.0 Neighbourhood plan preparation

A Consultation Statement has been submitted.

The Group Parish Council decided that a review should be undertaken in 2019.

A Working Group comprising Parish Councillors and local residents was established to take forward the review. Information was posted on the Group Parish website, in the Parish magazine and on the Parish Facebook page.

A 'Call for Sites' stage' resulted in 27 sites coming forward. Following a Housing Site Assessment, consultation was carried out on seven site options. This took the format of a leaflet and questionnaire drop given the prevailing restrictions due to the Covid 19 pandemic. This consultation, which took place over four weeks in February/March 2021, was publicised on the Parish Council website, Parish Magazine, Facebook and notice boards. It included a request to 'rank' the seven options.

Pre-submission (Regulation 14) consultation took place between 11 April – 30 May 2022. This stage was publicised by a flyer and comment form hand delivered to households and businesses, the Parish Magazine, posters and banners and on social media. Printed copies were available in various locations and online. Three drop-in events were held. Responses could be made electronically or by hand.

The consultation and engagement undertaken is satisfactory.

Submission (Regulation 16) consultation was carried out between 18 October – 29 November 2022.

The Regulation 16 stage resulted in 12 representations which I have considered and taken into account in preparing this report.

## 5.0 The basic conditions

### Regard to national policy and advice

The Government revised the National Planning Policy Framework (NPPF) on 20 July 2021. The NPPF is the main document that sets out the Government's planning policies for England and how these are expected to be applied.

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 in local plans or spatial development strategies and should shape and direct development outside of these strategic policies.<sup>12</sup>

Non-strategic policies are more detailed for specific areas, neighbourhoods or types of development.<sup>13</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>14</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>15</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>16</sup>

Policies should 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>17</sup>

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>18</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>19</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>20</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>21</sup>

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<sup>12</sup> NPPF para 13

<sup>13</sup> Ibid para 28

<sup>14</sup> Ibid

<sup>15</sup> Ibid para 29

<sup>16</sup> Ibid para 31

<sup>17</sup> Ibid para 16

<sup>18</sup> PPG para 041 ref id 41-041-20140306

<sup>19</sup> Ibid

<sup>20</sup> Ibid para 040 ref id 41-040-20160211

<sup>21</sup> Ibid

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains a comprehensive assessment of how the Review Plan has responded to national policy and guidance.

### **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>22</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>23</sup> The three overarching objectives are:<sup>24</sup>

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

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>25</sup>

Whilst this has formed part of my own assessment, the Basic Conditions Statement includes detailed information that helps demonstrate how the Review Plan contributes to meeting this basic condition.

### **General conformity with the strategic policies in the development plan**

The development plan consists of the Core Strategy 2011 – 2031 (CS) which was adopted on 16 October 2015 and various other documents including the saved policies

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<sup>22</sup> NPPF para 7

<sup>23</sup> Ibid para 8

<sup>24</sup> Ibid

<sup>25</sup> Ibid para 9

of the Unitary Development Plan (UDP) (found in Appendix 1 of the CS). The most relevant document to this examination is the CS and I have taken all its policies to be 'strategic'.

Section 5 of the BCS contains a table that lists the Review Plan's policies with a helpful commentary about how the Review Plan generally conforms to the relevant policies of the CS it identifies.

### ***Update to the Core Strategy***

HC took the decision in late 2020 to update the CS. Work is progressing but is at an early stage.

### **Retained European Union Obligations**

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

### ***Strategic Environmental Assessment and Habitats Regulations Assessment***

The provisions of the Environmental Assessment of Plans and Programmes Regulations 2004 (the 'SEA Regulations') concerning the assessment of the effects of certain plans and programmes on the environment are relevant. The purpose of the SEA Regulations, which transposed into domestic law Directive 2001/42/EC ('SEA Directive'), are to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes.

The provisions of the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations'), which transposed into domestic law Directive 92/43/EEC (the 'Habitats Directive'), are also of relevance to this examination.

Regulation 63 of the Habitats Regulations requires a Habitats Regulations Assessment (HRA) to be undertaken to determine whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects. The HRA assessment determines whether the Review Plan is likely to have significant effects on a European site considering the potential effects both of the Review Plan itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, an appropriate assessment of the implications of the Review Plan for that European Site, in view of the Site's conservation objectives, must be carried out.

Earlier screening opinions determined that both SEA and HRA would be required. The Group Parish falls within the hydrological catchment for the River Lugg and River Frome; the River Lugg falls within the River Wye Special Area of Conservation (SAC). There are

some sections of the River Wye SAC, namely the River Lugg catchment area, where water quality targets are already exceeding set levels and therefore the river is failing its 'favourable condition' status.

