

EATON BISHOP NEIGHBOURHOOD PLAN

Submission Draft Version

**A report to Herefordshire Council
into the examination of the
Eaton Bishop Neighbourhood Plan
by Independent Examiner, Rosemary Kidd**

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Contents:

	Page
1 Summary	3
2 Introduction	4
3 The Neighbourhood Plan - as a Whole	12
4 The Neighbourhood Plan - Policies	16
Housing	16
Local Environment	25
Community Facilities and Infrastructure	28
Rural Enterprise	31
5 Referendum	35
6 Background Documents	36
7 Summary of Recommendations	37

1.0 Summary

- 1.1 The Eaton Bishop Neighbourhood Plan has been prepared to set out the community's wishes for the parish of Eaton Bishop to protect and enhance the rural nature of the parish through incremental development in an appropriate and sustainable way in order to maintain and, where possible, enhance the quality of life for all of the village community.
- 1.2 I have made a number of recommendations in this report in order to make the wording of the policies and their application clearer and more flexible to ensure that they meet the Basic Conditions. Section 7 of the report sets out a schedule of the recommended modifications.
- 1.3 The main recommendations concern:
- Improving the clarity of the wording of policies;
 - Revisions to improve the flexibility of policies to remove unduly onerous requirements and restrictions that may impact on the delivery of development;
 - The deletion of the maximum size of a development site from Policy EB1;
 - The deletion of Policy EB3 on phasing;
 - Revisions to Policy EB4 to ensure that the housing mix reflects up to date evidence;
 - Improvements to the maps to show all sites referred to in the policies of the plan.
- 1.4 Subject to the recommended modifications being made to the Neighbourhood Plan, I am able to confirm that I am satisfied that the Eaton Bishop Neighbourhood Plan satisfies the Basic Conditions and that the Plan should proceed to referendum.

2.0 Introduction

- 2.1 Neighbourhood planning was introduced by the Localism Act 2011 which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to develop a vision to steer the planning of the future of the parish, to prepare the policies and allocate land for development which will be used in the determination of planning applications in the parish.
- 2.2 Neighbourhood development plans that are in general conformity with the strategic policies of the local development plan for the local area (and which together form the local development plan), and have appropriate regard to national policy, have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the development plan which will include the neighbourhood development plan, unless material considerations indicate otherwise.

Legislative Background

- 2.3 This report sets out the findings of the independent examination into the Neighbourhood Plan. The report makes recommendations to Herefordshire Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum.
- 2.4 Herefordshire Council will decide what action to take in response to the recommendations in this report. The Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will be 'made' by Herefordshire Council. If 'made' the Neighbourhood Plan will come into force and subsequently be used in the determination of planning applications and decisions on planning appeals in the plan area.
- 2.5 I have been appointed by the Herefordshire Council with the consent of Eaton Bishop Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council, the Neighbourhood Plan Steering Group and Herefordshire Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. My appointment has been facilitated by the Neighbourhood Planning Independent Examiners Referral Service.
- 2.6 As an Independent Examiner, I am required to determine, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:
 - (a) the policies of the Neighbourhood Plan relate to the development and use of land for a designated neighbourhood area;

- (b) the Neighbourhood Plan meets the requirements to: specify the period to which it has effect; not include provision about excluded development; and not relate to more than one neighbourhood area;
 - (c) the Neighbourhood Plan has been prepared for an area that has been properly designated for such plan preparation; and
 - (d) the Neighbourhood Plan has been prepared and submitted for examination by a qualifying body.
- 2.7 Section 1 of the Basic Conditions Statement confirms that the Neighbourhood Plan satisfies the legal requirements. I am satisfied that the Neighbourhood Plan subject to the modifications proposed, includes policies that relate to the development and use of land and does not include provision for any excluded development. There are no other neighbourhood plans for the plan area.
- 2.8 Paragraph 1.2 of the Plan states that the Neighbourhood Plan area is co-terminus with the parish of Eaton Bishop and was designated by Herefordshire Council on 17 September 2014 as a Neighbourhood Area. The boundary of the plan area is shown on Map 1.
- 2.9 Section 1 of the Basic Conditions Statement says that the lifetime of the plan will be from the date it is made until 2031 in line with the Herefordshire Core Strategy. However the front cover of the Plan includes the date 2011 – 2031. The Neighbourhood Plan should not predate the date it was made and it is therefore recommended that the front cover should be corrected.

Recommendation 1: revise the date on the front cover to 2017 - 2031.

- 2.10 The neighbourhood plan making process has been led by Eaton Bishop Parish Council which is a “qualifying body” under the Neighbourhood Planning legislation which entitles them to lead the plan making process. The Plan was prepared by the Neighbourhood Development Plan Steering Group.
- 2.11 I am satisfied therefore that the Eaton Bishop Neighbourhood Plan satisfies all the requirements set out in paragraph 2.6 above.

Conformity with Basic Conditions

- 2.12 An Independent Examiner must consider whether a neighbourhood plan meets the “Basic Conditions”. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:
1. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 2. the making of the neighbourhood plan contributes to the achievement of sustainable development;

3. the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
4. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
5. prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan. The following prescribed condition relates to Neighbourhood Plans:
 - Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in the primary legislation. That the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended).

