

# **Eardisley Group Neighbourhood Development Plan 2011-2031**

## **Independent Examiner's Report**

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## Summary

I have been appointed as the independent examiner of the Eardisley Group Neighbourhood Development Plan. The Eardisley Group Parish comprises the three parishes of Eardisley, Whitney-on-Wye and Winforton with Willersley and lies approximately 15 miles to the southwest of the market town of Leominster.

The Plan recognises the need for growth and takes a proactive and innovative approach to new development whilst seeking to retain those features and characteristics that make this locality such a special place for residents and visitors alike.

There has been exemplary engagement with the residents and businesses of the three Parishes. The Plan is presented and written well with a plethora of supporting evidence. I have no doubt at all that its policies will help to make these communities resilient and sustainable. In my view, it is an example of excellent practice in the field of neighbourhood planning.

As well as an Environmental Report, a Habitats Regulations Assessment has also been undertaken because the River Wye Special Area of Conservation borders the south of the Parishes.

Further to consideration of the policies in the Plan I have recommended a number of modifications that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear and consistent.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore delighted to recommend that the Eardisley Group Neighbourhood Development Plan 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.

Ann Skippers  
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14 January 2016

Ann Skippers Planning is an independent consultancy that provides professional support and training for local authorities, the private sector and community groups and specialises in troubleshooting, appeal work and neighbourhood planning.

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## 1.0 Introduction

This is the report of the independent examiner into the Eardisley Group Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

The Eardisley Group Parish comprises the parishes of Eardisley, Whitney-on-Wye and Winforton with Willersley and lies approximately 15 miles to the southwest of the market town of Leominster. This is one of the first neighbourhood plans in Herefordshire to reach examination stage and the Eardisley Group Parishes (the Group), are to be congratulated for this achievement. It is clear that the Plan has resulted from sustained work and it takes a proactive and innovative approach to issues raised by the communities of three Parishes.

## 2.0 Appointment of the independent examiner

I have been appointed by Herefordshire Council (HC) with the agreement of the Group, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five 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.

## 3.0 The role of the independent examiner

The examiner is required to check<sup>1</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

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<sup>1</sup> Set out in paragraph 8 (1) of Schedule 4B 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.

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>2</sup> are:

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

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two basic conditions in addition to those set out in primary legislation and referred to in the paragraph above. These are:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site<sup>3</sup> or a European offshore marine site<sup>4</sup> either alone or in combination with other plans or projects (this is applicable to this examination), and
- Having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this is not applicable to this examination as it refers to orders).

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

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

<sup>3</sup> As defined in the Conservation of Habitats and Species Regulations 2012

<sup>4</sup> As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

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

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Herefordshire Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

## **4.0 Compliance with matters other than the basic conditions**

I now check the various matters set out above in section 3.0 of this report.

### **Qualifying body**

The Eardisley Group Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This is also confirmed in the Basic Conditions Statement. This requirement is met.

### **Plan area**

The Plan area is coterminous with the Eardisley Group Parish Council administrative boundary which covers the three Parishes of Eardisley, Winforton and Whitney-on-Wye. Herefordshire Council approved the designation of the area on 10 April 2013. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements.

### **Plan period**

The front cover of the Plan indicates it covers 2011 to 2031 which aligns with the Herefordshire Local Plan Core Strategy. However the Basic Conditions Statement indicates the period is 2015 to 2031 which I take to be an easily made oversight. The Plan period is clear from the Plan itself and should run from 2011 to 2031.

### **Excluded development**

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

## Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. Where I consider a policy or proposal to fall within this category, I have recommended it be moved to a clearly differentiated and separate section or annex of the Plan or contained in a separate document. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but non-land use matters should be clearly identifiable.<sup>5</sup> Subject to any such recommendations, this requirement can be satisfactorily met.

## 5.0 The examination process

It is useful to bear in mind that the examination of a neighbourhood plan is very different to the examination of a local plan. I am not examining the Plan against the tests of soundness used for Local Plans<sup>6</sup>, but rather the submitted Plan meets the basic conditions, Convention rights and the other statutory requirements.

The general rule of thumb is that the examination will take the form of written representations.<sup>7</sup> However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case.

After consideration of the documentation and all the representations, I decided it was not necessary to hold a hearing.

I have also specifically referred to some representations and sometimes identified the person or organisation making that representation. However, I have not referred to each and every representation in my report. Nevertheless each one has been considered carefully and I reassure everyone that I have taken all the representations received into account during the examination.

During the course of the examination it was necessary to clarify a number of factual matters. These related to the proposed designation of green and open spaces in Policy E4; the extent of the boundaries for the Eardisley Conservation Area, the Saw Mills site and industrial areas to the south of Eardisley and westernmost employment site in Whitney-on-Wye; the identification of the land parcels in the site assessment; copies or status of documents referred to in the Plan and a query on the Consultation Statement documents to ensure I had all the requisite information.

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<sup>5</sup> PPG para 004

<sup>6</sup> NPPF para 182

<sup>7</sup> Schedule 4B (9) of the Town and Country Planning Act 1990

I would like to record my thanks for the exemplary support and quick responses that I received from the officers at HC and the Group during the course of this examination.

I undertook an unaccompanied site visit to the neighbourhood plan area on 10 December 2015.

## 6.0 Consultation

The Group has submitted a Consultation Statement which provides details of who was consulted and how, together with the outcome of that engagement process. The Consultation Statement contains numerous other documents that give details of the consultation and the results of that consultation.

It is clear that since February 2013 when the residents of the three Parishes were interestingly and innovatively asked for 'permission' to undertake the Plan that there have been numerous opportunities for the residents and businesses to actively participate. There is an excellent consultation methods matrix<sup>8</sup> that demonstrates the 'how' has been carefully considered. A launch event and feedback through the Parish magazine, specific consultation and a survey with businesses, school governors, staff and children as well as targeted consultation with community groups has been comprehensive. A survey to residents attracted a very high respond rate no doubt due to the 44 or so volunteers who spent time to deliver and collect it. These main surveys were supplemented by smaller optional surveys on housing needs and land that might be available for development; again a useful and innovative approach.

Changing circumstances such as planning applications which were submitted during the Plan's evolution were addressed through additional meetings or events.