An Environmental Report (ER) dated July 2022 has been submitted. The ER confirms that a Scoping Report was prepared and sent to the statutory consultees.

The ER was published alongside the pre-submission version of the Review Plan and was subsequently reassessed after changes following that stage. The revised ER was published for consultation alongside the submission version of the Review Plan.

The ER concludes that "On the whole, it is considered that the submission Bartestree with Lugwardine NDP is in general conformity with both national planning policy....and strategic policies...."

Once made, the Review Plan will be monitored every year by HC.

The ER is a comprehensive document that deals with the issues appropriately for the content and level of detail in the Plan. This in line with PPG advice that 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 Environmental Assessment of Plans and Programmes Regulations 2004. Therefore I consider that retained EU obligations in respect of SEA have been satisfied.

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 which provides that the making of the plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

An Appropriate Assessment (AA) has been prepared to specifically consider the impact of the Review Plan on water quality within the hydrological catchment of the River Lugg. It concludes that "...there will not be any likely significant effects on the integrity of the River Wye (including River Lugg) SAC". The AA has also taken the duty under the Water Framework Directive into account.

Accordingly I consider that the prescribed basic condition is complied with, namely that the making of the Plan does not breach the requirements of Chapter 8 of Part 6 of the Habitats Regulations.

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

### ***Conclusion on retained EU obligations***

PPG establishes that the ultimate responsibility for determining whether a plan meets retained EU obligations lies with the local planning authority.<sup>27</sup> HC 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 Review Plan that leads me to conclude there is any breach or incompatibility with Convention rights.

## **6.0 Detailed comments on the Plan and its policies**

In this section I consider the Review Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold** or ***bold and italics text***.

### ***Initial sections***

The Plan begins with a helpful summary that explains the review. This is preceded by a useful contents page and list of policies. Some natural updating will of course be required as the Plan progresses to the next stages.

#### ***1. Introduction***

This is a useful section full of information about the review, some contextual information on the Parish and key issues identified. This section has been updated.

#### ***2. Vision and Objectives***

The vision for the Plan has been modified from the original document and reads:

“In 2031 the group parish of Bartestree with Lugwardine will continue to be a pleasant place to live and look quite similar to the way that it does today. The villages will have a community spirit where residents of all ages live in a vibrant and distinctive community in which they feel valued, safe and comfortably at home. Sustainable housing development will have been delivered by a mix of large and small-scale developments providing for a proportionate level of growth, and which blend appropriately with the existing housing stock.”

The clearly articulated vision is underpinned by 13 objectives. These have either been amended or new ones added to ensure there is alignment between the vision,

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<sup>27</sup> PPG para 031 ref id 11-031-20150209

objectives and policies. All of the objectives are articulated well and relate to the development and use of land.

### **3. Planning Policies**

#### **Policies BL1 and BL2**

The NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.<sup>28</sup> It continues that neighbourhood plans can play an important role in identifying the special qualities of an area and explaining how this should be reflected in development.<sup>29</sup>

The NPPF continues that planning policies should ensure developments function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and history whilst not preventing change or innovation, establish or maintain a strong sense of place and optimise site potential.<sup>30</sup>

The NPPF states that policies should support appropriate measures to ensure the future resilience of communities to climate change impacts.<sup>31</sup>

CS Policy SS6 seeks to ensure that new development conserves and enhances environmental assets including through recognising local distinctiveness.

CS Policy SS7 seeks to mitigate the impact of climate change including through design approaches.

**Policy BL1 Criteria for the Design of New Housing** is an amended policy that sets out a number of criteria aimed at ensuring new housing is of high quality, respects local distinctiveness and features and contributes to meeting the challenge of climate change.

**Policy BL2 Extensions to Properties** is an amended policy that seeks to ensure extensions are subservient and appropriate in their effect on the amenity of the occupiers of neighbouring properties.

Both policies reflect the NPPF's aim for neighbourhood plans to set out the quality of development that will be expected for the area.<sup>32</sup> Both are in general conformity with, and provide a local interpretation of, CS Policies SS6, SS7 and SD1 in particular. They will help to achieve sustainable development. Both policies therefore meet the basic conditions and no modifications are recommended.

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<sup>28</sup> NPPF para 126

<sup>29</sup> Ibid para 127

<sup>30</sup> Ibid para 130

<sup>31</sup> Ibid para 153

<sup>32</sup> Ibid para 127



## Policies BL3, BL4, BL5, BL6 and BL7

The strategy for the rural areas in the CS<sup>33</sup> is positive growth. The strategy is based on seven housing market areas (HMA) and the Parish falls within the Hereford HMA which has an indicative housing growth target of 18% according to CS Policy RA1. The CS explains that this proportional 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.