- 2.13 The role of an Independent Examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans. It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan. I have been appointed to examine whether the submitted Neighbourhood Plan meets the basic conditions and Convention rights, and the other statutory requirements.
- 2.14 A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
- 2.15 Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed it is important that neighbourhood plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
- 2.16 I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the basic conditions and and to correct errors.

Policy Background

- 2.17 The first basic condition is for the neighbourhood plan “to have regard to national policies and advice contained in guidance issued by the Secretary of State”. The requirement to determine whether it is appropriate that the plan is made includes the words “having regard to”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans which requires plans to be “consistent with national policy”.
- 2.18 The Planning Practice Guidance assists in understanding “appropriate”. In answer to the question “What does having regard to national policy mean?” the Guidance states a neighbourhood plan “must not constrain the delivery of important national policy objectives.”
- 2.19 The National Planning Policy Framework 2012 (NPPF) sets out the Government’s planning policies for England and how these are expected to be applied. The Planning Practice Guidance provides Government guidance on planning policy.
- 2.20 The third basic condition is for the neighbourhood plan to be in general conformity with the strategic policies contained in the Development Plan for the area. The strategic policies covering the neighbourhood plan area are contained in the Herefordshire Local Plan Core Strategy 2011 – 2031 adopted 16 October 2015.
- 2.21 The Basic Conditions Statement sets out an assessment of how the Neighbourhood Plan policies have had regard to the core planning principles of the National Planning Policy Framework and how it is in general conformity with the local strategic development plan policies.
- 2.22 I have considered the Neighbourhood Plan as a whole against the NPPF and PPG and the adopted strategic policies. Then I have considered each of the policies to ascertain whether there is any conflict between a particular policy and the NPPF or the strategic policies of the Development Plan. Where appropriate I have highlighted relevant policies and guidance when considering each policy of the Neighbourhood Plan. I have also considered the Basic Conditions Statement submitted alongside the Neighbourhood Plan.

EU obligations and human rights requirements

- 2.23 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, the Environmental Impact Assessment Directive and the Habitats and Wild Birds Directives. A neighbourhood plan should also take account of the requirements to consider human rights.
- 2.24 Herefordshire Council undertook an initial screening exercise and this concluded that the Neighbourhood Plan would require a Strategic Environmental Assessment (SEA) due to the breadth of nature conservation

designations within the Neighbourhood Area. The environmental appraisal of the Eaton Bishop Neighbourhood Plan has been undertaken in line with the Environmental Assessment of Plan and Programmes Regulations 2004. Stage A of the SEA process involved scoping and Stage B provided a review and analysis of the Neighbourhood Plan. Stage C involved preparing an Environmental Report and Stage D comprised a formal consultation on the Environmental Report.

- 2.25 Several policies within the Neighbourhood Plan had minor wording changes in the light of the findings of the Environmental Report and a new Policy EB9 was added. The conclusion set out in the Draft Environment Report were carried forward into the final report. That is, the Eaton Bishop Neighbourhood Plan was in general conformity with both national planning policy contained in the National Planning Policy Framework and strategic policies set within the Herefordshire Core Strategy. Nor does it propose any growth that would be over and above that prescribed by strategic policies.
- 2.26 Natural England reviewed the Environmental Report and confirmed that it met the requirements of the Strategic Environmental Assessment (SEA) European Directive and national regulations, and concurred with its conclusions. No comments were received from Historic England or the Environment Agency.
- 2.27 Habitat Regulations Assessment (HRA) screening was carried out as the Parish falls within the hydrological catchment for the River Wye (including River Lugg) which is a European Special Area of Conservation (SAC). The River Wye runs along the northern border of the Parish. The HRA assesses the potential effects of the Neighbourhood Plan on the River Wye SAC. The Environment Report concludes that the Eaton Bishop Neighbourhood Plan will not have a likely significant effect on the River Wye SAC.
- 2.28 Additional criteria were added following the Regulation 14 consultation and the HRA Addendum Report concluded that the revisions to Policy EB1, EB7 and the addition of Policy EB9 were not considered to affect the findings of the previous HRA report. The view was taken that they strengthen the likelihood of there being no adverse impacts.
- 2.29 Natural England has confirmed that the Eaton Bishop Neighbourhood Plan is unlikely to have significant effects on the River Wye SAC following review of the HRA Report. This conclusion is reached on the basis that the Neighbourhood Plan is in line with the Herefordshire Local Plan and the Neighbourhood Plan can rely on the policies within the local plan to ensure no likely significant effects.
- 2.30 The Human Rights Act incorporates the Convention and its articles into UK Law.
- 2.31 In respect of Article 1 of the first protocol - the right of everyone to the peaceful enjoyment of possessions - although the Neighbourhood Plan includes policies that would restrict development rights, this does not have a greater impact than the general restrictions on development rights provided

for in national law. The restriction of development rights inherent in the UK's statutory planning system is demonstrably in the public interest by ensuring that land is used in the most sustainable way, avoiding or mitigating adverse impacts on the environment, community and economy.

