Bartestree with Lugwardine Group NDP Independent Examination

Delegated Decision Statement

24th August 2016

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Bartestree with Lugwardine Group Parish Neighbourhood Area
Parish Council	Bartestree with Lugwardine Group Parish
Submission Examination Date Inspector Report Received	22 March – 3 May 2016 July/August 2016 17th August 2016

1 Introduction

1.1 The Town and Country Planning Act 1990 (as amended), states that the Council has a statutory duty to assist communities in the preparation of neighbourhood development plans and to take the plans through a process of examination and referendum.

1.2 The Localism Act 2011 (Part 6 chapter 3) details the Local Planning Authority's responsibilities under Neighbourhood planning.

1.3 This Decision Statement confirms that the modifications proposed by the examiner's report have been accepted, the draft Bartestree with Lugwardine Neighbourhood Plan has been amended taking into account the modifications, and that NDP may proceed to referendum.

2 Background

2.1 The Neighbourhood Area of Bartestree with Lugwardine was designated on 4 September 2012. The Neighbourhood Area follows the Bartestree with Lugwardine Group parish boundary. The Bartestree with Lugwardine Neighbourhood Development Plan has been prepared by Bartestree with Lugwardine Group Parish Council. Work on the production of the plan has been undertaken by members of the

local community through a Neighbourhood Plan Steering Group since September 2012.

2.2 The Plan was submitted to Herefordshire Council on 15 March 2016, and the consultation under Regulation 16 took place between the 22 March 2016 to 3 May 2016, where the Plan was publicised and representations invited.

2.3 During July 2016 Ann Skippers BSc (Hons) Dip Mgmt (Open) PGC(TLHE)(Open) MRTPI FHEA FRSA AoU was appointed by Herefordshire Council, with the consent of the Parish Council, to undertake the examination of the Bartestree with Lugwardine Group NDP and to prepare a report of the independent examination.

2.4 The Examiner's report concludes that subject to making the minor modifications recommended by the examiner, the plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.

2.5 Having considered each of the recommendations made within the examiner's report and the reasons for them, Herefordshire Council (in accordance with the 1990 Act Schedule 4B paragraph 12) has decided to make the modifications to the draft plan referred to in Section 3 below to ensure that the draft plan meets the basic conditions set out in legislation.

3 Recommendations by the examiner

3.1 The table 1 below details the recommendations made by the examiner within her report along with the justification:

Policy	Modification recommended	Justification
Recommended Modification 1 Plan area	Add to Map A's title "*and Plan area*"	Interests of accuracy and clarity
Recommended Modification 2 Title page	Move the "(CS Policy….)" references from all the policy boxes to the supporting text	Provide clarity and accuracy
Recommended Modification 3 Introduction	• Add "*which presently consists of the Core Strategy*" to the end of the second paragraph under subsection 1.3 • Reword the first paragraph under subsection 1.4 (page 4 of the Plan) to read: "*There is no legal requirement for neighbourhood plans to have a sustainability appraisal, but a sustainability appraisal may be a useful tool for showing how the neighbourhood plan will contribute to the achievement of sustainable development. However, in some circumstances a strategic*	Minor revisions to wording to provide accuracy and clarity Reflect the relevant legislation

	environmental assessment may be required where a neighbourhood plan is likely to have significant environment effects." • Add "*...in the Unitary Development Plan.*" at the end of the first sentence in subsection 1.6 • Delete paragraph two in subsection 1.6 in its entirety • Add the word "*considered*" to the penultimate sentence in the paragraph before the subsection headed "Demographics" on page 7 of the Plan so that it reads: "They are not *considered* suitable for heavy goods vehicles or...." • Change the last sentence in the paragraph before the subsection headed "Demographics" on page 7 of the Plan so that it reads: "Several have junctions with the A438 which *often* have very limited visibility..." • Add information such as a link or short sentence indicating where the following appendices can be found: appendix referred to in the second paragraph of subsection 1.5 (page 5); report and appendix referred to in the first paragraph of subsection 1.6 (page 5); appendix referred to in the third paragraph on page 6 and appendix referred to under "Crime" on page 8.	
Recommended Modification 4 2 The Policies of the Bartestree with Lugwardine Neighbourhood Development Plan	• Add information such as a link or short sentence indicating where the appendix referred to under Section 3 on the bottom of page 8 can be found	Clarification of the text and provide a helpful pointer
Recommended Modification 5 Policy BL1	• Replace the first paragraph on page 9 of the Plan with a new paragraph that reads: "*Whilst planning applications will be determined by Herefordshire Council, the Parish Council*	Strengthen and clarification of policy Clarification of the text and to add more certainty

