

Ashperton Neighbourhood Development Plan

Independent Examiner's Report

March 2020

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Summary

I have been appointed by Herefordshire Council to carry out an independent examination of the Ashperton Neighbourhood Development Plan.

The examination was carried out in January/February 2020 and was undertaken by considering all the documents submitted to me, including the written representations. I visited the Neighbourhood Development Plan area on 25 January 2020.

The plan is based on extensive engagement with the local community and provides a distinct set of policies, relevant to the needs of local people. Ashperton is one of the smallest rural parishes in east central Herefordshire. The Neighbourhood Development Plan provides for the modest housing needs identified in the Herefordshire Local Plan Core Strategy.

Subject to a number of modifications set out in this report, I conclude that the Ashperton Neighbourhood Development Plan meets the Basic Conditions and I am pleased to recommend that it should proceed to referendum.

I recommend that the referendum should be confined to the Neighbourhood Plan area.

Barbara Maksymiw

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1. Introduction

1. Neighbourhood planning is a relatively new process, introduced by the Localism Act 2011, which enables local communities to develop planning policies to guide development in their area and help to shape the places where they live and work.

2. Ashperton Parish is situated in east-central Herefordshire, to the east of Hereford and five miles north west of Ledbury. It is a small rural parish with a population of just over 220. The Parish's main settlement is Ashperton village which is located to the east of the plan area and has a village hall, church, school and is served by limited public transport. The remainder of the parish is characterised by scattered groups of houses, wayside dwellings and farmsteads. The busy A417 road, which runs from Ledbury and Leominster bisects the Parish. The rural character and heritage assets of the parish are features which are highly valued by local people.

3. The purpose of this report is to assess whether the Ashperton Neighbourhood Development Plan (NDP) complies with the relevant legislation and meets the Basic Conditions, which such plans are required to meet. Where necessary, the report makes recommendations about changes or modifications to the plan to ensure that it meets the legislative requirements.

4. The report also makes a recommendation about whether the NDP should proceed to the referendum stage. If there is a positive recommendation at referendum, the NDP can be "made" by Herefordshire Council and so become part of the wider development plan and then used by Herefordshire Council to determine planning applications in the plan area.

2. Appointment of the independent examiner

5. I have been appointed by Herefordshire Council with the agreement of Ashperton Parish Council to carry out this independent examination. The Neighbourhood Planning Independent Referral Service (NPIERS) has facilitated my appointment. I am a chartered town planner with extensive planning experience in local government and therefore have the appropriate qualifications and experience to carry out this examination. I am independent of the qualifying body and have no land interest in the area that might be affected by the plan.

3. The role of the independent examiner

6. The role of the independent examiner is to ensure that the submitted NDP meets the Basic Conditions together with a number of legal requirements.

7. In examining the NDP I am required, under Paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990, to check ¹ that:

- the policies in the plan related to the development and use of land for a designated neighbourhood area; and
- the policies in the plan meets the requirements of Section 38 of the Planning and Compulsory Purchase Act (that is, it specifies the period to which it has effect, does not include provision about excluded development and does not relate to more than one neighbourhood area); and
- the plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body

8. I must also consider whether the NDP meets the Basic Conditions set out in Schedule 4B of the Town and Country Planning Act 1990 (as amended). A plan meets the basic conditions² if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- the making of the plan contributes to the achievement of sustainable development
- the making of the neighbourhood plan is in general conformity with the strategic policies of the development plan for the area
- the making of the neighbourhood plan does not breach, and is otherwise compatible with European Union (EU) obligations

9. Regulations 32 and 33 of the Neighbourhood Planning Regulations 2012 (as amended) set out two additional basic conditions. These are:

- the making of the neighbourhood plan is not likely to have significant effects on a European site ³ or a European offshore marine site ⁴ either alone or in combination with other plans or projects 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 does not apply to this examination as

¹ Set out in paragraph 8(1) of Schedule 4B of the Town and Country Planning Act (as amended)

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

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats &c) Regulations 2007

it is not about a neighbourhood development order).

10. A further Basic Condition was added by legislation on 28 December 2018. The Neighbourhood Planning (General) Regulations 2012 para 1 states:

- In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act-
- 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.

11. As independent examiner, having examined the plan, I am required to make one of the following recommendations:

- that the plan as submitted can proceed to a referendum; or
- that the plan with recommended modifications can proceed to referendum; or
- that the plan does not meet the necessary legal requirements and cannot proceed to referendum

12. If the plan can proceed to 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.

13. Herefordshire Council will consider the examiner's report and decide whether it is satisfied with the examiner's recommendations and will publicise its decision on whether the plan will be subject to referendum, with or without modifications. If a referendum is held and results in more than half of those voting in favour of the plan, the Council must "make" the neighbourhood plan a part of its development plan. The plan then becomes part of the development plan for the area and is a statutory consideration in guiding future development and determining planning applications in the area.

4. Compliance with matters other than the basic conditions

14. Ashperton Parish Council resolved to prepare a NDP in March 2015 and subsequently applied for the Parish to be designated as a neighbourhood planning area. On 3 June 2015, Herefordshire Council designated Ashperton Parish as a Neighbourhood Area in accordance with the Neighbourhood Planning (General) Regulations 2012. The designated area covers the parish and does not cover any other Neighbourhood Area and the qualifying body is Ashperton Parish Council.