What is striking is the amount and nature of the engagement that has taken place over a sustained period of time and the enthusiasm and commitment of those involved and the high levels of interaction with the community. Excellent and extensive feedback has regularly been given through Parish magazine notices or through reports as well as at the events themselves. A website has also kept everyone up to date.

Pre-submission (Regulation 14) consultation took place between 7 October – 17 November 2014. A range of stakeholders and neighbouring Parish Councils were consulted.<sup>9</sup> In essence, Regulation 15<sup>10</sup> requires a Consultation Statement which:

- (a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- (b) explains how they were consulted;
- (c) summarises the main issues and concerns raised by the persons consulted; and

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<sup>8</sup> Consultation Statement final document

<sup>9</sup> Consultation Statement documents 46 and 47 respectively

<sup>10</sup> Regulation 15 of the Neighbourhood Planning (General) Regulations 2012

(d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.

The Consultation Statement and its associated documents detail who was consulted and how they were consulted. Separate summaries of the key issues raised by residents and stakeholders are detailed together with another document shows the changes to the Plan made as a result of the Regulation 14 stage. There is a wealth of information on the Group website.

The submission version of the Plan has been the result of sustained effort and consultation. Feedback at every stage of the Plan's production has been outstanding. The engagement has been exemplary in many ways and the Group is commended for this during the preparation of the Plan across the three Parishes. It is clear that an immense amount of work has gone into its production.

Submission (Regulation 16) consultation was carried out between 15 May and 25 June 2015. This attracted a number of representations which I have taken into account in preparing this report.

The evidence strongly demonstrates that the Plan has emerged as a result of seeking, and taking into account, the views of the community and other bodies.

One representation<sup>11</sup> suggested other permutations of the Winforton settlement boundary. However, my role is to examine what is before me. Others helpfully suggested additional safeguards for example about potential contamination of the Old Sawmills site. I am satisfied that these matters can be dealt with satisfactorily as part of the development management process.

Whilst it is often unwise to single out a particular representation it is important to record that Historic England commends the Plan as "a well-considered, concise and fit for purpose document that constitutes a very good example of community led planning" and I am happy to agree with this statement.

## **7.0 The basic conditions**

### **National policy and advice**

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood

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<sup>11</sup> Collins Design and Build

Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.<sup>12</sup>

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.<sup>13</sup>

On 6 March 2014, the Government published a suite of planning guidance. This is an online resource available at [www.planningguidance.planningportal.gov.uk](http://www.planningguidance.planningportal.gov.uk). The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to this in preparing this report. This is referred to as Planning Practice Guidance (PPG).

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.<sup>14</sup>

PPG indicates that a policy should be clear and unambiguous<sup>15</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 context and the characteristics of the area.

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>16</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>17</sup>

The Basic Conditions Statement sets out how the Plan has responded to national policy and guidance. It does so in a simple, but clear and effective way.

### **Sustainable development**

A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole<sup>18</sup> constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development:

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<sup>12</sup> NPPF paras 14, 16

<sup>13</sup> *Ibid* para 184

<sup>14</sup> *Ibid* para 17

<sup>15</sup> PPG para 041

<sup>16</sup> *Ibid* para 040 ref id 41-040-20140306

<sup>17</sup> *Ibid*

<sup>18</sup> NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

economic, social and environmental.<sup>19</sup> The Basic Conditions Statement contains a Sustainability Statement that addresses these issues.

### **The development plan**

The development plan consists of the Herefordshire Local Plan Core Strategy 2011 – 2031 (CS) which was adopted on 16 October 2015 and various other documents including the saved policies of the UDP (found in Appendix 1 of the CS). The most relevant document to this examination is the CS and I have taken all the policies to be ‘strategic’.

The Basic Conditions Statement contains a straightforward table that identifies how each of the Plan policies relate to the CS. The table indicates clearly support for the general principle, the degree of any conflict and whether there has been any additional detail or local approach together with the rationale and evidence base for the policy. I consider this to be a comprehensive yet simple approach and as a result it is exemplary and I commend it to other qualifying bodies.

The Plan as a whole will support the vision, objectives and policies of the CS. CS Policy SS2 accepts new development in rural areas where it meets housing needs and supports the local economy and services and facilities, but where the intrinsic character and beauty of the countryside is reflected. The Plan supports this approach.

### **European Union Obligations**

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant.

### **Strategic Environmental Assessment**

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004.

An Environmental Report has been prepared as an earlier screening stage concluded that due to the range of environmental designations in and around the Parish there may be significant environmental effects.

The Environmental Report is a comprehensive and well written and presented document that meets the requirements of the Regulations. Natural England (NE) confirms that it meets the relevant requirements and concurs with its conclusions.<sup>20</sup>

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<sup>19</sup> NPPF para 7

<sup>20</sup> Natural England representation dated 26 June 2015

## **Habitats Regulations Assessment**

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identified whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.<sup>21</sup> The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

Screening was carried out as the Group Parish falls within the catchment for the River Wye which is a Special Area of Conservation, a European site as well as a Site of Specific Scientific Interest (SSSI) and a Special Wildlife Site (SWS). The River Wye borders each of the three Parishes which make up the Group. The screening assessment dated 13 May 2013 and then rescreened on 22 August 2013 concluded that a HRA would be required.

A HRA dated October 2014 has been prepared. An Addendum dated May 2015 has also been submitted reflecting changing circumstances and the redrafting of some policies during the evolution of the Plan. Both documents conclude that the Plan will not have a likely significant effect on the River Wye SAC.

Natural England<sup>22</sup> disagreed with the conclusions of the HRA and the HRA Addendum. This was because NE stated that the conclusion there would be no likely significant effects in combination with the CS is that in combination effects had been ruled out as the Plan aligns with the draft CS. As the CS had yet to be adopted, any reliance on it or its HRA was not considered to be sufficient. As a result NE suggested that the Plan only be adopted after the CS was adopted or that suitable policies (with wording helpfully put forward by NE) were included in the Plan itself. The CS has now been adopted.

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in primary legislation as detailed in section 3 of this report. I am satisfied that the Plan is not likely to have a significant effect on the River Wye SAC and therefore the Plan complies with this basic condition.