	encourages developers of schemes of ten or more dwellings to produce a Design Brief which sets out the development principles for the site and to discuss this with the Parish Council prior to the submission of any planning application." • Change the title of Policy BL1 to "*Criteria for the Design of New Housing*" • Add the words "*wherever possible*" to the end of criteria II. and VII. • Add the words "*where appropriate*" to the end of criterion VIII. • Delete "...generous and..." from criterion III.	For the policy to offer greater flexibility Ensure policy is in line with Community Infrastructure Levy Regulations 2010 and the policy tests set out in the NPPF.
Recommended Modification 6 Policy BL4	• Delete the words "...an option now endorsed by the modifications to the Local Plan." in the first paragraph under section 3.4 heading on page 10 of the Plan 28 See page 6 of the Plan 19 • Reword Policy BL4 to read: "*Settlement boundaries for Bartestree and Lugwardine have been defined and are shown on Map B. Within these settlement boundaries, development will be supported in principle.*"	Clarification of policy Confirms this policy has regard national policy providing a practical framework to provide sustainable development.
Recommended Modification 7 Policy BL5	• Amend the first paragraph on page 11 of the Plan to read: "*Housing development outside the settlement boundaries, in the countryside, is restricted to those categories of development identified in the NPPF, the Local Plan and this neighbourhood plan.*" • Reword Policy BL5 to read: "*Residential development outside the settlement boundaries of Bartestree and Lugwardine will be limited to:* *I. the replacement of existing dwellings that have a lawful residential use and where the replacement is comparable in size and scale and is within the curtilage of the existing dwelling;* *II. extensions to existing dwellings;*	Interests of accuracy and consistency Ensure the policy has a better reflection of relevant legislation in the NPPF and Core Strategy. Enables greater flexibility.

	III. proposals which accord with Policies BL3 and BL6 of this Plan 20. IV. rural exception sites in accordance with Core Strategy Policy H2 and V. proposals which are in accordance with Core Strategy Policy RA3.	
Recommended Modification 8 Policy BL6	• Reword Policy BL6 to read: "Conversion of redundant rural buildings to small scale commercial or business use or residential uses will be permitted provided the impacts on the landscape and local road network are satisfactory."	Ensure the policy has a better reflection of relevant legislation in the NPPF and Core Strategy. Encourage sustainable development.
Recommended Modification 9 Policy BL7	• Delete Policy BL7 and the two supporting paragraphs of text (subsection 3.7) in their entirety • Consequential amendments to the Plan's numbering etc. will be needed	Reiteration of existing policy in the Core Strategy, does not add anything to the plan. Insufficient account of policy and guidance.
Recommended Modification 10 Policy BL8	• Delete the words "…within which new residential development would only be permitted in exceptional circumstances." from the second sentence in the first paragraph in subsection 3.8 on page 11 of the Plan • Delete the third sentence in the first paragraph in subsection 3.8 on page 11 of the Plan which begins "However, there may be potential…" to end • Add "*The NPPF advises that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance."* To the first paragraph in subsection 3.8 • Change the second sentence at the top of page 12 of the Plan to read: "*The character and setting of these areas should be conserved and inappropriate development will be resisted in line with Policy BL8.*" • Replace the third paragraph of subsection 3.8 with: "*Development adjacent to heritage assets, including historic parkland, should be*	To ensure it fully reflects the thrust of national policy and guidance, along with the Core Strategy. Such as statutory tests for development in Conservation Areas or Core Strategy LD4. Interests of consistency and accuracy.

	carefully considered to ensure that no harmful effects arise. Map C indicates the areas of unregistered parks and gardens and traditional orchards in Bartestree and Lugwardine." • Reword Policy BL8 as follows: *"All applications affecting heritage assets in the Parish will be required to consider the significance of any heritage asset affected including any contribution made by their setting. Great weight will be given to the conservation of a designated heritage asset and any harm or loss will require clear and convincing justification in line with national policy. Non-designated heritage assets including the unregistered parks and gardens and traditional orchards shown on Map C, will be conserved or enhanced and their character protected. A balanced judgment will be required about the effects of any development proposals on or close to such assets having regard to the scale of any harm or loss and them significance of the heritage asset. Within the Lugwardine Conservation Area, new development must conserve or enhance the character or appearance of the Conservation Area."* • Check Map C for factual accuracy and update as necessary	
Recommended Modification 11 Policy BL9	• Change the title of the policy to "*Local Green Spaces, Allotments and Rights of Way*" • Change the first sentence of Policy BL9 to read: "*The following Local Green Spaces and as indicated on Map B will be protected for their beauty, historic value, special significance to the local community or recreational value:*" • Rename Map B "*Bartestree & Lugwardine Maps*" • Identify each LGS on Map B by name and by referring to the list I. to VIII. in the policy so that the policy ties up with the	For clarity, consistency and accuracy. Should be modified to reflect national policy and guidance.