The Ashperton NDP covers the period from 2018-2031, which is the same plan period as the adopted Herefordshire Local Plan Core Strategy (LPCS) ie up to 2031.

15. The preparation of the plan has been managed by a Steering Group made up of a good cross section of the community, including Parish Councillors nominated by the Parish Council .

16. I am satisfied that the NDP includes policies that relate to the development and use of land and does not include provision for any excluded development. The Ashperton NDP therefore meets the requirements set out in para 7 above.

5. The examination process

17. The documents which I considered during the course of the examination are listed in Appendix 1.

18. The general rule⁵ is that an examination is undertaken by the consideration of written representations only. Having considered all the information before me, including the representations made to the submitted plan (the Regulation 16 responses), I was satisfied that the Ashperton NDP could be examined without the need for a public hearing.

19. During the course of the examination it was necessary to clarify several matters with Herefordshire Council and the Parish Council. These are set out in Appendix 2 to this report. I was provided with prompt and helpful responses to my questions and I am satisfied that I had all the information I required to carry out the examination.

20. As part of the Neighbourhood Plan Examination process, it is important for the examiner to understand the context of the neighbourhood plan in the wider area and its overall character, as these shape the issues and policies set out in the plan. I therefore made an unaccompanied site visit to the area on 25 January 2020.

21. The plan has been assessed against the guidance in the National Planning Policy Framework (NPPF) dated February 2019 in accordance with paragraph 214 of Appendix 1, as the plan was submitted to the Council in October 2019.

⁵ PPG para 004 ref id 41-004-20140306

6. Consultation

Consultation process

23. Effective consultation and engagement with the local community is an essential component of a successful neighbourhood plan, bringing a sense of public ownership to its proposals and helping to achieve consensus. The policies set out in the NDP will be used as the basis for planning decisions – both on local planning and on planning applications – and, as such, legislation requires neighbourhood plans to be supported by public consultation.

24. In line with the Neighbourhood Planning (General) Regulations 2012⁶, the Steering Group has prepared a Consultation Statement for the NDP which sets out how the group approached public consultation, who was consulted and the outcomes.

25. Throughout the plan preparation process, the Steering Group has sought to consult and engage as wide a range of people as possible and feedback has been used to inform the content and scope of the plan. The local community has been involved in a range of activities, including initial community engagement to identify issues and options and two residents' questionnaire surveys. A well-attended public consultation event was held in October 2015 as well as a Community Consultation Day in June 2016. As the preparation of the plan itself got under way, the public and other interested parties were kept informed by means of the NDP website, printed flyers, printed copies of the Reg 14 NDP document being delivered to all households in the parish, as well as day time and evening open meetings and drop in events.

26. The first formal consultation on the Ashperton Regulation 14 Draft Neighbourhood Development Plan took place between 1 May and 26 June 2018. Two Reg 16 consultations on the Submission Draft version of the NDP were carried in May/June and October/December 2019.

27. It is clear from the Consultation Statement that the Steering Group has engaged very widely with the local community and kept people informed as the plan progressed. This consultation process has helped to ensure that the community's vision for the Parish has been clearly shaped by the views and priorities of the community. This is:

⁶ Regulation 15 of the Neighbourhood Planning (General) Regulations 2012

To be a parish where an excellent quality of life is available to all, where people are valued and where there are homes and facilities to meet the needs of a sustainable rural community with a high quality environment

Representations received

28. Preparing the NDP has involved three statutory six-week periods of public consultation. The first on the Regulation 14 Draft Plan, took place between 1 May and 26 June 2018. In all, nine representations were received – five from Herefordshire Council, four from statutory bodies and external consultees with no comments being made by members of the community.

29. The second consultation on the Submission Draft NDP was managed by Herefordshire Council and took place between 13 May and 24 June 2019. During this consultation, it became apparent that some of the representations referred to representations that had been made about the Regulation 14 version of the plan, but these had not been reflected in the Consultation Statement which accompanied the Reg 16 Submission version of the plan. Herefordshire Council therefore recommended that the Parish Council should review all the Reg 14 representations, update the Consultation Statement accordingly and carry out a second Reg 16 consultation.

30. This additional consultation was carried out between 29 October and 10 December 2019. This generated nine responses – four from Herefordshire Council and six from statutory consultees and external bodies.

31. Occasionally in this report I refer to representations and identify the organisation making that particular comment. However, I have not referred to every representation in my report. Nonetheless, I can assure everyone that each comment made has been looked at and carefully considered.

32. From the evidence in front of me, it is apparent that the Ashperton NDP has been subject to appropriate and extensive community engagement involving much time and effort by the Steering Group. They are to be congratulated for all their efforts over a number of years and for producing a comprehensive NDP. I am therefore satisfied that the consultation process which has been followed complies with the requirements of the Regulations.

7. Compliance with the basic conditions

33. In my role as independent examiner I must assess whether the NDP meets the Basic Conditions⁷ set out in the Regulations as described in paras 7-10 above.