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

The Basic Conditions Statement contains a short statement that the Plan seeks to enhance human rights. I consider that the Plan has had regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. There is nothing in the Plan that leads me to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

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<sup>21</sup> PPG para 047 ref id 11-047-20150209

<sup>22</sup> Natural England representation dated 26 June 2015

## Other Directives

I am not aware of any other European Directives which apply directly to this particular neighbourhood plan (other than those which have been referred to in the Environmental Report) and in the absence of any substantive evidence to the contrary, I am satisfied that the Plan is compatible with EU obligations.

## 8.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. As a reminder, where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

### 1. Introduction

This section helpfully sets the scene for the Plan and includes a small map of the Plan area. It explains that the Plan must conform to the NPPF and the CS and be guided by principles of sustainability. This is quite right, but there are also other basic conditions the Plan must comply with and in the interests of accuracy and completeness it might be worth adding something in to explain the Plan must accord with national policy and guidance i.e. not just the NPPF and be compatible with EU obligations as well. The Plan then has a very helpful contents page. However, some of the headings in it do not tie up with the titles that then follow. For example Section 9 is “Caring for the Economy” on the contents page, but is “Supporting the County’s Economy” in the Plan itself. In the interests of accuracy these minor and easily made errors should be corrected.

- **Consider the addition of fuller explanation about the requirements for the Plan in the Introduction**
- **Ensure that the contents page correctly reflects the headings and so on in the Plan**

### 2. Preparation of this Neighbourhood Development Plan

This section sets out the background to the Plan in a clear and succinct way. Of particular note is that the Parish Council decided to ask residents for permission to make i.e. prepare the Plan; and the response was a responding 96% in favour. It is clear that there has been resounding support for the Plan and that the Steering Group leading the process is grateful to all those who have participated. This section will of course need to be updated following examination.

### 3. Background

A very interesting and informative narrative on the three Parishes is succinctly put forward in this section. It is clearly written, full of intriguing snippets of information about the history, but also outlining the key characteristics of the three Parishes today.

### 4. The Vision and Objectives for the Eardisley Group Neighbourhood Plan

The succinct and clearly articulated vision states:

“For Eardisley, Whitney and Winforton with Willersley to be vibrant, safe and caring communities where residents are valued and enjoy living and working, and where tourists are attracted to visit.”

The vision is then translated into a number of bullet points which again are clear and sit alongside the vision well.

A number of objectives then follow on page 7. Covering topics from sustainability to housing, from environment to the economy, all are well articulated and will ensure that the Plan makes a real difference to the people in the three Parishes.

### 5. The Neighbourhood Plan Policies for the Eardisley Group

Usefully the first paragraph in this section points out that the Plan must be considered as a whole. It confirms that the policies apply across the three Parishes unless otherwise indicated and emphasises the importance of community input into the development of the policies. It refers to the emerging Core Strategy which has now, with the passage of time, been adopted and so this simply needs updating.

- **Update references to the Core Strategy to reflect that it has now been adopted**

### 6. Sustainable Development for the Whole Community

The Eardisley Group has developed their own Sustainability Statement. This section explains that well and articulates the key concerns of the communities.

#### 6.1 Sustainable Development Policies

##### Policy SD1 Sustainable Development

This policy is preceded by the relevant objective from the earlier vision and objectives section and it is good to see a direct correlation between the vision and overarching

objectives and the policies that will help to achieve that vision and objectives. Of course this applies throughout the Plan and is to be commended as a drafting technique.

The policy itself is over a page in length; nevertheless it is the overarching policy for the Plan and covers a multitude of issues. There are one or two areas where modifications are needed to ensure that it fully reflects the thrust of national policy and guidance.

The first of these modifications relates to the first paragraph where the policy asserts the primacy of the development plan “unless there are overriding material considerations that indicate otherwise.” The relevant wording of the legislation<sup>23</sup> does not specify that these other material considerations need be “overriding” and the policy should align with the legislation.

Secondly, criterion b) refers to the need for development to make a financial contribution towards remedying gaps in essential facilities and services. It may be the case that the ‘gap’ or provision of such services and facilities has to be met in full by the developer or such a requirement might render development unviable. Therefore the policy should have greater flexibility on this and a modification to address this is therefore recommended.

Criterion c) refers to essential infrastructure and flooding. It is generally welcomed by the Environment Agency (EA), but I note that the EA consider that a reference to the sequential test should be made. This suggestion would accord with the NPPF.

Criterion d) gives the reduction of traffic speed and the impact of heavy good vehicles as examples of measures which might be introduced to ensure the effect of traffic from new development is not harmful. Whilst traffic management in relation to new development is a matter for planning policy, speed limits are generally more appropriately dealt with through non-planning mechanisms and so should be deleted from the policy, but could be retained as separately identified community aspirations in a separately labeled appendix or document if desired.

The retention of employment land is referred to in criterion e). The NPPF is clear that the long-term protection of employment sites should be avoided where there is no reasonable prospect of a site being used for that purpose.<sup>24</sup> Whilst I read this criterion as being fairly flexible, this could be misinterpreted as being overly restrictive and therefore a modification is suggested to try and overcome this concern.

Page 11 of the Plan refers to “Legal Framework and Evidence” and the proposed modifications to Herefordshire Core Strategy. With the passage of time, the Core Strategy has now been adopted and so this reference should be updated. This applies throughout the Plan, but is not repeated at every juncture in this report and so this recommendation applies throughout the document.

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<sup>23</sup> Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990

<sup>24</sup> NPPF para 22

The following modifications are therefore recommended:

- Delete the word “overriding” in the first paragraph
- Add the words “*Where appropriate*” at the start of the last sentence in criterion b)
- Add at the start of the last sentence in criterion c) which begins “In addition...”, “*Development should be directed to areas with the lowest probability of flooding. In addition existing and new properties...*”
- Delete “...in particular to reduce the speed of vehicles and the effect of heavy goods traffic upon local amenity and property...” from criterion d), but include this as a community aspiration if so desired
- Add the words “*unless there is no reasonable prospect of a specific site being used for that purpose*” after the words “...the retention of employment land...” in criterion e)
- Update any references to the Core Strategy throughout the Plan as necessary
- Correct typo in the “Legal Framework and Evidence” section on page 11 – “Planning Practise Guidance” should be “Planning *Practice* Guidance”

## 7. A Safer and High Quality Environment for All

### 7.1 Traffic and Transport Policies

The section begins with helpful background information.