Bartestree/Lugwardine is identified in Figure 4.14 as a settlement which will be the main focus of proportionate housing development. The Plan explains that the CS's indicative housing growth target equates to 152 new dwellings. Taking into account dwellings which have been built or have obtained permission since 2011 (the start of the Review Plan period) this target has already been exceeded.

The CS explains that, where appropriate, settlement boundaries can be defined in neighbourhood plans for those settlements listed in CS Policy RA2. The CS states that outside such settlements new housing will be restricted to avoid unsustainable patterns of development and limited to those proposals meeting the criteria in CS Policy RA3 which include rural exception housing, replacement dwellings and the appropriate reuse of buildings.

**Policy BL3 Bartestree and Lugwardine Settlement Boundaries** is an updated policy which defines settlement boundaries for each village.

The policy wording has been modified to support appropriate development within the boundary and refers to CS Policy RA3. Both settlement boundaries have also been updated.

The rationale for the policy and revised boundaries seems to be sensible and supports the strategy in the CS.

**Policy BL4 Settlement Gap between Bartestree and Lugwardine** is a new policy. It aims to maintain the historic separation between the two settlements. I noted at the time of the first examination that I saw at my site visit that there is a clear and distinctive gap between the settlements. This gap is both sensitive and critical to the identities of both settlements. This is reinforced by the topography of the land at this point and the elevated position of the road between the settlements which affords some long distance views. Support for the separate identity of these two villages and the reinforcement of their local distinctiveness is critically important and supported by national policy and guidance and will help to achieve sustainable development.

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<sup>33</sup> Core Strategy Section 4.8

**Policy BL5 Housing Site Allocations** is a new policy. Three sites are identified; Land adjacent to Newcourt Farm, Cotts Lane in Lugwardine; and Land adjacent to October Cottage, Longworth Lane; and Land at Figgynut Cottage, both in Bartestree.

Following a Call for Sites which resulted in 27 sites coming forward and a comprehensive Housing Site Assessment, public consultation was carried out on seven site options. Smaller sites were preferred by the local community. These were also the sites that performed best in the Housing Site Assessment.

The three sites are allocated for three, five and four dwellings respectively. The policy simply allocates the sites and there is no site specific criteria. The sites are identified on Map C.

As the Review Plan area has already exceeded its target, albeit that target is a minimum, there is no need to allocate sites, and of course there is no requirement for neighbourhood plans to do so. However, I welcome the fact this has been done as it sends a clear signal as to the type of growth the local community would support. The three sites provide for around 12 dwellings.

Site H1, land adjacent to Newcourt Farm has been identified as a potentially contaminated site. This is a matter which can be dealt with at a planning application stage.

HC also raise some concern about the viability of access arrangements for Sites H2, Land adjacent to October Cottage, Longworth Lane and H3, Land at Figgynut Cottage. I saw at my visit that both sites are not straightforward, but consider this is a matter that can be looked at in more detail at the time of the planning application.

**Policy BL6 Housing Mix** is a new policy. It seeks to ensure that development takes account of the latest evidence on local housing needs and supports housing for older people.

The NPPF states that the needs of groups with specific housing requirements should be addressed to support the Government's objective of significantly boosting housing supply.<sup>34</sup> Within this context, the need for different sizes, types and tenures of homes is clear.<sup>35</sup> PPG<sup>36</sup> is clear that the need to provide housing for older people is critical.

In rural areas, the NPPF explains that policies should be responsive to local circumstances and support housing developments that reflect local needs.<sup>37</sup>

This policy is a local interpretation of the NPPF and CS Policy H3 which plans for a range and mix of housing.

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<sup>34</sup> NPPF para 60

<sup>35</sup> Ibid para 62

<sup>36</sup> PPG para 001 ref id 63-001-20190626

<sup>37</sup> NPPF para 78

**Policy BL7 Affordable Housing** is an amended policy with a deletion that repeats higher level policy. The requirement for priority to be given to those demonstrating a local housing need or connection is retained.

I consider that Policies BL3 – BL7 meet the basic conditions by having regard to the NPPF, being in general conformity with, and adding a layer of local detail, to strategic policies, particularly CS Policies RA1, RA2, RA3, H1 and H3 and will help to achieve sustainable development. No modifications are therefore recommended.

## **Policy BL8**

**Policy BL8 Community Facilities** is a new policy.

The NPPF supports the provision of social, recreational and cultural facilities and services needed by a community.<sup>38</sup> It promotes planning positively for such facilities and guarding against the loss of such facilities.<sup>39</sup> It refers to the importance of retaining accessible local services and facilities in supporting a prosperous rural economy.<sup>40</sup>

The policy seeks to retain the village hall and playing fields, two places of worship, the schools and day nursery, two public houses and three local shops in line with CS Policy SC1.