34. I have considered the Ashperton Neighbourhood Development Plan Basic Conditions Statement produced by the Steering Group, and other supporting documentation, to assist my assessment which is set out below.

National Policy

35. National planning policy is set out in the National Planning Policy Framework (NPPF) and in the supporting Planning Practice Guidance (PPG). At the heart of the planning system is a presumption in favour of sustainable development, which applies to all levels of plan making. For neighbourhood plans, this means that neighbourhood plans should support the strategic development needs set out in Local Plans and plan positively to shape local development. Planning Practice Guidance⁸ states that all plans should be prepared positively, be shaped by effective engagement with the local community and contain policies which are clearly written and unambiguous. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

36. The tables on page 6 (onwards) and page 11 (onwards) of the Basic Conditions Statement sets out a comprehensive assessment of how each of the policies in the NDP has regard to the core planning principles and other applicable principles of the NPPF (2012). A further table on page 23 (onwards) provides a very helpful update on how the NDP performs against the updated provisions of the NPPF (2018) where these differ from or add to the guidance in the 2012 version of the NPPF. This very comprehensive assessment means that the NDP satisfies the basic condition that it has regard to national policies and advice.

⁷ Para 8(2) of Schedule 4B of the Town and Country Planning Act (as amended)

⁸ Planning Practice Guidance Paragraph: 041 Reference ID: 41-041-20140306

Sustainable development

37. The qualifying body also has to demonstrate how a neighbourhood plan contributes to the achievement of sustainable development as set out in the NPPF⁹. This is amply covered in the assessment of the plan's compliance with the NPPF described in para 36 above and the short statement on page 26 of the Basic Conditions Statement. I therefore conclude that this Basic Condition is met.

Development Plan

38. The NDP also has to demonstrate that it accords with the strategic policies of the Development Plan. In terms of the wider planning of Herefordshire as a whole, the Neighbourhood Development Plan has been prepared in the context of the Herefordshire Local Plan Core Strategy (HLPCS), which was adopted on 16 October 2015. There is therefore an up to date development plan in place.

39. The table on page 27 (onwards) of the Basic Conditions Statement sets out a very comprehensive assessment of how each of the policies in the NDP conforms generally with the relevant strategic policies in the HLPCS. A number of the policies are designed to support and amplify the policies in the HLPCS so that they are relevant to the particular needs and priorities of the parish.

40. Various departments in Herefordshire Council have provided comments on the plan as it has progressed through each stage of preparation and the Council's Progression to Examination Decision Document dated 18 December 2019 confirms the Council's view that the NDP is legally compliant and can proceed to examination.

41. From my assessment of the plan's policies in the rest of my report, it is evident that the strategic policies of the adopted HLPCS have generally been carried through to the NDP. Therefore, subject to the recommended changes set out in Section 8 below, I conclude that the NDP is in general conformity with the strategic policies of the development plan and therefore this basic condition is met.

Basic Conditions – conclusions

42. I have considered the Basic Conditions Statement, the supporting evidence and representations made to the Ashperton NDP and I am satisfied that the Plan as submitted follows the general principles set out in national planning policy and contributes to the achievement of sustainable

⁹ NPPF paragraph 16

development. It sets out a positive vision for the parish and policies to protect its distinctive character while accommodating development needs.

43. At a practical level, however, a few of the policies in the Submission NDP need some minor adjustment to ensure that they comply with the NPPF and the strategic guidance in the HLPCS. I have therefore suggested a number of modifications in Section 8 below to help ensure that the plan accords with national and strategic guidance and therefore meets the basic conditions.

European obligations and Human Rights Requirements

Strategic Environmental Assessment (SEA)

44. The SEA Directive aims to provide a high level of protection to the environment by ensuring that environmental considerations are included in the process of preparing plans and programmes. A neighbourhood plan must be compatible with European Union obligations as incorporated into UK law, in order to be legally compliant. Key directives relate to the Strategic Environmental Assessment Directive and the Habitats and Wild Birds Directives. Regulation 15 of the Neighbourhood Planning Regulations as amended in 2015 requires either that a Strategic Environmental Assessment is submitted with a Neighbourhood Plan proposal or a determination is made by the responsible authority that the plan is not likely to have “significant effects.”

45. A screening opinion was carried out by Herefordshire Council in March 2016 during the initial stages of preparing the NDP. This concluded that the Neighbourhood Development Plan for Ashperton Parish would require further environmental assessment for Habitat Regulations Assessment and Strategic Environmental Assessment. The Steering Group’s approach is set out in two Environmental Reports, dated December 2017 and January 2019. Habitat Regulations Assessment reports were carried out at the same time.

46. The Environmental Report produced in January 2019 concluded that, on the whole, it is considered that the Ashperton NDP is in general conformity with both national planning policy contained in the National Planning Policy Framework and strategic policies set out within the Herefordshire Local Plan (Core Strategy). Nor does it propose any growth that would be over and above that prescribed by strategic policies. Statutory bodies concurred with this conclusion .