#### Policy T1 Traffic Measures within Villages

This policy seeks to address some of the concerns outlined in the background section by giving examples of traffic management in relation to new development. It also seeks to encourage the use of sustainable forms of transport such as public transport and walking and cycling. It recognises that there will be a need for partnership working and signals the use of developer contributions for traffic management measures. As the supporting text highlights the policy is in general conformity with CS Policy SS4 and it also takes account of national policy and guidance and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

## Policy T2 Transport Requirements related to Development

This is a clearly worded policy that covers a range of issues for new development in relation to new development. It meets the basic conditions and no modifications are recommended.

## Policy T3 Promotion of Sustainable Transport Measures

This is a clearly worded policy that encourages sustainable transport measures in new development including support for the enhancement of walking and cycling links whilst retaining appropriate flexibility. It reflects national policy and guidance and CS Policy MT1. It meets the basic conditions and no modifications are recommended.

## 7.2 Environmental Policies

Much of each Parish is flood plain and proximity to the River Wye mean that flooding is a major concern for the community. The landscape and biodiversity and a plethora of listed buildings results in a locality much valued by residents and visitors alike.

### Policy E1 Flooding

Flood zone 2 and 3 cover the southern part of the Group Parish and the southern part of Eardisley Parish up to and including Eardisley village. Policy E1 covers flooding and refers to the relevant paragraphs in the NPPF. CS Policy SD3 is also of relevance. Whilst it is helpful to refer back to national policy and guidance, a modification generalising the reference is suggested to ensure the policy stands the test of time should the NPPF be modified or superseded. In addition the policy should link to the advice in the NPPF and PPG. For these reasons it is suggested that criterion a) be reworded. For the avoidance of any doubt criteria b) – d) are retained. I note Dwr Cymru-Welsh Water support criteria c) and d).

**The following modification is therefore recommended:**

- **Replace criterion a) with “*New development will not be permitted in Flood Zones 2 and 3 unless there are no other options and the proposal is in accordance with national policy and guidance. In these cases satisfactory mitigation measures must be provided, including off-site provision as necessary. Any development that would result in increased flood risk to properties elsewhere will not be permitted.*”**

## Policy E2 Heritage Assets and Village Character

The Parishes have a number of heritage assets which make an important contribution to the character and appearance of the locality. This policy seeks to ensure that these assets are preserved and where possible enhanced reflecting CS Policies SS6 and LD4. It covers a variety of different issues ranging from character and appearance to views and vistas, materials and lighting. Whilst the policy does not differentiate between designated and non-designated heritage assets it does refer to significance.

There are a number of modifications which are recommended in the interests of providing a practical framework for decision-making. Criterion a) should be sharpened up a little. Criterion b) should be amended to reflect the relevant legislation. Criterion c) refers to views and vistas “valued by the community” and this might lead to at worst arguments or at least some ambiguity. However, paragraph 7.2.6 refers to these views being identified in Appendix 1. Given that substantial work has gone into identifying these views and they have community support, it would remove any scope for ambiguity if the policy referred to this Appendix.

Paragraph 7.2.5 refers to two documents “Features contributing to Local Distinctiveness” and “An Appraisal of the Eardisley Conservation Area”. Following on from a query I understand that both documents are currently in draft form. Given this it might be best to refer to any supporting documents more generically.

Paragraphs 7.2.7 – 7.2.9 refer to lighting and seek to prevent any further street lighting in Whitney and Winforton and to replicate the existing levels in Eardisley. Security lighting on individual properties is also referred to. These are matters that do not relate to the development and use of land. Whilst it is appropriate to refer to light and light pollution in the policy as an aspect of the character of the villages and Parishes, the details in the supporting text can be retained as community aspirations and be placed in a separate appendix or document.

**The following modifications are therefore recommended:**

- **Replace the words “which contribute” in criterion a) with “*make an important contribution* to the character of the villages within the Plan area.”**
- **Change “conserve and enhance” in criterion b) to “*preserve or enhance*”**
- **Reword criterion c) to read: “*Not adversely affect views and vistas valued by the communities and identified in Appendix 1 of the Plan. These views and vistas include, but are not limited to views of Eardisley from Bollingham Hill; Hay Bluff and the Black Mountain; listed buildings and buildings of local interest.*”**

(continued on next page)

- **Reword paragraph 7.2.5 to read: “Reference should be made to evidence documents available on the Group website and which will be kept up to date during the Plan period.” or similar**
- **Paragraphs 7.2.7, 7.2.8 and 7.2.9 should be moved to a separate appendix or document as community aspirations or deleted from the Plan**

### **Policy E3 Addressing Carbon Reduction**

The first element of this policy encourages developers to aim for best practice in carbon-reduction. The Government has created a new approach to setting technical standards for new housing development. A Written Ministerial Statement (WMS)<sup>25</sup> made it clear that neighbourhood plans cannot set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. Optional new technical standards can now only be required through Local Plan policies. I have therefore little option but to recommend deletion of this element as it currently reads (although it could be modified to address non-residential development if so desired as the WMS (only) refers to housing). I do however suggest a modification that I hope will ensure that good practice is encouraged in meeting the challenge of climate change and promoting good design given the expectation that neighbourhood plans will contribute to the achievement of sustainable development. I note that some aspects of criteria b) and c) are covered by other policies of the Plan.

The second element of the policy supports individual and community renewable energy schemes; it reflects CS Policy SD2 and meets the basic conditions and can be retained.

**The following modifications are therefore recommended:**

- **Delete the first paragraph of Policy E3 and the accompanying three criteria a) to c) and replace the text with: “All proposals for new development are encouraged to address the requirements of Herefordshire Local Plan Core Strategy Policy SS7 at the neighbourhood level by utilising physical measures associated with buildings that include the orientation of buildings, the provision of energy and water conservation measures and renewable energy infrastructure.” or similar**
- **Delete the last sentence of the policy which reads: “Developer support for such projects will also be encouraged as part of their package of measures.”**
- **Consequential amendments to the supporting statements will of course be needed**

<sup>25</sup> Written Ministerial Statement of 25 March 2015

## Policy E4 Green Infrastructure

This criteria based policy deals with a raft of issues including green infrastructure and the protection of green and open spaces. Such a policy will help to conserve local distinctiveness in line with national policy and guidance, CS Policies SS6, OS3, LD1, LD2 and LD3 as well as help to achieve sustainable development.

