

Cusop Neighbourhood Development Plan

Submission Version 2011 – 2031

Report of Examination

July 2017

Undertaken for Herefordshire Council with the support of Cusop Parish Council on the submission version of the plan.



Independent Examiner:

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Summary

- I have undertaken the examination of the Cusop Neighbourhood Development Plan during July 2017, and detail the results of that examination in this report.
- Subject to the recommended modifications being made, the Plan meets the basic conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

Abbreviations used in the text of this report:

The Cusop Neighbourhood Development Plan is referred to as 'the Plan' or 'Cusop NDP'.

Cusop Parish Council is abbreviated to 'Cusop PC'.

Herefordshire Council is also referred to as the LPA (local planning authority).

The National Planning Policy Framework is abbreviated to 'NPPF'.

The National Planning Practice Guidance is abbreviated to 'NPPG'.

The Herefordshire Local Plan Core Strategy 2011 – 2031 is abbreviated to 'HCS'

Acknowledgements: Thanks to Local Authority staff for their assistance with this examination.

My compliments to the local community volunteers involved and Cusop Parish Council, who have produced a well-written, clear and concise plan that is very focused on its proper role and scope.

1. Introduction and Background

1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowers local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF) states that:

“neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need”.

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’, and in Cusop that is Cusop Parish Council. Drawing up the Neighbourhood Plan was undertaken by a Planning Project Group on behalf of the Parish Council.

1.2 Independent Examination

1.2.1 Once Cusop had prepared their neighbourhood plan and consulted on it, they submitted it to Herefordshire Council. After publicising the plan with a further opportunity for comment, Herefordshire Council were required to appoint an Independent Examiner, with the agreement of Cusop PC to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this plan. I am a chartered Town Planner with over thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have recently concentrated on supporting groups producing neighbourhood plans. I have been appointed through the Neighbourhood Plan Independent Examiners Referral Service (NPIERS). I am independent of any local connections to Cusop and Herefordshire Council, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 As the Independent Examiner I am required to produce this report and recommend either:

- (a) That the neighbourhood plan is submitted to a referendum without changes; or
- (b) That modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) That the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.2.4 The legal requirements are firstly that the plan meets the 'Basic Conditions', which I consider in sections 3 and 4 below. The plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

The Neighbourhood Area was designated on the 6th September 2012 by Herefordshire Council. The plan does not relate to land outside the designated Neighbourhood Area, with modification 3 applied as recommended. It has been submitted and prepared by a qualifying body and people working to that qualifying body. It does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure.

1.2.5 The Cusop NDP specifies the period it has effect in the second paragraph of the Introduction text, but not obviously on the cover of the document. The time period is not clearly and obviously stated therefore, and in order that it complies clearly with the requirements of Paragraph 8(1), I recommend that the period it covers is stated on the cover. For clarity as to the legal status of the document I also recommend that the document is referred to as The 'Cusop Neighbourhood Development Plan' for formal purposes. A 'Parish Plan' is a recognised planning document but without the legal status of a neighbourhood development plan, and confusion could be caused without clarity as to the legal status of this Plan.

<p>Modification 1: The cover of the Cusop NDP is recommended to <u>give the document the title of 'Cusop Neighbourhood Development Plan'</u> and show the time period of 2011 – 2031.</p>
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1.2.6 I made an unaccompanied site visit to Cusop to familiarise myself with the area and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations, as I did not consider a hearing necessary.

1.2.7 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 5 at the end of this report.

1.3 Planning Policy Context

1.3.1 The Development Plan for Cusop, not including documents relating to excluded mineral and waste development, is the Herefordshire Local Plan Core Strategy (HCS) 2011 – 2031 and some saved policies from the Herefordshire Unitary Development Plan (UDP). The saved policies from the UDP are mostly concerned with minerals and waste issues however, development which is excluded from consideration by neighbourhood plans. The HCS was adopted in October 2015.

1.3.2 The National Planning Policy Framework (NPPF) sets out government planning policy for England, and the National Planning Practice Guidance website offers guidance on how this policy should be implemented.