The second part of the policy supports the enhancement of these facilities and the provision of new facilities subject to three criteria.

I raised a query with the Group Parish Council about potential conflict with the identification of the Bartestree Village Hall and playing fields being included in this policy and the identification in Policy BL10 as a Local Green Space. The response received is a practical way forward on this and I recommend a modification accordingly.

With this modification, the policy will meet the basic conditions insofar as national policy promotes the retention and development of local services and community facilities as explained above as does CS Policy SC1. It will help to achieve sustainable development.

- **Delete the words “...and playing fields...” from the first bullet point of the policy**

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<sup>38</sup> NPPF para 93

<sup>39</sup> Ibid

<sup>40</sup> Ibid para 84

## Policy BL9

**Policy BL9 Conserving Historic Character** is a revised policy.

The NPPF is clear that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.<sup>41</sup> In relation to designated heritage assets such as listed buildings or Conservation Areas, it continues<sup>42</sup> that great weight should be given to the assets' conservation when considering the impact of development on the significance of the asset.

In relation to non-designated heritage assets, the NPPF is clear that the effect of any development on its significance should be taken into account and that a balanced judgment will be needed having regard to the scale of any harm or loss and the significance of the heritage asset.<sup>43</sup>

Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes which have heritage significance, but do not meet the criteria for designated heritage assets.

The Review Plan area has a number of listed buildings, two ancient monuments and a Conservation Area. There are also a number of historic, but unregistered areas of parkland.

This policy seeks to ensure that the rich heritage of the Review Plan area is recognised and respected. It has regard to the NPPF, is a local expression of CS Policy LD4 and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

## Policy BL10

**Policy BL10 Local Green Spaces, Allotments and Rights of Way** is an amended policy. In the made Plan, four areas of Local Green Space (LGS) were designated in Lugwardine village and seven in Bartestree village. It is proposed to designate two additional LGSs in Lugwardine village and one in Bartestree village.

The NPPF explains that LGSs are green areas of particular importance to local communities.<sup>44</sup> The designation of LGSs should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.<sup>45</sup> It is only possible to designate LGSs when a plan is prepared

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<sup>41</sup> NPPF para 189

<sup>42</sup> Ibid para 199

<sup>43</sup> Ibid para 203

<sup>44</sup> Ibid para 101

<sup>45</sup> Ibid

or updated and LGSs should be capable of enduring beyond the end of the plan period.<sup>46</sup> The NPPF sets out three criteria for green spaces.<sup>47</sup> Further guidance about LGSs is given in PPG.

The existing and proposed LGSs are shown on Map C. I viewed all the areas at my site visit. I note that existing LGSs B1 and B2 have a change to their names, but both remain the same space.

I consider the existing LGSs continue to meet the criteria in the NPPF satisfactorily. All are demonstrably important to the local community, are capable of enduring beyond the Review Plan period, are in close proximity to the community they serve, are of historic significance in terms of their use and in relation to the development and layout of the village. Both add to the setting, character, appearance and feel of the village. As a result both are local in character. Neither are extensive tracts of land. Their designation is consistent with the local planning of sustainable development and investment in sufficient homes, jobs and other essential services given other policies in the development plan and this Review Plan.

I now turn to the proposed spaces. In Lugwardine village, the first is the green pathway between the burial ground to St. Peter's Churchyard as an extension to L4. As the Review Plan notes this was a link that I felt could be proposed as a LGS in a future review when I examined the first Plan. This is a green pathway that links L3 and L4 across the road.

Incidentally, I do not consider that this extension to L4 has been shown clearly on the Lugwardine village Policies Map.

The second proposed space in Lugwardine is land east of Traherne Close. This lies adjacent to L4 and the Review Plan explains is valued for its historic quality, wildlife interest and tranquility. It falls within the Conservation Area and lies adjacent, on its eastern boundary, to a public footpath and the cemetery of St. Peter's Church, another LGS, L4, in the made Plan.

Now turning to Bartestree Village, the new proposed LGSs is land west of Longworth Lane. The Review Plan explains that the land is valued by the local community for its informal recreational role, tranquility, ecological value and historic character as traditional parkland.

In my view, all except one of the proposed LGSs meet the criteria in the NPPF satisfactorily.

I do not consider that land east of Traherne Close meets the criteria satisfactorily. I saw at my visit that the land was well contained surrounded on two sides by residential development, open land to the north and used as grazing land. As well as falling in the Conservation Area, there is a scheduled monument to the north west of the land.