Reference is made to the Proposals Map (titled Policies Map) in criterion b). It is important that the maps are referred to consistently and also that it is clear that each village has its own map. These maps identify various areas of green and open space, but the policy does not exclusively refer to only these. Following on from a clarification query with the Group, it is confirmed that it was the intention that the space in Winforton and the three spaces in Eardisley shown as “Protected Open Space and Green Space (E4)” on the respective Policies Maps are those intended to be covered by the policy as explained in paragraph 7.2.13 of the Plan. I will therefore make a recommended modification to this effect so that the policy has the required level of certainty.

Paragraph 7.2.13 also refers to these four spaces as Local Green Spaces (LGS). It refers to the NPPF in this respect and in particular paragraph 77 of the NPPF which refers to these designations introduced in the NPPF.

The NPPF<sup>26</sup> is clear that local communities have the opportunity of designating LGS, but that such a designation will not be appropriate for most green areas or open space. The protection that this designation offers is similar to Green Belt. The NPPF lists a number of criteria that such a designation needs to meet. It further states that identifying land should be consistent with local planning of sustainable development.

I have debated whether these four spaces can in principle be considered as potential LGSs. This is because whilst they are clearly shown on the Policies Maps and referred to as LGS in the supporting text, the policy itself does not refer to LGS. I have decided that on balance it is unlikely that anyone would be prejudiced by their inclusion as potential LGSs as the policy as currently worded seeks to protect these areas, they are clearly shown on the respective maps and the text clearly sets out the intention.

I have therefore gone on to consider whether the four spaces meet the requirements set out in the NPPF. I agree that the identified area in Winforton is an important space for the setting of the village and worthy of such protection. The larger of the three spaces in Eardisley known as Millennium Green is a well-used open area with picnic and play equipment, a small car park, signage and falls within the Conservation Area and meets the criteria. Two smaller ‘strips’ of land are also included towards the centre of the village. One of the strips of land appeared to include a private dwelling, Mill Cottage and its curtilage, within it. Following on from my query the Group has confirmed that Mill Cottage and its curtilage should not be included and have sent a

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<sup>26</sup> NPPF paras 76, 77, 78

revised map. Both the 'strips' run alongside the brook and the Plan indicates they mark the division between the ancient village to the south and the old village to the north. Both these spaces meet the criteria for LGS.

I note on the Eardisley Policies Map has another notation entitled "Safeguarded Open Space and Allotments". There is no mention of allotments in the Plan and no direct correlation with the protection in criterion b) of the policy. The land to which this notation applies is behind the existing Primary School. It would seem sensible to me for this area to be protected as open space and it is clearly identified as such. Therefore a modification is recommended in this regard.

Criterion e) requires proposal to submit a full tree survey and arboricultural impact assessment. Whilst this is laudable, as presently worded this would catch all development proposals and of course not all development, say of a minor nature, will require this. A modification is therefore suggested to address this.

The Eardisley Policies Map shows only part of the Conservation Area and the Parish Council have agreed in response to a query that the whole of the boundary should be shown in the interests of completeness and accuracy.

**The following modifications are therefore recommended:**

- **Change the reference in criterion b) to the Proposals Map to Policies Map or vice versa and make it clear there are three such maps for each of the villages**
- **Reword criterion b) to read: "*Protecting four Local Green Spaces in Eardisley and Winforton shown on the Policies Maps for those villages together with the open space identified on the Eardisley Policies Map.*"**
- **Add the words "*Where appropriate*" at the start of criterion e) before "Requiring proposals..."**
- **Modify the Eardisley Policies Map to exclude Mill Cottage and its curtilage from the Local Green Space**
- **Alter the key for the Policies Maps from "Protected Open Space and Green Space (E4)" to "*Local Green Spaces (E4)*"**
- **Alter the key on the Eardisley Policies Map from "Safeguarded Open Space and Allotments" to "*Open Space (E4)*"**
- **Show the full extent of the Conservation Area boundary on the Eardisley Policies Map**

## 8. Resilient, Cohesive and Healthy Communities

### 8.1 Local Community Services and Facilities Policies

#### Policy C1 New or additional services and facilities

Policy C1 supports new services and facilities in the Group subject to four criteria which seek to ensure satisfactory impacts. The policy also cross-references other policies in the Plan which there is no need to do as the Plan will be read as a whole. The final element of the policy seeks to resist the loss of local amenities or Assets of Community Value. Its intention is appropriate and generally supported by national policy and guidance and CS Policy SC1, but more flexibility is needed and the wording would benefit from sharpening up so that a practical framework is provided as words such as “amenity” have particular meanings or interpretations in planning. I note Dwr Cymru-Welsh Water particularly support criterion a) which refers to bodies with statutory responsibilities.

The supporting text talks about the possibility of a new primary school for Eardisley. The Plan signals its support in principle for education facilities and recognises that any new policy in this respect would need to undergo further processes and so on. Helpfully the supporting text suggests a number of other services or facilities likely to be needed over the Plan period.

I am not sure what paragraph 8.1.7 means or how it relates to the policy. For that reason, deletion is recommended.

**The following modifications are therefore recommended:**

- **Delete the second paragraph of the policy which begins “Proposals for services and facilities...” to end of this paragraph**
- **Reword paragraph three of the policy to read: *“Proposals that would result in the loss of a local service or facility or an Asset of Community Value will be strongly resisted unless it is demonstrated that the use is no longer viable or a replacement facility of an equivalent or better standard is provided.”***
- **Delete paragraph 8.1.7**

#### Policy C2 Developer contributions to new facilities

Developer contributions through a mixture of planning obligations, Community Infrastructure Levy or other contributions are supported by this policy which is clearly worded, reflects CS Policy ID1 and meets the basic conditions. No recommendations are therefore needed for modifications.

## 8.2 Housing Policies

### Policy H1 Housing Numbers

The strategy for the rural areas in the CS<sup>27</sup> is positive growth. The strategy is based on seven housing market areas (HMA) and the Group Parish falls within the Kington HMA which has an indicative housing growth target of 12% 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. Eardisley, Whitney-on-Wye and Winforton are all identified in Figure 4.14 which means that the Plan has local flexibility to apportion the minimum housing requirement between the villages.