47. A Habitat Regulations Assessment (HRA) screening was also carried and the initial Screening report (March 2016) found that the Ashperton Parish is 7.8 km from the River Wye and the Ashperton NDP area and therefore falls within the 10km hydrological catchment area of the River

Wye (including the Lugg) SAC. The SAC is located south west of the Neighbourhood Area and therefore a full screening assessment is required. The January 2019 HRA screening assessment confirmed the earlier conclusions that the Ashperton NDP will not have a likely significant effect on the River Wye SAC.

48. A representation from Natural England highlights that the Ashperton NDP lies within the River Lugg catchment and that this part of the River Wye SAC is already exceeding its phosphate limits. As the NDP allocates development, it would need to demonstrate that it is phosphate neutral.

49. Herefordshire Council has sought Counsel advice in light of the implications of the European judgment on the case of *People Over Wind and Sweetman v Coillte Teoranta (C-323/17)* (“Sweetman”).

50. This was summarised in an advice note published in September 2018 . This explains that Herefordshire Council has sought Counsel advice following the judgments and that revised screening reports rely on policies in the HLPCS - specifically policies SD4 and LD2 - to reach a conclusion that a Neighbourhood Development Plan would not result in any likely significant effects. It explains that the key issue has been whether HLPCS policies are classified as ‘mitigation’ and therefore cannot be taken into account at the screening stage.

51. Counsel advice has indicated that Policy SD4 (for example) is part of the development plan and importantly it has been considered through the Core Strategy assessment as removing the pathway to harm and ‘likely significant effects’. As all neighbourhood plans need to be in conformity with the Core Strategy and the policies of the development plan read as a whole, there is no need for the NDPs to include additional mitigation covered within these policies as it is within the higher level plan (the Core Strategy).

52. Herefordshire Council sought further legal advice in December 2018 on the implications of the judgement on *Cooperation Mobilisation for the Environment v Verenigin Leefmilieu (Dutch Nitrogen)*. A statement dated 13 December 2018, explains that counsel’s advice concludes “that the overall package will ensure that the NDP is not adopted in breach of reg 63(5) and that, assuming SD4 is properly applied, any permission under Policy RA1, RA2, SD4 and compliant neighbourhood development plans would not breach reg 63 (5).”

53. In response to my query the Parish Council has acknowledged the comments made by Natural England but recognises that this does not mean that development sites cannot be allocated in the

NDP but that any application would need to demonstrate that the drainage scheme for each individual development would be phosphate neutral, if necessary by means of an appropriate assessment. This could be achieved as part of the planning process and in accordance with the strategic guidance in HLPCS policies RA1, RA2 and SD4. This approach aligns with the legal advice provided by Herefordshire Council and no change is needed to the NDP.

54. Ashperton lies over 7km from the River Wye, and the scale of development proposed is limited. This, in combination with the conclusions of the revised screening report undertaken by Herefordshire Council and the Counsel advice given to Herefordshire Council, leads me to conclude that the necessary legislative requirements have been met and that the basic condition is complied with.

55. I have considered all the relevant background material and I am therefore satisfied that the submitted Ashperton Parish NDP meets the requirements set out in the SEA Directive so this basic condition is met.

Human rights requirements

56. Section 4 of the Basic Conditions Statement provides a detailed explanation which confirms the Steering Group's view that the NDP is compatible with the requirements of EU obligations in relation to human rights. In addition, I could see from the Consultation Statement that consultation activities carried out for the NDP have been wide ranging and the Steering Group sought to engage with all members of the community and relevant stakeholders.

57. I am satisfied, therefore, that the NDP is compatible with the requirements of EU obligations in relation to human rights and no evidence has been submitted to me to suggest otherwise. I am satisfied, then, that the Plan does not breach the European Convention on Human Rights obligations and therefore meets the Basic Conditions.

Other Directives

58. I am not aware of any other European Directives that would apply to this NDP, and in the absence of any evidence to the contrary, I am satisfied that the plan is compatible with EU obligations.

8. Neighbourhood Plan policies

59. This section of my report considers the NDP policies against the basic conditions.

60. The Plan is clearly written and is very well presented and illustrated, with a clear structure distinguished by separate sections. The plan policies are grouped by topic area and for each policy there is a short introduction, a supporting statement followed by the policy, which is set out in a blue coloured text box . An orange coloured text box which summarises the “Community feedback from the Questionnaire Project” then follows. I noticed that in the majority of the NDP ,the orange “Community Feedback “ box was located after the policy, but in Section 9 the “Community Feedback” box was located before the policy. The latter seemed a more logical approach and the Steering Group may wish to consider adopting this approach throughout the rest of the plan; it would also bring benefits in terms of consistency in presentation. To assist future users of the plan, it would also be very helpful to add paragraph numbers and titles and reference numbers to each of the maps, diagrams and tables to the final version of the NDP.

- **Recommendation : Steering Group to consider relocating the orange “Community Feedback from Questionnaire” so that it appears before each policy. Paragraph numbers and titles and reference numbers for each map, diagram and table to be added to the final version of the NDP**

61. All of the policies relate to the development and use of land and none cover excluded development, such as minerals and waste, so the statutory requirements and guidance set out in Planning Practice Guidance¹⁰ are met.