1.3.3 During my examination of the Cusop NDP I have considered the following documents:

- National Planning Policy Framework (NPPF) 2012
- National Planning Practice Guidance (NPPG) 2014 and as updated
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning Regulations 2012 (as amended)
- Submission version of the Cusop (Parish) Neighbourhood Development Plan
- The Basic Conditions Statement submitted with the Cusop NDP
- The Consultation Statement submitted with the Cusop NDP
- The Environmental Report and HRA Feb 2017 for the Cusop NDP
- Neighbourhood Area Designation (map)
- Herefordshire Local Plan Core Strategy 2011 – 2031
- Herefordshire Unitary Development Plan 2007
- Herefordshire Local Market Housing Assessment 2013
- Representations received during the publicity period (reg16 consultation)

2. Plan Preparation and Consultation

2.1 Pre-submission Process and Consultation

2.1.1 The parish of Cusop is in the Golden Valley area of Herefordshire, immediately adjacent to the Welsh border and the town of Hay on Wye in Wales. The parish had a population of 356 residents at the 2011 Census. The Dulas Brook running through the Cusop Dingle is a tributary of the River Wye, which is a designated European Special Area of Conservation (SAC), and the area is generally environmentally sensitive. Cusop is isolated from main population centres, but well-connected to tourist attractions in Hay and the Brecon Beacons immediately to the west.

2.1.2 A Project Group organised the work of developing the Plan, consulting with the community as they did this. The Consultation Statement sets out the nature and form of consultation prior to the formal Reg14 six week consultation. Drop-in events and a detailed questionnaire were used to gather the views of the community, the questionnaire having a response rate of 79% of the over 16 population. A website also sought to engage the local community with the Plan proposals

2.1.3 As required by regulation 14 of the Neighbourhood Planning Regulations 2012, the formal consultation for six weeks on the pre-submission draft Cusop NDP ran from Monday the 15th August 2016 to Sunday 25th September 2016. Hard copies of the draft Plan, with a covering letter explaining how to comment etc, were delivered by hand to every dwelling in Cusop which ensured that all resident occupiers and businesses and non-resident occupiers were consulted. Non-resident businesses and statutory bodies were consulted by letter or email. The draft Plan and environmental reports could be downloaded from the Neighbourhood Plan website.

2.1.4 Representations were received from eleven residents and six statutory consultees during the consultation period, and several amendments have been made to the plan as a result of constructive suggestions for changes. These are clearly detailed in the consultation statement.

2.1.5 I am satisfied that due process has been followed during the consultation undertaken on the Plan. The record of comments and objections received during the regulation 14 consultation shows that these were properly considered, and where appropriate resulted in amendments to the plan to accommodate points raised.

2.1.6 As required, the amended plan, together with a Basic Conditions Statement, a Consultation Statement, the Screening Opinion and a plan showing the neighbourhood area was submitted to Herefordshire Council on the 6th March 2017.

2.1.7 Herefordshire Council undertook the regulation 16 (Reg16) consultation and publicity on the Cusop NDP, beginning on the 9th March 2017 for six weeks, ending on the 20th April 2017. The representations received during this consultation are considered below.

2.2 Regulation 16 Consultation Responses

2.2.1 Publicity and consultation on the plan undertaken by Herefordshire Council after submission, as required by regulation 16 of the Neighbourhood Planning (General) Regulations 2012, resulted in eight comments received. Two statutory bodies offered no comment specific to Cusop. Historic England supported the emphasis on local distinctiveness and protection of rural landscape character and protection of important views. The National Grid noted that there was a high pressure gas line in the neighbourhood area, but that it was not impacted by any development proposals.

2.2.2 Three Herefordshire Council departments responded with comments on the plan, and where they have raised issues relevant to the need for the Plan to comply with the basic conditions, they are considered further in sections 3 and 4 of this report. Development Management commended the plan as a well-wordsed and well-considered plan. A local resident offered support for several of the housing policies, and comment generally on planning issues in Cusop.