The preceding text to Policy H1 sets out the housing issues and parameters used by HC to set housing numbers. This policy attributes housing across all three Parishes according to HC's approach. It does not place a cap on numbers but sensibly indicates that the figures will be a minimum. It goes on to indicate that the numbers may be exceeded should strategic needs alter or if proposals address community needs particularly in terms of employment and facilities. Given the overarching nature of this policy, references to the other policies in the Plan are helpful in this instance. This is a commendable and positive approach that will help to ensure that the Parishes are sustained in the longer term. I note that HC considers the Plan has "positively addressed the issue of proportionate housing growth."<sup>28</sup>

However, the 'minimum' figures indicated in the policy do not add up to the overall figure of 63 or the supporting text. The Parish Council has confirmed that the figure for Winforton is in fact 11 (as indicated in the supporting text on page 24 of the Plan). Therefore the easiest thing to do is make a small modification to Winforton's figure in the policy and to ensure that paragraph 8.2.3 is also similarly corrected.

Paragraph 8.2.5 sets out a mix of housing to be achieved together with affordable housing provision which is covered by Policy H3. This paragraph refers to the "Herefordshire Local Market Assessment 2012". This reference should be updated to "Herefordshire Local Housing Market Assessment 2012 Update (dated November 2013)" and future proofed.

**The following modifications are therefore recommended:**

- **Change "12" to "11" in criterion a)**

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<sup>27</sup> Core Strategy Section 4.8

<sup>28</sup> HC Progression to Examination Decision Document

- Change the “12” to “11” in paragraph 8.2.3 in relation to the figure for Winforton
- Update the reference to the “Herefordshire Local Market Assessment 2012” in paragraph 8.2.5 to “*Herefordshire Local Housing Market Assessment 2012 Update (dated November 2013 or any successor evidence)*”

## Policy H2 Settlement Strategy

This is a clearly worded policy that sets out the settlement boundaries defined clearly on the Policies Maps for Eardisley and Winforton and the circumstances that development in Whitney and elsewhere in the Parish could take place. This accords with the CS which acknowledges that settlement boundaries for settlements listed in CS Policy RA2 can be defined in neighbourhood plans. In the case of Whitney this defines a settlement frontage. This is subject of Policy H6 and I discuss this in more detail under that heading. That discussion should be referred to at this juncture. It is worth noting that it would be useful to cross-reference the Whitney Policies Map in this policy and its supporting text for clarity and consistency with criteria a) and b) which refer to the Village Inset Maps for Eardisley and Winforton. It is also important that the maps are titled and referred to consistently throughout the Plan as previously mentioned. In other respects the policy meets the basic conditions.

Paragraph 8.2.9 introduces a requirement of “one plot deep only” for the frontage along Duck Street. As a general rule it is preferable for any policy requirements to be within the policy itself and not introduced in the supporting text. I consider that the use of the word “frontage” in the policy would indicate this and so, in this case, can be retained.

**The following modifications are therefore recommended:**

- **Ensure that the titles of the maps are consistent throughout the Plan i.e. if the policy refers to Village Inset Maps ensure there is a map of this name or use the title Policies Map as appropriate**
- **Add to the end of criterion c) “as shown on the Whitney-on-Wye Policies Map” bearing in mind the previous recommendation on consistency on map titles**
- **Ensure that the map reference is consistent with the language used in paragraph 8.2.9**

### Policy H3 Affordable Housing

The intent behind this policy is supported. It reflects CS Policy H1 and will help to deliver a wide choice of high quality homes. A modification is however recommended to criterion a) to help with clarity and the provision of a practical framework for decision-making and to ensure it applies the same threshold as the recently adopted CS Policy H1. Otherwise the policy meets the basic conditions.

Paragraph 8.2.16 refers back to paragraph 8.2.5 which in turn refers to the "Herefordshire Local Market Assessment 2012". This reference should be updated to "Herefordshire Local Housing Market Assessment 2012 Update (dated November 2013)" and this paragraph future proofed.

**The following modifications are therefore recommended:**

- **Reword criterion a) to read: "*On sites of more than 10 dwellings with a maximum combined gross floor space of more than 1000 square metres, developers will normally be required to meet a target of 35% affordable housing provision.*"**
- **Update the reference to the "Herefordshire Local Market Assessment 2012" in paragraph 8.2.16 to "*Herefordshire Local Housing Market Assessment 2012 Update (dated November 2013) or any successor evidence*"**

### Policy H4 New Homes in Eardisley

This policy recognises a commitment site at Barley Close and allocates two sites at the Old Sawmills and land at The Glebe and deals with development within the defined settlement boundary. Various evidence documents are available on the Eardisley Group website. These include papers on the selection of preferred sites for development in each of the settlements and a further document entitled "Evidence of Sequential Selection of preferred sites for the Eardisley Group NP (September 2015)" demonstrates that a sequential assessment of sites in Eardisley in relation to the flood zones has been carried out. I do not find any conflict with Policy E1 in this regard.

The policy refers to Policy H7 and given that policy deals with housing development in Eardisley this cross-reference is appropriate to retain in this instance.

Whilst the Policies Map shows proposed housing and commitment sites referencing Policies H4 and H7, it would be useful to identify the three sites and refer to the map within the policy. The inclusion of the three Policies Maps within the Plan is useful, but I feel it would be helpful if they were made bigger so they were easier to decipher.

Taking each of the criteria in turn; criterion a) relates to an approved scheme at Barley Close. The site was granted permission during the evolution of the Plan. The criterion refers to any amendments to that permission in terms of housing mix based on housing need.

Criterion b) refers to Old Sawmills and cross-references Policy MD1 indicating housing development may be acceptable.

Criterion c) refers to land at The Glebe. It caps the number of dwellings to 15, requires a new surface for a public footpath, a play area and vehicle turning area, deals with mitigation for specified species and cross-references Policies E1, E2 and H7.

Criterion d) supports small scale or windfall development subject to a variety of criteria. With the exception of iv) which needs some change to enhance the policy's flexibility and clarity and vi) which is unnecessary, all are acceptable.

The Government wants to enable more people to build their own home and wants to make this form of self-build or custom-built housing a mainstream option. This policy supports custom-built housing and this is to be welcomed as being very much in line with the Government's current aspirations.