- 2.32 In respect of Article 6 of the Convention's Rights and Freedoms - the right to a fair and public hearing in determination of an individual's rights and obligations - the process for preparing the Neighbourhood Plan is fully compatible with this Article, allowing for consultation on its proposals at various stages, and incorporating this independent examination process.
- 2.33 In respect of Article 14 of the Conventions Rights and Freedoms - the enjoyment of rights and freedoms without discrimination on any ground - the policies and proposals of the NP have been developed in consultation with the community and wider stakeholders to produce as inclusive a document as possible. Although no specific Equalities Impact Assessment has been carried out I am satisfied that, across the plan as a whole, no sectors of the community are likely to be discriminated against and no objections have been raised that would suggest otherwise. The policies together would generally have public benefits and encourage the social sustainability of the neighbourhood.
- 2.34 The Basic Conditions statement states that the Submission Neighbourhood Plan is fully compatible with the European Convention on Human Rights. An assessment of the Neighbourhood Plan against Articles 1, 6 and 14 is included in the Basic Conditions Statement.
- 2.35 I am satisfied therefore that the Plan does not breach, and is otherwise compatible with, the European Convention on Human Rights.
- 2.36 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan and no representations at pre or post-submission stage have drawn any others to my attention.
- 2.37 Taking all of the above into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations and therefore with Basic Conditions Nos 4 and 5.

Contributes to sustainable development

- 2.38 Table 2 of the Basic Conditions Statement includes an assessment of how the Neighbourhood Plan contributes to the delivery of the economic, social and environmental aspects of sustainable development.
- 2.39 I am satisfied that, subject to the modifications proposed, the Eaton Bishop Neighbourhood Plan will support the delivery of sustainable development and help to meet the social and economic development needs of the parish within the environmental context of the area.

The Neighbourhood Plan Preparation

- 2.40 I am required under The Localism Act 2011 to check the consultation process that has led to the production of the Plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012.
- 2.41 Section 1 of the Neighbourhood Plan sets out an overview of the consultation process. The preparation of the Neighbourhood Plan commenced following the designation of the Plan area in September 2014.
- An initial public consultation event was held on 7 March 2015. Invitations were sent to every household in the Parish with a detailed questionnaire;
 - This early consultation informed the scope and key themes of the plan and the formulation of the Vision and Objectives;
 - A call for sites was undertaken during the winter of 2015 and spring 2016;
 - The emerging First Draft Plan with Preferred Options for housing sites was published for informal consultation from 2 to 23 April 2016 with widespread local publicity. Seventy-seven responses were received;
 - The draft Neighbourhood Plan was published for an 8 week period of consultation under Regulation 14 from 25 July to 17 September 2016 with consultation on the Environmental Report for Strategic Environmental Assessment (SEA) being carried out at the same time; widespread local publicity was undertaken and letters or emails sent to the consultation bodies, local businesses and community organisations.
- 2.42 Consultation on the submission draft plan ran from 25 October to 6 December 2016. This resulted in representations and supporting statements from 14 organisations and individuals.
- 2.43 A comprehensive summary of the issues raised at each stage of consultation and the action taken to address them as appropriate is included in the Consultation Statement.
- 2.44 I am satisfied that the pre-submission consultation and publicity has met the requirements of Regulations 14 and 15 in The Neighbourhood Planning (General) Regulations 2012.

The Examination Process

- 2.45 The presumption is that the Neighbourhood Plan will proceed by way of an examination of written evidence only. However the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or so that a person has a fair chance to put a case.
- 2.46 I have presented a number of questions to the Qualifying Body and Local Planning Authority seeking further clarification and information in writing.
- 2.47 In examining the Neighbourhood Plan I have considered the Basic Conditions Statement, the Consultation Statement, the Environmental Report, the HRA Addendum Report and background evidence reports including the Housing Sites Assessment. In my assessment of the plan as a whole and each policy I

have commented on how the plan and policy has had regard to national policies and advice and whether it is in general conformity with relevant strategic policies.

- 2.48 This report is the outcome of my examination of the Submission Draft Version of the Eaton Bishop Neighbourhood Plan of October 2016. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions. My report makes recommendations based on my findings on whether the Plan meets the Basic Conditions and provided the Plan is modified as recommended, I am satisfied that it is appropriate for the Neighbourhood Plan to be made. Once the plan is approved by the Herefordshire Council it may proceed to a referendum. If it receives the support of over 50% of those voting then the Plan will be made by Herefordshire Council.
- 2.49 Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:
- that the plan should proceed to referendum on the basis that it meets all the legal requirements;
 - that the plan should proceed to referendum if modified; or
 - that the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.
- 2.50 If recommending that the Neighbourhood Plan is submitted to referendum my report must also recommend whether the area for the referendum should extend beyond the neighbourhood area to which the Neighbourhood Plan relates, and if to be extended, the nature of that extension. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.