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<sup>46</sup> NPPF para 101

<sup>47</sup> Ibid para 102

I note that the land was assessed as part of the work carried out on the housing sites options. It was one of seven sites taken forward for specific public consultation on the site options. In the assessment, the concerns relate to access and impact on the heritage assets. In contrast, the other proposed new LGS in the Review Plan, land west of Longworth Lane, was identified at this stage as a potential LGS.

The public consultation exercise on the site options shows that this site did not garner as much support for development as the other sites selected for development and generated most comments. Biodiversity interest and concern over the effect on the heritage assets, access, residential amenity and on the cemetery are identified in the summary of the comments.

I have no doubt that the land is in close proximity to the community it serves. It is at the heart of the village, close to the Church and residential properties as well as an adjacent footpath. The issue of public access is not relevant in this instance as PPG is clear that there does not have to be any public access depending on the reasons the green space is valued.<sup>48</sup>

I also consider the land to be local in character and not an extensive tract of land. At around 2.5 acres, the land parcel is not unusual in the context of the locality or in comparison to other LGSs in the Review Plan area.

However, there is insufficient evidence to show the land is demonstrably special to the local community and holds a particular local significance. It is clear there is historic interest given the Conservation Area and scheduled monument, but not that this goes beyond those designations. There may well be some wildlife interest but this is not specified. I found tranquility at my visit but this would also apply to the land on the other side of the cemetery.

I have therefore reached the conclusion that insufficient evidence has been put forward to support the LGS designation. This is not to say the land does not meet the criteria outlined in the NPPF, but simply there is not a satisfactory justification at this point in time.

I consider the other two proposed LGSs are demonstrably important to the local community, all are capable of enduring beyond the Plan period, all meet the criteria in paragraph 102 of the NPPF and their designation is consistent with the local planning of sustainable development and investment in sufficient homes, jobs and other essential services given other policies in the development plan and this Plan.

In line with PPG advice,<sup>49</sup> I have also considered whether any additional local benefit would be gained by LGS designation. Different designations often achieve different purposes and I consider that the LGSs will send a signal and recognise the particular importance these spaces have for the local community.

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<sup>48</sup> PPG para 017 ref id 37-017-20140306

<sup>49</sup> Ibid para 010 ref id 37-010-20140306

Turning now to the wording of the policy, the NPPF states that policies for managing development in LGSs should be consistent with those for Green Belts.<sup>50</sup> Although the wording in Policy BL10 is the same as in the made Plan, I consider a modification should be made to bring the wording in line with the NPPF.

The rest of the policy supports the provision of allotments and preserves public rights of way. The NPPF supports healthy lifestyles including through the provision of allotments.<sup>51</sup> It also states that planning policies should protect and enhance public rights of way and access, taking opportunities to provide better facilities.<sup>52</sup>

With these modifications, the policy will meet the basic conditions.

- **Ensure that the green pathway extension to LGS L4 is shown on the Lugwardine village Policies Map**
- **Delete land east of Traherne Close as a LGS from the policy and all associated maps and figures**
- **Change the first sentence of the last paragraph in Policy BL10 to read:  
*“Development in the Local Green Spaces will be consistent with national policy for Green Belts.”***

## Policy BL11

**Policy BL11 Landscape views** is a new policy. It details six views which are shown on Map C of the Review Plan. Photographs of each view are also included.

The policy lists the six views indicating that development proposals must not harm the views and this could be demonstrated through the submission of a landscape and visual impact assessment or similar study.

I saw the landscape views at my visit. I consider they have been appropriately selected given the topography and landscape of the area which affords both short and longer distance views and given the plethora of viewpoints that could have been chosen.

The NPPF supports well-designed places including those that are sympathetic to local character and history including the surrounding built environment and landscape setting.<sup>53</sup>

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<sup>50</sup> NPPF para 103

<sup>51</sup> Ibid para 92

<sup>52</sup> Ibid para 100

<sup>53</sup> Ibid para 130

The NPPF indicates that policies should contribute to and enhance the natural and local environment including through the recognition of the intrinsic character and beauty of the countryside.<sup>54</sup>

The policy takes its lead from CS Policy SS6 which seeks to conserve and enhance environmental assets that contribute to local distinctiveness and CS Policy LD1 by ensuring the character of the landscape and its key attributes, including the open countryside setting of the villages, are taken into account and influence new development.

The policy has regard to national policy, is in general conformity with the strategic policies in the CS and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are proposed.

### **Policy BL12**

**Policy BL12 Water quality in the River Lugg** is a new policy. The River Lugg to the south and west of the Review Plan area falls within the River Wye SAC. The river's target levels for phosphate are being exceeded. This means that only development which demonstrates there will be no adverse effects can go ahead.

This policy therefore sets out this latest position and refers to HC's Phosphate Calculator Tool and guidance.

This policy is specifically designed to help address issues around water quality. It is in generally conformity with CS Policy SD4 which also focuses on issues of water quality and wastewater treatment.