**The following modifications are therefore recommended:**

- **Add *"and as shown on the Eardisley Policies Map"* to the first sentence of the policy**
- **Identify the three sites specifically on the Eardisley Policies Map**
- **Make each of the Policies Maps within the Plan bigger**
- **Replace the words "should not exceed 15 dwellings" in criterion c) i) with *"should be approximately 15 dwellings"***
- **Reword criterion iv) "Density of development is consistent with that..." in criterion d) iv) to *"The density of development respects the density and context of the Eardisley Conservation Area."***
- **Delete vi) from criterion d)**

## **Policy H5 New Homes in Winforton**

Once again it would be useful for the Policies Map to be cross-referenced within the policy to ensure that the settlement boundary as defined in the Plan is the one used. In a similar vein it would be helpful if the two sites referred to could be explicitly identified on the Policies Map. Again the only criterion which is unnecessary is v).

The following modifications are therefore recommended:

- Add *“and as shown on the Winforton Policies Map”* to the first sentence of the policy
- Identify the two sites explicitly on the Winforton Policies Map
- Delete criterion v) from criterion c)

### Policy H6 New Homes in Whitney-on-Wye

This policy refers to the conversion of redundant barns at Millhalf Farm and designates a continuous built-up frontage along the north side of Duck Street if flooding concerns are addressed.

The policy offers a ‘contingency’ should this not be achieved in the medium term allowing local needs housing in the vicinity of Millhalf or another suitable location. The use of the term “in the vicinity of” could be open to argument and interpretation. The Policies Map shows an area around Millhalf Farm as a proposed housing site and so could be referred to in the policy itself. This would add the precision I feel the policy needs, but also probably increases the chances of further development in this location given this notation. So whilst I recommend this be done, further thought should also be given to the notation description itself. The other alternative is of course to delete the reference to Millhalf and rely on the retention of the “another suitable, available and achievable location where it should form a consolidated settlement pattern”. This would be likely to put Millhalf in the frame so to speak, but would not highlight it. If this alternative suggestion is implemented consequential amendments to the map will of course be needed.

The designation of a frontage along Duck Street is an interesting policy tool. As well as allowing some development in between existing dwellings (subject to other policies of the Plan) it also extends this linear development. It is important to ensure that the “proposed settlement frontage” notated on the Whitney Policies Map is referred to consistently, using the same language as in the policy to avoid any confusion arising.

Secondly the designation of the frontage needs to be clear. The red line on the Policies Map I feel is likely to be open to potential arguments as to where it stops and from my site visit seems to stop half along a field. A precise frontage is needed to avoid any doubt and this could be achieved by adding a description in words of the frontage and its length to the supporting text. I feel it is important that if only one plot deep is acceptable as described in paragraph 8.2.9 that this is reiterated here again when describing the frontage.

**The following modifications are therefore recommended:**

- **Change the phrase “in the vicinity of Millhalf” in criterion a) to refer to the designation on the Whitney Policies Map, but change the notation from “proposed housing site” on the Policies Map to “*Millhalf*” or see alternative option in the text above**
- **Describe the length of the proposed frontage along Duck Street in words as well as relying on the line on the Policies Map by adding the distance of this line from the nearest house in the supporting text**
- **Ensure that the ‘one plot deep’ referred to in paragraph 8.2.9 is also inserted in the supporting statements for this policy**

### **Policy H7 Criteria for Housing Development in Eardisley Group**

Policy H7 applies throughout the Plan area and contains 12 criteria that any development needs to be in accordance with. Earlier policies have usefully cross-referenced this policy.

I have some concerns over a number of criteria. Criterion c) is largely unnecessary as it refers to Policy T2 which proposals would have to comply with anyway. I find the second element of this criterion to be difficult to understand and I am not sure what its intentions over and above Policy T2 are. Criterion d) refers to consultation with the fire service and this is patently important but will not be necessary for every development; the requirement to comply with their criteria is self-evident. Therefore this should be deleted. Criterion g) cross-references Policy E4 and so is unnecessary and HC’s open space policy, but neither refers to the play areas. If play areas are to be provided with HC’s standards, there is no need to duplicate this here. Criterion j) refers to consistency with Policy J1 and so is unnecessary. All other criteria accord with the basic conditions.

The supporting statements, paragraphs 8.2.28 – 8.2.33 do not seem to align with Policy H7. The supporting text could be worded more positively to promote the high quality development that the community seeks.

Paragraph 8.2.33 introduces a requirement akin to policy. Whilst it may well be the case that smaller sites are preferred by the community and this could have been subject of a policy in the Plan, it has not been presented as policy (and therefore has not been consulted on as a policy). Therefore it should be deleted. In any case this seems likely to be achieved through the proposed sites and other policies of the Plan.

**The following modifications are therefore recommended:**

- **Delete criteria c), d), g), j)**

**(continued on next page)**

- Reconsider the supporting statements
- Delete paragraph 8.2.33

## 9. Supporting the County's Economy

### 9.1 Policies for Jobs and the Economy

#### Policy J1 New technology and Sustainable Economic Growth

This policy supports technology and plans positively for high quality communications infrastructure in line with the NPPF and CS Policy SS5. Poor infrastructure such as broadband and mobile phone coverage is often a key barrier to economic growth. Criterion c) of the policy requires (all) development proposals to provide suitable ducting for fibre connectivity; this could be regarded as an onerous requirement for a single dwelling for instance or one that might even be unnecessary given there may be other options. Subject to a small addition to make the policy more flexible (modification on the next page), the policy meets the basic conditions.

- Add "*where appropriate*" after "Requiring new development proposals..." in criterion c)

#### Policy J2 Small Scale Premises

This is a positively worded policy that supports the provision of live work units in line with CS Policy SS5 and home working in line with CS Policy E3. Whilst home working does not always require planning permission, this would encompass those instances where permission is needed and supports this subject to appropriate safeguards. The policy meets the basic conditions and no modifications are recommended.

#### Policy J3 Provision and Retention of Employment Sites

Policy J3 supports employment uses reflecting CS Policy RA6, but only does so in converted buildings, reflecting CS Policy RA5, or on previously developed land. The NPPF places significant weight<sup>29</sup> on the need to support economic growth. As well as support for all types of business and enterprise in rural areas in converted buildings, the NPPF supports well designed new buildings.<sup>30</sup> There is no restriction to limiting this to previously developed or brownfield land and therefore criterion a) of this policy is more restrictive than national policy. However I note that this was an important

<sup>29</sup> NPPF para 19

<sup>30</sup> *Ibid* para 28

consideration in the SEA and therefore it would be appropriate to encourage this given the local characteristics of the area.