3. Compliance with the Basic Conditions.

3.1 General legislative requirements of the 1990 Town and Country Planning Act (TCPA) other than the Basic Conditions are set out in paragraph 1.2.4 above. The same section of this report considers that the Cusop NDP has complied with these requirements. What this examination must now consider is whether the Plan complies with the Basic Conditions, which state it must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area; and
- Be compatible with and not breach European Union (EU) obligations and human rights law.

3.2 The Basic Conditions Statement explains how the Cusop NDP promotes sustainable development against the NPPF principles (para17). The Plan promotes modest development for housing and employment use that pays regard to the social and economic needs of the parish while respecting the environmental sensitivity of the area. I accept that the Cusop NDP does contribute to the achievement of sustainable development.

3.3 An initial screening of the Plan considered that Strategic Environmental Assessment (SEA) was required. A Habitat Regulations Assessment (HRA) screening determined that further assessment was not required under the HRA legislation as

“the Cusop NDP will not have a likely significant effect on the River Wye SAC”.

3.4 The Environmental Report submitted with the Plan, and available for comment during the Reg14 consultation on the Cusop NDP, assessed the Plan and its policies both before and after the Reg14 consultation prior to submission to the LPA. The Report concludes that:

“it is considered that the Cusop NDP is in general conformity with both national planning policy contained in the National Planning Policy Framework and strategic policies set within the Herefordshire Local Plan (Core Strategy). Nor does it propose any growth that would be over and above that prescribed by strategic policies. Therefore no changes to the NDP are recommended as a result of the SEA.”

3.5 The environmental requirements for SEA and HRA are the main EU Directives that neighbourhood plans need to comply with. I am satisfied that the Cusop NDP has fulfilled the

requirements of legislation with regard to both SEA and HRA, and thus the Plan complies with the Basic Conditions in this regard.

3.6 The Cusop NDP in my view complies with Human Rights Legislation. It has not been challenged with regard to this, and the aims and policies of the plan pay regard to the UN Human Rights Declaration.

4. Compliance with National Policy and the adopted Development Plan

4.1 The final and most complex aspect of the Basic Conditions to consider is whether the Cusop NDP meets the requirements as regards national policy and the development plan. This means firstly that the Plan must have regard to national policy and guidance, which for this neighbourhood plan is the NPPF and the NPPG. Secondly the Plan must be in general conformity with the strategic policies of the development plan. The phrase 'general conformity' allows for some flexibility. If I determine that the Plan as submitted does not comply with the Basic Conditions, I may recommend modifications that would rectify the non-compliance.

4.2 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards national policy and the development plan. If not, then modifications required to bring the plan into conformity are recommended. Modifications are boxed in the text, with *text to remain in italics*, new text **highlighted in Bold** and text to be deleted shown but ~~struck through~~. Instructions in the modifications are shown underlined.

4.3 The format and content of the Plan are generally well laid out and concise. Modification 1 on page 5, para 1.2.5, is recommending changes to information on the cover and the formal name of the Plan in order that the legal status of the document and the time period it covers is clearer.

4.4 Policy 1 - Settlement Boundary:

The settlement boundary has been taken from the original boundary as defined by the LPA in the Unitary Development Plan, and updated to include the allocated residential site which also has an outline planning permission. The policy is based on a proportionate and adequate evidence base and complies with the Basic Conditions.

4.5 Policy 2 - Newport Street Housing Allocation

Cusop is defined in the HCS (fig 4.14 and Policy RA2) as a settlement suitable for "carefully considered development which is proportionate to the size of the community and its needs". Development Management have raised the issue of whether this allocation is legitimately included with the proportionate growth target for Cusop. The Strategic Planning section however have confirmed that the Newport Street housing site is included within the proportionate growth

target. The development will increase the number of dwellings in Cusop by over 15%, the target for rural settlements in the Golden Valley is 12% (Policy RA1), so that target has been more than met and the policy is also in conformity with Policy RA2 of the HCS.