62. As part of this examination, my report includes a series of recommended modifications to ensure that the policies are expressed concisely and precisely in order to comply with the basic conditions. Where I have suggested modifications, these are identified in **bold text**. The recommended modifications relate mainly to issues of clarity and precision and are designed to ensure that the plan fully accords with national and strategic policies. I have considered the policies in the order they appear in the Plan, by section and comment on all of the policies, whether I have suggested modifications or not. Where I consider that the supporting paragraphs need amendment to help explain and justify the plan policy, I have made comments to that effect.

Section 1 : Introduction and Background

63. This section introduces the Neighbourhood Development Plan, explains why a NDP is being prepared and the approach taken to community involvement. I have no comments to make.

¹⁰ Planning Practice Guidance PPG para 004

64. My only minor comment is that there is a typo in the third paragraph on page 3, where the word “that” is repeated.

- **Recommendation : Delete superfluous “that” from second sentence of third paragraph on page 3.**

Section 2: Our Parish

65. This section provides an extremely helpful overview of the parish and is both comprehensive and easy to follow. The mapping and photos are all relevant and give a clear picture of the Parish and the issues it faces.

66. On a point of detail, the second paragraph on page 6 refers to all evidence being correct at the time of writing (Spring 2017). The Submission Version of the plan which is the subject of this examination is dated August 2019, so this reference is out of date. I suggest that for the final version of the plan that this statement is updated .

- **Recommendation : Update last sentence of second paragraph on page 6 in the final version of the NDP**

Section 3: Vision and Objectives

67. This section outlines the Vision and Objectives for the plan which were developed from a series of community consultation events which were held in 2015/16. I have no comments to make.

Section 4 :The Policies

68. This section introduces the policies and I have no comments to make.

Section 5 : Housing Policies

Policy H1: Number of New Houses

69. Ashperton Parish lies within the Ledbury Rural Housing Market Area where the target housing growth rate is 14%, which equates to a minimum of 14 new houses in the Parish between April 2015 and 2031. Ashperton is identified in the Herefordshire Local Plan Core Strategy as a settlement which will be the main focus of proportionate housing development.

70. When the Submission draft NDP was prepared in August 2019, housing commitments amounted to 18 dwellings. This means that the indicative housing target for the Parish can be met. The NDP

therefore conforms with strategic guidance and the basic condition is met.

71. The paragraph at the top of page 38 summarises the land supply position as of August 2019. In response to my query, the Parish Council confirmed that this could be explained more clearly and I suggest that this statement is moved so that it comes immediately after the section which is entitled "Sites for Inclusion in the NDP". It also requires some minor rewording to improve clarity.

- **Recommendation : Delete first paragraph at top of page 38 and insert new paragraph after the first paragraph on page 37 to read "This plan therefore puts forward sites with a potential for a further 7 dwellings. Together with existing commitments and planning consents , this results in a total potential of 25 dwellings during the plan period."**

72. Policy H1 specifies the number of houses to be delivered over the NDP period. My only comment is that the reference to the Herefordshire Local Plan Core Strategy period is not necessary in the policy and can be deleted. The policy would also benefit from tightening up to make clear that it applies to any housing development, not just the majority of development. A reference to the Ashperton Policies Map which defines the settlement boundary is also required.

- **Recommendation : In Policy H1 delete "in the Herefordshire Core Strategy" and replace with "in the NDP". Delete "The majority of" and replace with "Any". Add "as defined in the Ashperton Policies Map" after "Settlement Boundary".**

Policy H2: Settlement Boundary

73. Policy H2 identifies a new settlement boundary for Ashperton which is illustrated in the map above the Policy on Page 34 of the NDP and in the Ashperton Policies Map.

74. Ashperton is defined in policy RA2 of the HLPCS as a settlement where proportionate development should take place within and adjacent to the settlement boundary. In accordance with the supporting text to Policy RA2, a settlement boundary has been defined around the village.

75. The Ashperton Policies Map is an important part of the NDP as it shows:

- site allocations - areas of land that have been allocated for specific uses, and
- site related policies - areas to receive protection from development including local, national and international environmental designations.

These link to the written policies within the plan and the boundaries of the sites shown on the map. Once adopted, the details on the policies maps will be used in determining planning applications and other council functions such as land searches.

76. The plan identifies a number of Proposed Housing Sites and Commitment sites, some of which are within the settlement boundary and others which are outside but immediately adjacent to the proposed settlement boundary. Together, these sites should deliver Ashperton's housing requirement of 14 dwellings in the period 2018-31 as defined in the HLPCS and NDP Policy H1.

77. A representation has suggested that settlement boundary should be redrawn so that the commitment site to the north of the village hall should be included in the settlement boundary.

78. I have therefore considered all of the proposed housing sites and commitment sites depicted on the Policies Map and how they are located in relation to the settlement boundary.

79. Herefordshire Council has drawn up detailed guidance on the drawing up of settlement boundaries in Neighbourhood Plans. This states that :

"Where appropriate, settlement boundaries should include new developments which may have occurred recently. It is also advisable to include sites that have received planning permission within the settlement boundary." And

"If you choose to allocate land within your Neighbourhood Development Plan for housing, employment or other uses, this should be included within the boundary".