3.0 Neighbourhood Plan – As a whole

- 3.1 In considering the policies contained in the Plan, I have been mindful of the guidance in the Planning Practice Guide (PPG) that:

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like.”

- 3.2 In order to ensure that a neighbourhood plan can be an effective tool for the decision maker, the PPG advises that

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. 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.”

- 3.3 NPPF paragraph 183 states that parishes can use neighbourhood planning to set planning policies through neighbourhood plans to determine decisions on planning applications. The Planning Practice Guidance on Neighbourhood Plans states that *“the neighbourhood plan must address the development and use of land by setting planning policies to be used in determining planning applications because once the plan is made it will become part of the statutory development plan”*.

- 3.4 National planning advice in NPPF paragraphs 16 and 184 is that neighbourhood plans should support the strategic development needs set out in the Local Plan, plan positively to support local development and should not promote less development than set out in the Local Plan or undermine its strategic policies. Nor should it be used to constrain the delivery of a strategic site allocated for development in the Local Plan.

- 3.5 NPPF paragraph 55 states that *“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities”*. The PPG adds the following guidance on rural housing *“all settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence”*.

- 3.6 The Basic Conditions require that the Examiner considers whether the plan as a whole has had regard to national policies and advice contained in guidance issued by the Secretary of State and whether it is in general conformity with the strategic local policies. I now turn to considering whether the policies in the plan taken together have had regard to national and local strategic planning policies.

- 3.7 Eaton Bishop is a small rural parish with a population of 414 in 2011 lying approximately 6 miles to the west of Hereford. There are two settlements in the parish: Eaton Bishop and Ruckhall and other smaller clusters of farms and houses.
- 3.8 The plan provides for the future housing, employment and community development of the area, promotes good quality design in new development and safeguards the environment.
- 3.9 However, several policies in the plan seek to place requirements on developments that are considered to be onerous or may be unduly restrictive and may affect the deliverability of a proposal. I have made recommendations in the report concerning these policies and included recommendations to ensure that the Plan would not place unacceptable burdens on development proposals which, in view of the rural nature of the plan area, are likely to be small scale.
- 3.10 The Neighbourhood Plan contains three maps: Village Policies Maps for Eaton Bishop and Ruckhall which show the settlement boundaries and housing allocations for each village and a Parish Policies Map which shows environmental sites referred to in policies in the Core Strategy. Maps 4 and 5 in the Plan are titled Proposals Maps and show the settlement boundaries for the two settlements and the housing allocations which are cross referenced to Policy EB2. Maps 8 and 9 show the Preferred Options sites. More detailed plans in Policy EB2 clearly show the site boundaries of the housing allocations.
- 3.11 However, in addition other sites are referred to under Policy EB5 on priority habitats and Policy EB7 on community facilities. None of the sites referred to are shown on the maps.
- 3.12 It is recommended that there should be an overall Proposals Map for the plan area showing the plan boundary, the boundary of the Inset Maps and the location of environmental areas. The key should refer to the policy numbers of the Neighbourhood Plan and not the Core Strategy. The Village Policies Maps should be titled as Inset Maps and show the settlement boundaries, site allocations and community facilities. The boundaries of all sites referred to in the policies should be shown clearly on the maps so that the sites can be identified by plan users.

Recommendation 2: revise the Parish Policies Map as the Proposals Map and show the plan boundary, the boundary of the Inset Maps and the location of environmental areas. Retitle the Village Policies Maps as Inset Maps and show the settlement boundaries, site allocations and community facilities. Revise the keys of the Maps to refer to the relevant policies of the Neighbourhood Plan.

- 3.13 It is considered therefore that the plan as a whole, subject to the modifications proposed, has had regard to national policies and advice contained in

guidance issued by the Secretary of State and is in general conformity with the strategic local policies.

Introductory Sections to the Neighbourhood Plan

- 3.14 The Introduction and Background section of the Plan sets out an overview of the process of preparing the Neighbourhood Plan and summarises the consultation that has been undertaken.
- 3.15 Section 2 gives an assessment of the local landscape character and historical development of the parish. The national and locally important biodiversity sites are highlighted. Map 3 entitled the SEA Map 1 also shows unregistered parks and gardens and the River Wye Special Area of Conservation (SAC). The Environmental Report states that the Habitats Regulation Assessment has been carried out because the parish lies within the hydrological catchment of the River Wye SAC. It would be helpful to plan users if the introductory text gave more information about the significance of these areas.

Recommendation 3: Include a brief description of the location of and significance of the unregistered parks and gardens and the River Wye SAC in Section 2.

- 3.16 This section includes a summary of the population of the parish, the community facilities, employment opportunities and problems associated with sewage treatment, drainage and flooding.
- 3.17 Section 3 sets out the national and strategic planning policy context for the Plan. This summarises the housing requirement set in the Herefordshire Core Strategy and refers to a background document which provides a detailed assessment of the relevant national and local strategic policies and their implications for the plan area.