I note the policy is supported by the Environment Agency.

The policy meets the basic conditions and therefore no modifications are recommended.

### **Policies BL13 and BL14**

The Review Plan explains there are a number of businesses in the Plan area including four main employers and smaller enterprises.

The NPPF places significant weight on the need to support economic growth and productivity, taking into account local needs and wider opportunities.<sup>55</sup> In rural areas, it indicates that policies should enable the sustainable growth and expansion of all types

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<sup>54</sup> NPPF para 174

<sup>55</sup> Ibid para 81



of business through conversion and new build, the development and diversification of agricultural and other land-based rural businesses and sustainable tourism and leisure.<sup>56</sup>

In rural areas, the NPPF explains that sites to meet local business and community needs may have to be found adjacent to or beyond existing settlements.<sup>57</sup>

The NPPF is clear that advanced, high quality and reliable communications infrastructure is essential for economic growth and social wellbeing.<sup>58</sup> It explains that planning policies should support such provision.

CS Policy SS5 supports traditional employment sectors such as farming and the diversification of the business base where impacts on the community or local environment are acceptable.

CS Policy RA6 supports the principle of employment generating proposals in the rural areas subject to a number of criteria.

**Policy BL13 Supporting Local Businesses** is a revised policy. The revisions are minor with a more positive steer to support the growth of local businesses subject to satisfactory effects on the landscape, the living conditions of local residents and the local highway network.

The policy resists change of use to non-employment uses unless viability can no longer be demonstrated.

In addition, support is given to sensitively placed masts and other telecommunications infrastructure. The policy reflects the stance in the NPPF, including on mast sharing and sympathetic design.<sup>59</sup>

The policy has regard to the NPPF and reflects CS Policies SS5 and RA6 and local circumstances. It will help to achieve sustainable development.

**Policy BL14 Redundant Rural Buildings** is a revised policy. The wording has been slightly changed and new criteria added.

The policy has regard to the NPPF as described above, is in general conformity with CS Policies SS5 and RA5 which supports the sustainable re-use of rural buildings and will help to achieve sustainable development.

Policies BL13 and BL14 both meet the basic conditions for the reasons given above. No modifications are recommended.

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<sup>56</sup> NPPF para 84

<sup>57</sup> Ibid para 85

<sup>58</sup> Ibid para 114

<sup>59</sup> Ibid para 115

## Policy BL15

**Policy BL15 Transport and Highways** is a revised policy. Minor modifications have been made to the wording to help with clarity and a new criterion added that refers to active travel.

This policy seeks to ensure that new development has satisfactory provision for both access and parking and is a local expression of CS Policies SS4 and MT1. Both CS policies seek to ensure that new development is designed and located to minimise the impacts on the transport network and encourage a choice of transport modes. Policy BL15 has regard to the NPPF and its stance on promoting sustainable transport<sup>60</sup> and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

### **4. Monitoring and Review**

This section explains how the Review Plan will be monitored. Whilst this is not yet a requirement of neighbourhood planning, this is to be welcomed.

### **Appendices**

Five appendices are found. The first is Map A showing the Review Plan area. Map B shows the Review Plan area in context. Map C is the Village Policies Map. Map D shows the unregistered parks and gardens. Appendix 5 sets out the evidence used to inform the Review Plan.

## 7.0 Conclusions and recommendations

Other than the specific issues I have identified above, I have not found any further issues arising from other policies in the Review Plan which lead me to conclude any additional modifications are needed.

I am satisfied that the Bartestree with Lugwardine Review 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 Bartestree with Lugwardine Review 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 Bartestree with Lugwardine Review Neighbourhood Plan area.

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<sup>60</sup> NPPF paras 104, 105, 110

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 Review Plan should proceed to a referendum based on the Bartestree with Lugwardine Neighbourhood Plan area as approved by Herefordshire Council on 6 September 2012.

*Ann Skippers* MRTPI

Ann Skippers Planning

1 March 2023

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

Neighbourhood Development Plan Review 2011 – 2031 Submission draft September 2022

Review Statement of Modifications September 2022 (DJN Planning Limited)

Progression to Examination Decision Document Review of an Existing Made NDP December 2022 (HC)

Basic Conditions Statement September 2022 (DJN Planning Limited)  
Consultation Statement September 2022 (DJN Planning Limited)

Environmental Report July 2022 (HC)

Appropriate Assessment July 2022 (HC)