80. From my site visit, I saw that the site immediately opposite and adjacent to 44 and 45/46 Ashperton Road is nearing completion, two of the three houses already being occupied and the third nearing completion. This site is shown within the settlement boundary as it is to all intents and purposes completed.

81. In terms of the site to the north of the village hall, the principle of the development of the site has been established through its allocation in the NDP and the outline planning consent granted in 2016. Importantly, it is also the main site which could deliver the majority of the housing requirements of the parish up to 2031 and thus meet the requirements set out in the HLPCS

82. To comply with strategic guidance and meet the basic conditions, this site should therefore be included within the settlement boundary and the Ashperton Policies Map amended accordingly.

- **Recommendation: Add new sentence at the end of the paragraph describing Site P1 on page 35, to read “Since the HLPCS advises that sites that have received planning permission should be included within the settlement boundary, the site is included within the settlement boundary shown on the Ashperton Policies Map.”**

83. Three sites at the north end of the village are included as Proposed Housing Sites – details of these are described as sites S1, S2 and S3 on pages 34 and 35. Two are located inside the settlement boundary, but S3 is not. For reasons of consistency, this site should also be included in the settlement boundary. It would also be helpful if the policy reference numbers for the Proposed Housing Sites and Housing Commitment Sites were added to the Ashperton Policies Map.

- **Recommendation : Amend settlement boundary shown on the Ashperton Policies Map so that the housing commitment site P1 (Land to the North of the Village Hall) and the Proposed Housing Site S3 (Land behind Milestone Cottage and Peasecoft) are included within the settlement boundary. Add reference numbers for the Proposed Housing Sites (sites S1, S2 and S3) and the Housing Commitment Sites (sites P1,P2 and P3) to the Ashperton Policies Map.**

84. The map of the settlement boundary on page 34 is now out of date and needs to be replaced with the updated settlement boundary as set out in the updated Ashperton Policies Map described in the recommendation above. A title for the map also needs to be included. An additional supporting paragraph is required to explain how the settlement boundary has been defined and updated. The key to the Ashperton Policies Map also requires amending to make clear that the sites denoted by the brown dotted notation are housing commitment sites

- **Recommendation : Add a title to the map on Page 34 to read “ Ashperton Settlement Boundary Map ”. Amend boundary shown to that on the updated Ashperton Policies Map so that the settlement boundary coincides with the amended settlement boundary set out in the recommendations outlined above. Add a new paragraph below the map on page 34 to read “ Since the plan was originally prepared, housing sites have been built out, granted planning consent or allocated in this plan so, in line with strategic guidance, these sites are now included in the settlement boundary shown in the plan above and the Ashperton Policies Map.” On the Ashperton Policies Map change the key to the brown dotted box to read “Housing Commitments Sites.”**

85. There is a large area of land to the rear of the school which is included within the settlement boundary. I saw from my site visit that it is well integrated with the school and its boundaries are clearly defined by fencing and includes, amongst other things, an all weather pitch and a football pitch. It is therefore appropriate for it to be included within the settlement boundary.

86. A large site at Church Lane was originally put forward as a potential housing site, but has not been included in the NDP as much of the site is constrained by archaeological considerations. In response to my query, the Parish Council has confirmed that a small part of the site has potential for one or two dwellings and is therefore included in the settlement boundary. The NDP needs to be amended to make the status of this smaller site clear.

- **Recommendation : In second sentence of paragraph under N7 Church Lane heading on page 37 , delete “Although it may be possible to accommodate one or two dwellings on land without archaeological constraints and within the settlement boundary” and start a new sentence to read “In addition highway visibility considerations.....”. Add a new sentence at end of paragraph to read “A small part of the site is without archaeological considerations and lies within the settlement boundary and could accommodate one or two dwellings and is identified as site N7”.**

87. The Parish Council has advised that the planning application for the site annotated as P4 – “The Ditch” has now been refused, so the reference in the NDP needs to be updated.

- **Recommendation : In last sentence of section headed P4 “The Ditch”, delete “but as of August 1 2019 the application had not been determined.” and replace with “and has been refused.”**

88. As the NDP defines the new settlement boundary, Policy H2 needs to be more positively worded in order to conform with strategic guidance.

- **Recommendation : Reword Policy H2 to read “The settlement boundary for Ashperton is defined in the Ashperton Policies Map. Sustainable housing growth will be supported in or adjacent to this boundary.”**

Policy H3: Housing Mix and Tenancy

89. This policy deals with Housing Mix and Tenancy , although the reference in the title should be “Tenure” rather than “Tenancy” to tie in with the terminology used on the policy. I have commented

in paragraph 94 below about Policy D2 and in view of my recommendations on that policy, references to policy D2 need to be removed from policy H3.

- **Recommendation : Change title of Policy H3 to “Housing Mix and Tenure”. Delete “Notwithstanding Policy D2,” from start of policy H3.**

Policy H4 : Type of Housing

90. This policy appears to lend support to particular types of dwelling being approved and, as Herefordshire Council has pointed, out would benefit from this being stated more clearly. Some minor rewording to make the policy clearer is therefore recommended.