	map and each LGS can be readily identified	
Recommended Modification 12 Policy BL10	• Reword Policy BL10 to read: *"New development is expected to help to meet the need for affordable housing.* I. *All developments on sites of more than 10 dwellings which have a maximum combined gross floor space of more than 1000 square metres will be expected to provide a target of 35% affordable housing provision to meet local housing needs and may include affordable rent, shared ownership and discounted sales but should reflect the most up to date evidence on local housing needs available.* II. *Any affordable housing provided should ensure that priority is given in allocating those homes to those demonstrating a local housing need or local connection and thereafter be offered to the neighbouring Parishes of Withington, Weston Beggard, Dormington, Mordiford and Hampton Bishop and then to the remainder of Herefordshire."*	Give the policy more longevity over the plan period and enabling greater flexibility. Interests of accuracy and clarity. NDP cannot set out any criteria relating to covenants about resale or re letting of the affordable homes. As covenants fall outside the planning system.
Recommended Modification 13 Policy BL13	• Replace the words "full and adequate" in criterion II. with the words "*satisfactory*" and add at the end of this criterion "*based on the characteristics of the site and the type and amount of development*;" • Delete criterion III. in its entirety • Add "*take every available opportunity to ensure that…"* to the start of criterion V. • Move criterion VI. in its entirety to the supporting text • Reword criterion VII. to read: "*Developer or CIL contributions will be sought from new development where appropriate to fund improvements towards improved public transport services and facilities and to mitigate the impact on the highway network."* • Consequential amendments to the policy numbering will be needed	To add clarity to the policy. Lack of evidence and framework provision. Encourage flexibility within the policy. Interests of accuracy. Ensure policy is in line with Community Infrastructure Levy Regulations 2010 and the policy tests set out in the NPPF.

Recommended Modification 14 General	• Delete subsections 4.1, 4.2 and 4.3 in their entirety • Consequential amendments to the Plan will be needed	Should be deleted as this is not in conformity with the Core Strategy Policy RA6. Statements not planning policy so should be removed. Interests of clarity
Recommended Modification 15 Risk Assessment	• Delete Section 5 in its entirety	Does not support strategic needs and detracts from the Plan.
Recommended Modification 16 Map B	• Change Map B by deleting the words "Proposed New" from "Proposed New Settlement Boundaries"; delete the word "Designated" from "Designated Green Spaces" and replace it with "*Local*' and delete the "Planning Appeal Pending" from the key and removing the "Planning Appeal Pending" notation/site from the map	Interests of clarity and accuracy. Future proofing policy. Better reflection of the Plan.

4 Post Adoption SEA and HRA

4.1 The modifications made as a result of the Examiner's report, as outlined above in Section 3 of this document, have been considered in terms of any resultant changes to the Strategic Environmental Assessment and Habitat Regulations Assessment. None of the changes are considered to have a significant effect on the overall appraisals. The updated SEA and addendum to the HRA are available to accompany the final plan.

5 Decision

5.1 The Neighbourhood Planning (General) Regulations 2012 requires the local planning authority to outline what action to take in response to the recommendations that the examiner made in the report under paragraph 10 of Schedule 4A to the 1990 act (as applied by Section 38A of the 2004 Act) in relation to a neighbourhood development plan.

5.2 Herefordshire Council have considered each of the recommendations made in the examiner's report and the reasons for them and have decided to accept the modifications to the draft plan. The draft plan will be altered in line with Table 1 above in line with paragraph 12 (6) of Schedule 4B to the 1990 Act.

5.3 Following the modifications made, the Bartestree with Lugwardine Neighbourhood Plan will meet the basic conditions:

- Having regard to national policies and advice contained in guidance issues by the Secretary of State, it is appropriate to make the 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 Herefordshire Local Plan – Core Strategy
- The making of the neighbourhood plan does not breach and is otherwise compatible with EU obligations and
- The making of the neighbourhood plan is not likely to have a significant effect on a European site either alone or in combination with other plans and projects.

5.4 It is recommended that the Bartestree with Lugwardine Group Neighbourhood Plan progresses to referendum. Consideration has been given as to whether the area should be extended beyond that of the neighbourhood area. Herefordshire Council concur with Examiner's conclusion that nothing has been suggested which would require an extension of the area beyond that designated on 4th September 2012.

Signed .....

Dated 25 · 8 · 2016

Richard Gabb
Programme Officer – Housing and Growth