Bartestree with Lugwardine Group Parish Policies Map 2022

Bartestree Village Policies Map 2022

Lugwardine Village Policies Map 2022

Herefordshire Core Strategy 2011-2031 October 2015 and Appendices

Bartestree with Lugwardine NDP 2011 – 2031 August 2016

Information on the Bartestree with Lugwardine Group Parish Council website [www.bartestreewithlugwardinegroup-pc.gov.uk](http://www.bartestreewithlugwardinegroup-pc.gov.uk) including the reports titled Housing site assessment December 2020 (DJN Planning Limited) and Results of consultation on housing site options April 2021 (DJN Planning Limited)

**List ends**

## Appendix 2 Examination Note 1

### **Bartestree with Lugwardine Review Neighbourhood Plan Examination Procedural Matters – Formal Determination Examination Note 1**

Following the submission of the Bartestree with Lugwardine Review Neighbourhood Plan 2022 – 2036 for examination, I write to advise you on initial procedural issues.

#### ***Initial matters***

I confirm receipt of the submission draft revised Neighbourhood Plan (the Review Plan) and accompanying documents including the statements from the Parish Council and local planning authority, Herefordshire Council (HC) regarding the proposed modifications and whether they are so significant or substantial as to change the nature of the neighbourhood development plan which the draft Plan would replace, giving reasons why, and the Regulation 16 consultation responses.

This has provided sufficient information to undertake my initial determination under paragraph 10(1) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended).

#### ***Determination under Paragraph 10(1) of Schedule A2 to the Planning and Compulsory Purchase Act 2004 (as amended)***

I am required to determine to whether the modifications contained in the draft Plan are so significant or substantial as to change the nature of the neighbourhood development plan which the draft Review Plan would replace. The purpose of this determination is to establish the appropriate examination process for the draft Plan which will, amongst other things, affect whether or not the draft Plan will need to be the subject of a referendum if it is to be made.

The original Plan was made in December 2016. Since then there have been a number of changes to national policy. In addition, experience with the operation of the made Plan and new surveys undertaken by the Parish Council revealed a need for updates to the Plan across a number of topic areas.

The Parish Council has submitted a comprehensive and helpful Statement of Modifications document that details the changes. The Parish Council considers that a number of changes to the Plan are material, but do not change the nature of the neighbourhood plan.

The local planning authority, HC, has reached the same conclusion.

In this context, the draft Review Plan intends, amongst other things, to:

- Make changes to the vision and core objectives including the addition of new core objectives
- Make changes to all existing made policies through updating and/or making them clearer, more robust, specific or detailed including through the addition of new criteria
- Delete two made policies on housing in the countryside and working from home (made Policies BL5 and BL10)
- Propose three new areas for designation as Local Green Space

- Include four new policies (BL6, BL8, BL11 and BL12) on a variety of topics which were either covered more briefly in existing made policies or the supporting text of the made Plan and/or are reflected in policies in the adopted Core Strategy and given a local interpretation
- Include two new policies (BL4 and BL5) which respectively refer to a new settlement gap and three site allocations for housing.

I have considered the proposed modifications, the views of the Parish Council and the local planning authority and the representations received as well as the advice on updating neighbourhood plans in Planning Practice Guidance

I consider that the inclusion of a new policy that proposes three sites for new housing does constitute a change in nature of the made Plan. In reaching this conclusion, I have noted that the made Plan does not contain any housing allocations and that the three new sites now proposed are, of themselves, small scale in nature.

Therefore in my assessment, the modifications to the made Plan are so significant or substantial as to change the nature of the made Plan and I formally determine accordingly under paragraph 10(1) of Schedule A2.

Consequently, I consider the examination of the Bartestree with Lugwardine Review Neighbourhood Plan should proceed under the provisions of Schedule 4B to the Town and Country Planning Act 1990 (as amended). In turn, this means a referendum would be required.

Accordingly, I therefore request the formal consent of the qualifying body (in accordance with paragraph 10(5) of Schedule A2) for the examination to proceed under the provisions of Schedule 4B, as set out above.

Subject to receipt of the formal consent of the qualifying body for the examination of the Review Plan to proceed under the provisions of Schedule 4B, I will issue a further procedural note concerning the arrangements for the examination as well as any questions of clarification or other matters that may arise.

If the Parish Council or local planning authority have any questions relating to the examination process at this stage, please do not hesitate to get in touch and I will do my best to answer any such queries.

Ann Skippers MRTPI  
Independent examiner  
31 January 2023

## Appendix 3 Examination Note 2

### **Bartestree with Lugwardine Review Neighbourhood Plan Examination Examination Note 2**

Following the submission of the Bartestree with Lugwardine Review Submission draft Neighbourhood Development Plan 2011 – 2031 for examination, this note sets out some general information about how I intend to conduct the examination.

My role is to determine whether the Plan meets the basic conditions and other legal requirements.