The Neighbourhood Plan's Vision and Objectives for Eaton Bishop

- 3.18 The vision of the plan underpins and guides the preparation of the Neighbourhood Plan. *“To protect and enhance the rural nature of the Parish through incremental development in an appropriate and sustainable way in order to maintain and, where possible, enhance the quality of life for all of the village community.”*
- 3.19 Five objectives are set out to act as guiding principles of the plan. In summary they cover:
 - 1. Community participation in planning
 - 2. That development takes into account the views of the community, whilst ensuring that it conforms with the Herefordshire Local Plan. Also to ensure development is sympathetic to the character of the Parish and protects the landscape and environment.
 - 3. Ensuring development is based on sound environmental principles.

4. Appropriate phasing of development in line with infrastructure improvements.
 5. Encouraging new business ventures in scale with the rural character of the Parish.
- 3.20 The vision and objectives are important as they provide the framework to steer the development of the policies of the plan; therefore objectives should be focused on land use planning matters. It is considered that the first objective to promote participation in the planning and development of the parish is about the process of preparing and delivering the plan. The first part of objective two is also considered to be procedural. These aspirations are to be applauded, however, they are not land use planning objectives and as such it is recommended that they should be deleted.
- 3.21 Objective 4 relates to the phasing of development. However, as I am recommending that Policy EB3 should be deleted in the absence of mechanisms to implement it, the associated objective should also be deleted.
- 3.22 The second part of objective 2, and objectives 3 and 5 are considered to be clear and distinct and are addressed through policies in the Plan.

Recommendation 4: Delete objective one, the first sentence of objective two and objective 4. Delete “Also to” from the second sentence of objective two. Renumber the objectives and update Appendix III.

- 3.23 The policies in the plan fall into four themes: Housing, Local Environment, Community Infrastructure and Infrastructure and Rural Enterprise. A table in Appendix III demonstrates how each policy supports the delivery of the objectives.

4.0 Neighbourhood Plan – The Policies

Strategic Context for Residential Development in Eaton Bishop

- 4.1 Section 3 of the Plan sets out the strategic context for residential development in the parish. The key policies of the Herefordshire Core Strategy relevant to housing are: Policy RA1 - Rural Housing Distribution and Policy RA2 - Housing in settlements outside Hereford and the market towns. Policy RA1 establishes a rural housing distribution for the county and identifies a target proportional growth figure of 18% for the Hereford rural housing market area. Eaton Bishop is identified as one of the settlements which will be the main focus of proportionate housing development. Ruckhall is identified as one of the other settlements where proportionate housing is appropriate. Policy RA2 supports housing growth in and adjacent to these settlements.

Policy EB1 Supporting New Housing within the Eaton Bishop and Ruckhall Settlement Boundaries

Policy EB2 Site Allocations

- 4.2 The Core Strategy's housing growth target for the Hereford housing market area, which includes the parish, of 18% equates to at least 33 net additional dwellings in the parish over the period 2011 - 2031. Seven dwellings are identified as commitments or completions leaving at least 26 dwellings to be provided in the Neighbourhood Plan period of 2017 - 2031. Notwithstanding the completions, paragraph 6.1.4 refers to the need for at least 33 net additional new homes to be provided over the plan period. In response to my question about this, the Qualifying Body has asked that additional text be added at the end of paragraph 6.1.4 to make it explicit that the net housing requirement is at least 26 new dwellings.
- 4.3 Twenty-one sites were brought forward through a call for sites and these have been assessed by independent planning consultants. The Site Assessment Report states that the eight highest scoring sites were taken forward in the draft Neighbourhood Plan as preferred site options. However two of the sites at Ruckhall which had a capacity of two dwellings were not taken forward into the submission draft plan in response to the feedback from the consultation and expert advice on drainage and surface water flooding issues. It is estimated in the Plan that the potential capacity of the six sites is 28 dwellings with 25 dwellings in Eaton Bishop and 3 in Ruckhall. It is noted that the Executive Summary refers to 80% of the development being in Eaton Bishop which should be corrected to 90%, with 10% in Ruckhall.
- 4.4 Paragraphs 6.1.5 to 6.1.9 of the Neighbourhood Plan explain the process that has been undertaken in assessing and selecting the sites to be allocated. The Call for Sites Assessment Report sets out a detailed assessment of all the

site options. Consultation was carried out on the site options and an assessment included in the Environmental Report.