- **Recommendation : In Policy H4 add as a new sentence after “in the NDP” to read “In particular the following types of dwelling will be encouraged:”**

Policy H5 : Rural Exception Sites

91. I agree with Herefordshire Council that this policy duplicates guidance in the HLPCS and should be deleted.

- **Recommendation : Delete Policy 5 and last sentence of third paragraph on page 40 which reads “Policy H5 mirrors Core Strategy Policy H2”**

Section 6 : Design Policies

Policy D1 Design Appearance

92. My only comment on this policy is that the title is rather limiting – it might be better simply titled “Design”.

- **Recommendation : Delete “appearance” from title of Policy D1**

Policy D2: Scale and phasing of development

93. This policy seeks to deal with scale of new housing development and although the policy title refers to the phasing of development, there is no guidance on phasing in the policy itself. Clause a) of the policy seeks to limit the scale of development to no more than three dwellings but, in the absence of clear evidence to support such a cap, seems unnecessarily prescriptive. It is also not aligned with the strategic guidance in the HLPCS.

94. Clause b) of the policy seeks to ensure a variety of design features are provided on all developments of more than two dwellings and could readily be added to the criteria set out in Policy D1. I therefore suggest that Policy D2 is deleted in its entirety.

- **Recommendation : Delete Policy D2 and renumber subsequent policies accordingly. Add a new criterion g) to Policy D1 to read “Developments of more than two dwellings should incorporate a variety of design features”**

Policy D3 :Technical design

95. This policy complies with the basic conditions and I have no comments to make.

Section 7 : Sustainable Transport Policies

Policy ST1: Accommodating Traffic Within the Parish

96. This policy complies with the basic conditions and I have no comments to make.

Section 8 : Supporting Local Business

Policy SB1: Supporting Local Business

97. This policy complies with the basic conditions and I have no comments to make.

Policy SB2 : Work Space Development

98. This policy complies with the basic conditions and I have no comments to make.

Policy SB3: Change of Use

99. Policy SB3 deals with the change of use of employment sites, although this is not made clear in the policy title or the policy itself. It therefore needs to be reworded to improve clarity and to help future users of the NDP. On a point of detail, there seems to be some wording missing in the third paragraph on page 50 and I suggest a small change, again to improve clarity.

- **Recommendation: Add to end of title of Policy SB3 “of existing employment sites”. In first sentence of Policy SB3, change “existing buildings to existing employment sites/buildings”. Add “terms of” after “little in” in first sentence of third paragraph on page 50.**

Policy SB4: Provision of Broadband and Mobile Telephone Services

100. The format of this policy is rather different to the other policies in the NDP and I suggest that it is expressed as a policy with criteria to improve clarity .

- **Recommendation : In second paragraph of Policy SB4. Add a) before “The introduction of...” : delete “and the requirement for ” and insert “b) all” before “new development proposals” and change “to” to “should”**

Section 9 : Environmental Policies

Policy E1 : Landscape

101. This policy broadly accords with guidance in the Framework and the HLPCS, but requires some fine tuning to improve clarity.

- **Recommendation : In the first line of Policy E1, delete “set out in the NDP”. In criterion a) delete “Sites must exhibit the capacity to absorb building” and replace with “it can be accommodated”**

102. The format of the remaining policies in this section differs from those elsewhere in the NDP in that they simply consist of a list of criteria, rather than an introductory statement, followed by supporting criteria. I therefore suggest that they are redrafted to ensure consistency with the format of other policies in the NDP.

Policy E2 : Tranquillity

103. In addition to the formatting issue mentioned above, I agree with Herefordshire Council’s comment that criterion c) would be more enforceable if the policy required lighting information to support applications.

- **Recommendation : Delete a) at start of Policy E2. Add “In particular:” after “the planning regime”. Amend criterion b) to read “a) all applications should be accompanied by external lighting proposals and, in general, street lighting will not be supported.” Change criterion c) to criterion b)**

Policy E3: Cultural Heritage

104. This policy overlaps with guidance in the HLPCS in Policy LD4 – Historic environment and heritage assets. As such, it needs to be expressed so that it is more closely aligned to the HLPCS policy and to make a clearer reference to the archaeological assets which are a particular feature of the parish.

- **Recommendation : Delete Policy E3 and replace with “Development proposals affecting heritage assets and the wider historic environment should seek to protect our cultural heritage. In particular, building should not take place on significant archaeological features except in exceptional circumstances. Any such development should be subject to a watching brief by the county archaeology service”**

Policy E4 : Wildlife and the Natural Environment

105. This policy requires reformatting as explained above to improve clarity. In order to comply with strategic guidance in the HLPCS the reference in criterion d) should be to Local Wildlife Sites which are identified on the Policies Map and to the priority habitats listed on page 21. Some minor rewording of the supporting explanatory text on page 21 is also required.

- **Recommendation : Delete a) at start of Policy E4. Add “ In particular:” after “the planning regime”. Amend numbering of subsequent criterion accordingly. In criterion d) change “the locally important” to “Local Wildlife Sites identified in the Policies Map and Priority Habitats listed in Table on Page 21” . In first sentence of third paragraph on page 21, change “County” to “Local” and in second sentence amend “17” to “23”.**

Policy E5 : Flooding and Water Management

106. This policy seems to overlap with the more comprehensive policies in the HLPCS on flooding and water management and I see no reason to include it in the NDP. I therefore recommend that it is deleted.