#### ***Procedural matters***

##### ***1. Communication***

It is important that the examination process is open and transparent to all interested parties. I hope to ensure that the Group Parish Council feels part of the process. My main point of contact will be the designated local planning authority contact, Samantha Banks.

Any correspondence (other than that relating to contractual matters) should be published on the local planning authority's website and the Parish Council's website in a timely manner.

If anyone else who is not the designated point of contact gets in touch with me direct, for example a local resident or planning consultant, I will refer them to the local planning authority contact in the first instance for assistance.

##### ***2. Late representations***

As a general rule of thumb late or additional representations will not be accepted. The only time when I will consider accepting a representation submitted after the consultation period has ended is in those cases where there has been a material change in circumstances since the six week consultation period has ended. For example national planning policy changes or a judgement may be handed down from the Courts. In these circumstances anyone wishing to introduce new evidence should fully justify why and in the case of substantial documents, indicate which parts of the document are relevant and why.

However, if a meeting or hearing is held, there may be further opportunities for comments to be made at my request to assist me in ensuring adequate examination of an issue.

##### ***3. Clarification procedures***

I may at any time during the examination seek written clarification of any matters that I consider necessary. This is quite common and should not be regarded as

anything out of the ordinary. The usual time for response to any clarification queries is one to two weeks.

If I find that there are significant issues which may prevent the Review Plan meeting the basic conditions I will let you know during the course of the examination as soon as I can so that options on how best to proceed can be considered. Whilst this situation can usually be dealt with through an exchange of written correspondence, if it would be helpful to hold a meeting, I will suggest this and be in touch to make suitable arrangements. Any such meeting will be held in public and, at the present time, be held virtually.

#### *4. Visit to the Plan area*

I expect to be visiting the Plan area during the examination. Visits, where necessary, help me to understand the nature of the Plan and the representations. It will also help me decide if there are any issues to be clarified. I will not need to be accompanied on any visit. If however, I feel it is essential to gain access onto private land then I will be in touch to seek permission to do that and at that point an accompanied site visit may need to be arranged.

If I am 'spotted' during my visit, I would appreciate it if I am not approached, but allowed to continue the visit unheeded.

#### *5. Examination timetable*

The main determinants of how long the examination will take are firstly the number and complexity of the policies in the Neighbourhood Plan, the clarity of supporting documentation and evidence and the number and nature of any representations.

It may be there is very little correspondence from me during the examination. I will however endeavour to keep you updated on the progress of the examination. Please do not hesitate to contact me if you wish to know progress and have not heard from me.

#### *6. The need for a hearing*

At the present time, I do not envisage there will be a need for a hearing. However, at any time before final report is issued, I may decide to call a hearing if I consider this is necessary to ensure adequate examination of any issue or to allow a person a fair chance to put a case.

If a hearing is necessary, I will let you know as soon as I can and be in touch to discuss the procedure and to make suitable arrangements at that time.

The period of notice for hearings is not prescribed, but typically 21 days notice is given.



### *7. The 'Fact Check' stage*

A confidential draft of my report will be sent to the Group Parish Council and local planning authority to allow both parties to check whether there are any factual errors such as dates, sequence of events, names and so on. This is not an opportunity for further representations to be made. A period of a week or so is usually set aside for this purpose.

I find it very helpful if the local planning authority collates its own comments with those of the Group Parish Council into a single response or both separate responses are sent to me at the same time.

I will endeavour to issue my final report shortly after the fact check stage.

### *8. Procedural questions*

I hope this information is helpful. If the Group Parish Council or HC have any questions relating to the examination process at this stage, please do not hesitate to get in touch and I will do my best to answer any such queries.

Ann Skippers MRTPI  
Independent examiner  
20 February 2023

## Appendix 4 Question of clarification

### **Bartestree with Lugwardine Review Neighbourhood Plan Examination Questions of Clarification from the Examiner to the Parish Council and HC**

Having completed my initial assessment of the Review Neighbourhood Plan (the Plan), I am writing to the Group Parish Council (PC) and Herefordshire Council (HC) with a question of clarification.

1. Draft Policy BL8, Community Facilities, refers to Bartestree Village Hall and playing fields. The policy would allow the existing facility to be lost in the circumstance that an appropriate alternative facility is available, or where the facility is no longer required, viable or fit for purpose etc. (under Core Strategy Policy SC1). Draft Policy BL10, Local Green Spaces, Allotments and Rights of Way, identifies the "open space surrounding the Village Hall including the cricket and football pitches, children's play area and community field" as a Local Green Space. Is there is conflict between the two policies and if so, how should this be resolved?

Thank you for your anticipated reply.

This note will be a matter of public record and should be placed on the relevant websites.

With many thanks,

Ann Skippers MRTPI  
Independent Examiner  
6 February 2023