- 4.5 Settlement boundaries have been defined during the preparation of the Neighbourhood Plan in accordance with Herefordshire Council's guidance. These have been drawn up following consultation and include the site allocations.
- 4.6 It is noted that the housing requirement figure has not been included in Policy EB1 although it is stated in the justification in paragraph 6.1.4. To improve the clarity of the policy, it is recommended that the net housing requirement figure should be included in the wording of Policy EB1.
- 4.7 The policy refers to new housing being supported on suitable sites within the identified settlement boundaries shown on Maps 6 and 7. The policy states that the main focus for housing development will be Eaton Bishop with some small scale development in Ruckhall.
- 4.8 The policy further states that linear development should be avoided particularly that which would have the effect of joining the two settlements. It is considered that this statement is confusing and unnecessary as the settlements are clearly demarcated by the settlement boundaries and land between the settlements would most likely be considered to be unsuitable for development. To improve the clarity of the policy it is recommended that the reference to linear development in the second and third sentences of the third paragraph is deleted.
- 4.9 The fourth paragraph of the policy seeks to restrict development, where possible, to small groups and medium sized schemes of no more than 8 houses on any one site as well as infill sites. It is considered that this requirement may be restrictive and limit the development of the three larger housing allocations which may have capacity for more than 8 dwellings. The restriction would probably lead to the delivery of large detached homes on these sites and would not support the delivery of smaller homes and affordable homes as set out in Policy EB4 as Core Strategy Policy H1 sets a minimum threshold of 10 dwellings for the delivery of affordable homes.
- 4.10 It is considered that it is unduly restrictive and unnecessary to set an arbitrary upper limit on the number of homes to be developed on any one site. The larger sites are allocated in the plan and any development proposals on them should be designed to take into account the policies of the plan on housing mix, layout, design and environmental considerations. It is therefore recommended that the fourth paragraph of Policy EB1 should be deleted.
- 4.11 Paragraphs five and six set out the factors to be taken into account in considering the suitability of sites and the layout and design of new housing. The policy states that the layout and design of new developments "are required to" protect residential amenity and to address issues such as overlooking, protection of privacy, access to daylight "etc". The development proposals will also "be required" to provide suitable access.

- 4.12 It is considered that the term “is required to” does not provide sufficient flexibility needed in the assessment of development proposals and should be replaced with the word “should”. The use of the word “etc” introduces uncertainty in the policy as it is not clear what other matters are to be given consideration. It is recommended that it should be deleted.
- 4.13 The final paragraph of Policy EB1 states that affordable housing in the wider countryside will be supported as exception housing in line with the relevant Core Strategy Policies RA3 and H2.
- 4.14 Core Strategy Policy RA3 makes provision for a wide range of exceptional forms of housing development in the countryside in line with NPPF paragraph 55, including rural exceptions affordable housing. Policy H2 sets out the approach to rural exceptions housing schemes and states that these may include market housing to subsidise the overall scheme.
- 4.15 It is considered that the final paragraph of Policy EB1 does not have regard to national and strategic local policies on housing development in the countryside and does not fully reflect the range of exceptional housing development that may be permitted under the NPPF paragraph 55 and Policy RA3. It is recommended that this paragraph is revised to ensure that the policy has had regard to national policy and conforms with local strategic policy.
- 4.16 Representations have been received concerning the allocation of new housing development in the plan area concerning:
- The current sewage works at Eaton Bishop is at capacity and there are no plans to upgrade or improve the system;
 - The cost of individual sewage treatment plants or upgrades to the works would make the development of the sites unviable;
 - Problems of surface water run-off after heavy rain;
 - Ruckhall has poor drainage and low water pressure and additional development would result in flooding affecting existing dwellings and exacerbating the water supply problem;
 - No evidence has been provided about the viability and deliverability of the sites within the plan period taking into account the requirements under Policies EB8 and EB9 and for CIL;
 - Development in Ruckhall would destroy the aesthetics of this rural hamlet. Neither site has good access.
 - Ruckhall has been identified in the Core Strategy’s Rural Housing Background Paper as the least sustainable settlement to accommodate future housing development in the Hereford Housing Market Area. As a result Ruckhall was not included in the Herefordshire Core Strategy as a settlement capable of accommodating housing development. It is suggested that all development should therefore be focused on Eaton Bishop and no sites should be allocated in Ruckhall;

- The development of site EB2/2 would require the removal of hedgerows to provide visibility splays and trees from within the site contrary to the plan's policies.
- The development of site EB2/2 would extend the village in an easterly direction which is not in keeping with the linear form and organic growth of the village.
- Site 9 is incorrectly assessed within the Site Assessment Report. It does have a field access on its western boundary, although partially covered by vegetation. It is proposed that only part of the site should be developed along the western and south western corner. This form of development would maintain the linear pattern of the village and would result in the smaller erosion of the gap between Eaton Bishop and Ruckhall when compared with site EB2/2.
- Sites EB2/1, EB2/2, EB2/3, EB2/4 and EB2/6 have been historically used as orchards and may have been subject to agricultural spraying practices which in some circumstances may lead to a legacy of contamination.
- The County Council's Strategic Planning Team has commented that a degree of flexibility should be offered in setting a limit to 8 houses on any one site. Being overly prescriptive without a clear basis for doing so could hinder suitable schemes coming forward and make it difficult to achieve a desired range and mix of housing.