4.6 Policy 3 - New dwellings within the Settlement Boundary

For clarity this policy should refer to the neighbourhood plan by name, and reference to 'the development plan' rather than just the Core Strategy, future-proofs the policy better. Clarity is required in policy by the NPPF para 154, so in order that the policy complies with the Basic Conditions, I recommend that it is modified as follows:

Modification 2: Policy 2 to be reworded as shown:

New dwellings may be developed elsewhere within the Settlement Boundary provided that they meet the requirements of all the other relevant policies in this neighbourhood plan and the development plan generally. ~~Plan and in the Core Strategy.~~

4.7 Policy 4 - Size of Dwellings

The adequacy of evidence for this policy has been questioned, and a suggestion made that the policy should be made more flexible. However the policy does have a caveat that would allow larger dwellings in certain circumstances and I find the evidence base in the Herefordshire Local Housing Market Assessment 2013 robust enough to justify this policy. Specifically that document's reference (para13.8) to the high proportion of detached housing in Cusop, and the substantially below average proportion of other (normally cheaper) housing types. Golden Valley has a higher proportion of newly forming households unable to buy or rent without support, and significant and as yet unmet need for affordable housing (paras 13.22 and 13.31). The justification in the Plan includes discussion of Cusop having proportionately more dwellings with 4 bedrooms or more than the county average. Cusop's location close to the larger settlement of Hay is seen as making the parish a suitable place for introducing smaller housing. I find the evidence base proportionate and robust for this policy, and consider that it complies with the Basic Conditions.

4.8 Policy 5 - Extension of Dwellings

Complies with the Basic Conditions.

4.9 Policy 6 - Conversion of residential buildings

Complies with the Basic Conditions.

4.8 Policy 7 - New dwellings within the curtilage of existing dwellings

Complies with the Basic Conditions.

4.9 Policy - 8 Parking

There is a suggestion that this policy should be more specific, and mention highway design guidance in existence. There is a general need for clarity in policy, but existing highway design guidance in Herefordshire is over 10 years old now. The use of the words 'normal requirements' rather than mention of the existing guidance offers a future proofing for the policy in a document that covers the time period through to 2031. My site visit to Cusop revealed existing pressure on on-street parking and limited opportunity on narrow lanes, and I accept the evidence for protection of off-street parking in existing development. The policy complies with the Basic Conditions.

4.10 Policy 9 - Safeguarding of Newport Street employment land

It has been suggested that both this policy and Policy 10 should include a requirement for (unsuccessful) long-term marketing of the sites for employment use before any change of use from employment is allowed. My role as an examiner can only engage with, and modify, aspects of the Plan and its policies that do not comply with the Basic Conditions. This suggestion, while it has merit, is not a Basic Conditions issue, and the policy as written complies with the Basic Conditions.

4.11 Policy 10 - Extension of Newport Street employment land

Complies with the Basic Conditions.

4.12 Policy 11 - Employment-generating proposals outside the Settlement Boundary

Complies with the Basic Conditions.

4.13 Policy 12 - Cusop Hill

The policy has been criticised as needing to identify specific views, but I consider Map 3 has identified the general direction of views to be protected. The policy however refers to protecting these views from Hay as well as Cusop, and areas 'beyond Hay'. Hay is not in the neighbourhood plan area, and legislation is very clear that the Plan can only deal with land and planning issues in the neighbourhood area (see para 1.2.4 of this report above). Thus I recommend the policy is altered as shown in modification 3 below in order that the Plan complies with the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

Modification 3: Policy 12 to be altered as follows:

*Development proposals must protect the character and scenic beauty of Cusop Hill and views of it from the Cusop settlement **and Parish.** ~~Hay, and beyond Hay.~~ The extent of this Asset and the directions of views of it for the purposes of this Policy are shown on Map 3.*

4.14 Policy 13 - Black Lion Fields

Complies with the Basic Conditions.

4.15 Policy 14 - Dulas Brook

Complies with the Basic Conditions.

4.16 Policy 15 - Avoiding Light Pollution

Complies with the Basic Conditions.

4.17 Policy 16 - Design

Complies with the Basic Conditions.

5. The Referendum Boundary

5.1 The Cusop Neighbourhood Development Plan has no policy or proposals that have a significant enough impact beyond the designated Neighbourhood Plan Boundary that would require the referendum boundary to extend beyond the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the Cusop Neighbourhood Development Plan 2011 – 2031 shall be the boundary of the designated Neighbourhood Area for the Plan.