- **Recommendation : Delete section 5.4 and Policy E5**

Section 10: Renewable Energy Generation

Policy RE1: Small Scale Renewable Energy

107. This policy complies with the basic conditions and I have no comments to make.

Policy RE2 : Commercial Renewable Energy

108. This policy complies with the basic conditions. My only minor comment is that the words “**provided that**” in the second sentence of Policy RE2 do not need to be in bold font.

- **Recommendation : Change “be provided “ in second sentence of Policy RE2 from bold to regular font**

Section 11 : Plan Implementation and Monitoring

109. I have no comments on this section .

9. Conclusions and Recommendations

110. I have examined the Ashperton NDP and I have concluded that, subject to the modifications set out in my report, it meets the basic conditions and other statutory requirements.

111. I am therefore pleased to recommend to Herefordshire Council that, subject to the modifications set out in my report, the Ashperton NDP should proceed to referendum.

112. I am also required to consider whether the referendum area should be extended beyond the Ashperton NDP area. I see no reason why it would be necessary to alter or extend the plan area for the purposes of holding a referendum, nor have I received any representations to that effect. I therefore conclude that the plan should proceed to referendum based on the neighbourhood area approved by Herefordshire Council in June 2015.

APPENDIX 1: Background Documents

In undertaking this examination, I have considered the following documents:

- Ashperton Neighbourhood Development Plan 2018-2031 Revised Submission Draft: August 2019 and associated Policies Maps
- Ashperton Neighbourhood Development Plan Consultation Statement: August 2019
- Ashperton Neighbourhood Development Plan Basic Conditions Statement
- Herefordshire Council: Ashperton Neighbourhood Development Plan - Progression to Examination Decision Document: 18 December 2019
- Strategic Environmental Assessment Ashperton Neighbourhood Plan - Scoping Report : March 2016
- Draft Environmental Report for Ashperton Neighbourhood Plan: Herefordshire Council: December 2017
- Draft Habitats Regulations Assessment Report for Ashperton Neighbourhood Area: Herefordshire Council: December 2017
- Environmental Report for Ashperton Neighbourhood Area: Herefordshire Council: January 2019
- Habitats Regulations Assessment Report for Ashperton Neighbourhood Area: Herefordshire Council: January 2019
- Herefordshire Council : Neighbourhood Planning Guidance 20 : Settlement Boundaries :April 2013 - revised June 2015
- National Planning Policy Framework (NPPF) February 2019
- Planning Practice Guidance March 2014 and subsequent updates

APPENDIX 2:

Ashperton Neighbourhood Development Plan Examination

Request for further information and questions from the Examiner to Herefordshire Council and Ashperton Parish Council

I have carried out a preliminary review of the Neighbourhood Development Plan and the evidence submitted in support of it and there are a few points where I need some clarification or further information. I would therefore be grateful if both Councils could assist me, as appropriate, in answering the following questions.

1. Settlement Boundary Map

At the top of page 34 there is an untitled map which shows the settlement boundary for Ashperton. However, the boundary on this map is different to that shown on the coloured Ashperton Policies Map. Please can you confirm that the Policies map is the correct version?

2. Sites for Development Ashperton Village

There are two statements about the number of planning consents in the village in Section 5.4. The first is in the second paragraph on page 36 which states that there are planning permissions for 15 dwellings plus 3 dwellings at or near completion at July 2019. The second statement, at the top of page 38, updates the position to August 2019. I think, therefore, that the earlier paragraph is now superseded and can be deleted. Please can you confirm that this interpretation is correct?

3. Land to rear of school

I saw from my recent site visit that the area of land within the settlement boundary and to the rear of the school appears to be an important part of the school grounds, being laid out with formal pitches and other equipment to support games and outdoor recreation. During the course of preparing the NDP was any consideration given to designating this area behind the school for recreation purposes to be protected under Herefordshire Local Plan Core Strategy Policy OS3 – Loss of open space, sports or recreation facilities?

4. Site N7 Church Lane

There seems to be an inconsistency between the text on under the heading N7 Church Lane on page 37 which states that an extensive site north of Church lane has “not been Identified as a proposed development site within the plan” and the settlement boundary depicted on the Ashperton Policies

Map which shows the site as being within the settlement boundary and therefore, by implication, capable of being developed. Please can this inconsistency be explained?

5. Policy E4 Wildlife and the Natural Environment

Criterion d) of Policy E4 refers to “locally important sites”. I think these may be the Local Wildlife Sites which are shown on the Ashperton Policies Map shaded in brown. Please can you confirm that this is correct?

Thank you for your assistance with these questions. Once I have received your responses, I may need to ask for further clarification or further queries may arise as the examination progresses.

Please note that these questions and requests for information is a public document and the answers and any associated documents will also be in the public domain. Both my questions and the responses should be placed on the Councils’ websites as appropriate.

Barbara Maksymiw

29 January 2019