- 4.17 I will consider each point in turn. The Neighbourhood Plan recognises that the sewage treatment works which only serves a part of the village of Eaton Bishop is at capacity. Policy EB9 has been included in the Plan to ensure that appropriate provision is made for the treatment of sewage from any new development. Many properties in the parish are currently served by septic tanks or small treatment plants. It will be for each developer to demonstrate that adequate provision for sewage treatment can be accommodated within the development site.
- 4.18 Policy EB9 also requires developers to undertake hydraulic modelling assessment of the water supply network.
- 4.19 The Neighbourhood Plan recognises that there are areas within the parish that are at risk of flooding and the clay soils result in poor surface water drainage. Policy EB8 seeks to address the overall level of flood risk in the parish and to promote flood resilience in the design of new buildings.
- 4.20 I have considered whether Policies EB8 and EB9 would be unduly onerous and make requirements that would not be deliverable or would lead to proposals not being viable. My recommendations to introduce some flexibility where appropriate are set out under each policy.
- 4.21 Ruckhall was identified within the lowest tier of settlements in the Core Strategy as an "other settlement where proportionate housing is appropriate". This would allow for a limited amount of development in proportion to the size of the settlement; it does not exclude all housing development in the village. It

is considered that the development policies proposed in the plan for Ruckhall accord with the strategic policy approach.

- 4.22 The Site Assessment Report has only assessed whether sites have a roadside frontage. It has not assessed whether the access required to serve new housing development can be accommodated such as the provision of visibility splays and footways and whether this would result in the loss of hedgerows as this would depend on the scale and layout of the development proposed. Site EB2/2 is in use as a residential garden; the site assessment report notes that some trees may be lost as a result of its development. No assessments have been undertaken of the quality of hedgerows and trees within the sites.
- 4.23 As Policy EB5 seeks to protect existing trees and hedgerows where possible; it would be for the developer of the site to demonstrate how the existing landscape features can be retained within the development scheme. Their protection or replacement is a matter to be considered through the assessment of the planning application and could be covered by a condition on a planning permission.
- 4.24 No evidence has been submitted that would indicate that the housing sites are not viable and deliverable. The level of contributions and other requirements would be a matter of negotiation between the developer and the local planning authority in considering the details of the planning application.
- 4.25 Site 9 which is the subject of a representation is an area of 1.71 ha of agricultural land lying on the northern edge of Eaton Bishop village. I am satisfied with the assessment that its development would result in an encroachment in open countryside and would reduce the gap between the two settlements. I am satisfied that the site assessment report reflects the conditions of the site.
- 4.26 Any potential contamination will be considered as part of the assessment of planning applications. It would be for the developer to assess the ground conditions and agree appropriate remediation measures, if necessary.
- 4.27 I have considered the implications of restricting development to a maximum of eight dwellings in paragraphs 4.9 – 4.10 above.
- 4.28 In conclusion, I am satisfied that the Neighbourhood Plan has demonstrated that it meets the Core Strategy requirement to provide for a minimum of 33 dwellings between 2011 and 2031 in the two villages through existing commitments and completions and development on the sites allocated.
- 4.29 I am satisfied that the sites proposed have been adequately and robustly assessed by independent consultants. No matters have been raised through the assessment or consultations to indicate that any of the sites may not be deliverable. Policy EB1 sets out a number of factors that should be taken into account in the selection of sites and the design and layout of the housing developments. The concerns about sewage treatment, surface water

drainage and water supply are addressed through Policies EB8 and EB9; and the retention of trees and hedgerows is covered by Policy EB5. It will be for developers to demonstrate that new housing safeguards trees and hedgerows, and makes adequate provision for sewerage and drainage and does not exacerbate current problems with regard to these matters.

- 4.30 I do have concerns that the settlement boundaries for the two villages have been drawn widely to include a number of large gardens and paddocks. Whilst the owners have not put these sites forward for housing development at this time, there is no clear mechanism in the plan to preclude development on these sites. I have particular concerns about Ruckhall which is included in the lowest settlement tier in the Core Strategy and as such it is only appropriate for a limited amount of housing development. As drawn in the submitted plan, there is scope within the settlement boundary for a number of additional housing sites, although no assessment has been undertaken of their suitability or potential.
- 4.31 I have raised my concerns with the Qualifying Body and Local Planning Authority. They have responded to say that they do not share my degree of concern on the basis that the Neighbourhood Plan's design policies are considered to be strong enough and reflect Core Strategy Policies LD1 and RA2(1).
- 4.32 Paragraph 2 of Policy EB1 reflects Core Strategy Policy RA2 which expects proposals in smaller settlements, including Ruckhall, to demonstrate particular attention to the design and location of the proposal and/or demonstrate that the development will contribute to or is essential to the social well-being of the settlement. It is therefore considered that this part of Policy EB1 aimed at controlling development in Ruckhall accords with the local strategic policy and no change is proposed to the settlement boundary.

Recommendation 5: Revise Policy EB1 as follows:

Add the following at the end of paragraph 6.1.4 to read “*Taking into account the existing commitments of seven dwellings, the net housing requirement is at least 26 new dwellings over the plan period.*”

Revise the first paragraph of Policy EB1 to read: “New housing development of *at least 26 net additional dwellings will be supported on the Proposals Map in the plan period up to 2031.*”

Delete the second and third sentences of the third paragraph of Policy EB1: “In particular, linear development character of the villages.”

Delete paragraph 4 of Policy EB1: “Where possible, development should be restrictedRuckhall.”