Furthermore the policy resists the loss of employment uses unless it can be demonstrated that that use is no longer viable. The criterion seems to peter out at the end. The NPPF seeks to avoid long term protection of such sites and states that where there is no reasonable prospect of employment use, alternative uses will be treated on their merits.<sup>31</sup> CS Policy E2 does however specify a marketing period of at least 12 months and a modification is recommended to reflect both the NPPF and this recently adopted CS policy.

Paragraph 9.1.7 refers to phasing and has this in italics. It is not clear why this is, but I have assumed a drafting glitch.

The Policies Maps for all three villages identify employment land with the notation "Safeguarded Employment Land (J1, J2, J3). Yet neither the policy nor the supporting text refers to the maps or these specific sites. As a result I feel it would be difficult to identify specific sites on a map; the effect of removing these sites from the maps is the same as existing employment sites (i.e. those identified on the maps) would be subject to this policy. However, an alternative might be to simply notate these sites as in employment use i.e. reflect an existing factual land use. If these sites are retained on the Policies Maps then the whole of the sites in question should be shown and the Parish Council confirms and has indeed helpfully sent me a map showing these in full. In addition it is only Policy J3 that seems of direct relevance to this notation.

Therefore in order to take better account of national policy and guidance and to provide a practical framework, **the following modifications are suggested:**

- **Add "*to ensure the most effective use of land*" after "or elsewhere on brownfield sites..." in criterion a)**
- **Reword criterion d) to read as follows: "*Resist proposals for change of use of existing business premises and sites away from employment activity unless it can be satisfactorily demonstrated that there is no reasonable prospect of a site being used for that purpose or any other suitable employment use. This evidence will include appropriate and active marketing of at least 12 months for a change of use of a Class B employment use.*"**
- **Remove italics from paragraph 9.1.7**
- **Remove notations of "Safeguarded Employment Land (J1, J2, J3) from all three Policies Maps or change that notation to "*Employment Land (J3)*"**
- **Show the whole extent of the "Employment Land" designations on the relevant maps if retained**

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<sup>31</sup> *Ibid* para 22

## 10. Mixed-Use Development in Eardisley

### Policy MD1 Mixed-Use Development in Eardisley

This policy promotes an exception to the previous policy and relates to the Old Sawmills site in Eardisley. Given that it is an allocation, I find the description as an exception a little odd. This is a positively worded policy supporting the development of a new village hall, day care facility, car park, employment uses, dwellings and green infrastructure, but one that contains a range of very prescriptive requirements.

A representation<sup>32</sup> explains that given the flood risk of the site and in the light of viability schemes to test the mix of housing, employment and community uses sought by the policy, the provision of a minimum of 1 hectare of employment land is difficult and more flexibility is sought. Given that my sense is that the policy is quite prescriptive, I have suggested a modification aimed at providing a balance between these concerns and the need to provide employment land.

A representation from the EA raised concerns about this policy. However, I am informed by HC that the EA no longer has concerns regarding this allocation.

The site is identified on the relevant Policies Map, but the notation is a little confusing because it is washed together with the Employment Land notation and because it shows the boundaries of two individual buildings rather than a site. It may also be worth considering whether in the interests of consistency this site should be included within the settlement boundary, but this is not a recommendation I need to make given my role and remit.

In addition a different policy title might better reflect the contents of this policy which is site-specific.

**The following modifications are therefore recommended:**

- **Delete the words “As an exception to Policy J3,” from the start of the policy**
- **Add the words “*subject to viability considerations*” after “occupying no less than 1.0 ha” in criterion d)**
- **Remove the “Employment Land” designation from this site and extend the MD1 notation to wash over the two individual buildings on the northern side of the road**
- **Change the title of the policy to “*The Old Sawmills Site*” or similar**

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<sup>32</sup> Indigo on behalf of West Register

## 11. Risk Assessment

This is an interesting section which reflects on the Plan and how it might be implemented. It will need updating for the final version of the Plan or removing altogether.

- **Remove or update this section**

## 12. Implementation and Monitoring of the EGNP

it is good to see that the Plan will be monitored. Interestingly the Parish Council has established working groups to consider each key issue area of the Plan with a view to manage the Plan's implementation. This is an innovative idea and it will be of wider interest to see how this develops. It is also an excellent way of maintaining engagement with the community and momentum on the Plan so that it does not sit on the shelf.

## Appendix 1

This appendix relates to Policy E2 and is an essential addition to the Plan.

## Other Matters

I have recommended some modifications to policies to refer to "Policies Maps" and also some changes to the maps themselves. They are an important part of the Plan and for this reason I would like to suggest they are included in the Plan itself in a more prominent position or at the end of the document or integrated as preferred.

- **Ensure the four Policies Maps are appropriately located within the Plan document**

## 9.0 Conclusions and Recommendations

I am satisfied that the Eardisley Group 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 delighted to recommend to Herefordshire Council that, subject to the modifications proposed in this report, the Eardisley Group Neighbourhood Development Plan should proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Eardisley Group Neighbourhood Plan area. I see no reason to

alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the Plan should proceed to a referendum based on the Eardisley Group Neighbourhood Plan area as approved by Herefordshire Council on 10 April 2013.

Ann Skippers  
Ann Skippers Planning  
14 January 2016

## **Appendix List of Key Documents specific to this Examination**

Eardisley Group Neighbourhood Development Plan 2011-2031 Submission Version May 2015

Eardisley Group Policies Map

Eardisley Policies Map

Whitney-on-Wye Policies Map

Winforton Policies Map

Basic Conditions Statement

Consultation Statement

Environmental Report Addendum dated May 2015

Habitats Regulations Assessment dated October 2014

Habitats Regulations Assessment Addendum dated May 2015

Herefordshire Local Plan Core Strategy 2011-2031 October 2015 and Appendices

Various evidence documents and other information including the Consultation Record on the Eardisley Group website [eardisleygroupplan.co.uk](http://eardisleygroupplan.co.uk)

**List ends**