Delete “etc” from the fifth paragraph of Policy EB1.

Replace the words “are required to” in paragraph 5 of Policy EB1 and “will be required to” in paragraph 6 of Policy EB1 with the word “should”.

Revise the final paragraph of Policy EB1 to read: “Outside the identified settlement boundaries, *housing development will only be supported exceptionally where it is in accordance with the NPPF and Core Strategy Policies RA3 and RA4. Affordable rural housing schemes will be supported where they accord with Core Strategy Policy H2 on Rural Exception Sites.*”

Revise the Executive Summary to refer to 90% of the development being in Eaton Bishop and 10% in Ruckhall.

- 4.33 With these modifications, the policies can control the scale and location of future development in the parish and its impact on the countryside in so doing they would support national policy for housing in rural areas and the delivery of strategic housing requirement. As modified they would therefore meet Basic Conditions 1, 2 and 3.

Policy EB3 Phasing

- 4.34 Policy EB3 states that new housing is to be phased incrementally over the life of the plan to 2031 to avoid overprovision at the start of the plan period and to support investment in local infrastructure to accommodate the planned growth. Paragraph 6.1.12 states that an average of 10 new homes should be developed in each five year period.
- 4.35 A representation has been made that considers the policy to be restrictive in nature and in conflict with the housing requirement figure set out in the Core Strategy which are seen as a minimum. The policy is considered to be vague and ineffective. It does not state what the phasing periods are or the mechanisms to implement the policy. Linked to this, paragraph 6.1.11 seeks to justify the policy approach as aiding the provision of the investment in the necessary infrastructure improvements required by the expansion of the village. No evidence is provided of what the perceived infrastructure improvements are or how or when they will be offered.
- 4.36 The representor suspected that this phasing may relate to the adequacy of waste water treatment. Reference is made to S106 of the Water Industry Act 1991 which provides for an automatic right for residential developments to connect to the public sewer network and the judgement handed down by the Supreme Court v Welsh Water in December 2009 which states that a sewerage undertaker cannot refuse to permit the connection to a public sewer on the basis that additional discharge would overload the system. The advice of NPPF paragraph 122 is also noted; as the treatment of waste water is governed by separate legislation, it is not appropriate or indeed compliant with national policy or the judgement of the Supreme Court to restrict development for this reason.

- 4.37 Whilst the aims of the policy are laudable, there is no mechanism to control or trigger the release of sites. There are no details of what local infrastructure is to be provided or the timescales. Policy EB7 refers to the use of developer contributions from new developments supporting the improvement of local infrastructure. However this funding will only be available once the development has taken place. In the circumstances it is considered that Policy EB3 would not be capable of implementation and it is therefore not in accordance with advice in the Planning Policy Guidance that policies should be clear and unambiguous. It is recommended that it be deleted.

Recommendation 6: Delete Policy EB3.

Policy EB4 Encouraging a Mix of New Housing

- 4.38 Policy EB4 seeks to ensure that a mix of housing sizes is provided particularly to meet the needs of first time buyers, young families and older people. All new housing development is encouraged to contribute towards an appropriate mix of house types, sizes and tenures, including an element of affordable housing wherever possible.
- 4.39 The justification to the policy summarises the evidence that is relied upon to support the policy. This states that:
- The main requirement for market housing in the Hereford Rural Housing Market Area is for 3 bedroomed housing;
 - For affordable housing, smaller one and two bedroomed housing as well as three bedroomed is broadly required, but will depend on local housing needs evidence;
 - The Herefordshire Local Housing Market Assessment provides a breakdown of the various types of affordable housing required;
 - The Neighbourhood Plan questionnaire showed that there was a need for housing to be provided to meet the needs of the ageing population of the parish and this is consistent with the findings of the Herefordshire Study of Housing and Support Needs for Older People.
- 4.40 Core Strategy Policy H1 sets a threshold of 10 dwellings as the minimum size of site where an element of affordable housing will be sought. Policy EB1 of the Neighbourhood Plan sets a maximum size of new housing development as eight, which will mean that no affordable houses will be provided on any of the sites. The only other mechanism for their delivery will be through rural exceptions sites which may be delivered in addition to the housing allocations under Core Strategy Policy H2. I have already concluded that the restriction of development sites to a maximum of eight dwellings in Policy EB1 would be unduly restrictive and recommended the deletion of this part of Policy EB1.
- 4.41 It is noted that the evidence to support one and two bedroomed housing relates to affordable housing only. The Neighbourhood Plan questionnaire provided some evidence about residents' views on housing needs and aspirations particularly for housing for older people. However, I am not satisfied that the policy is justified by robust evidence on housing needs and

aspirations. A Housing Needs Survey has not been undertaken; and no testing of housing market conditions has been carried out in the plan area.

- 4.42 It is considered that there is insufficient evidence to set a preference for one and two bedroomed houses or to set a maximum of three bedroomed houses. It is considered that there is a discrepancy between the requirements of this policy and the indicative number of dwellings shown on the site allocations maps. The latter would indicate that the sites are to be allocated for low density development. The three larger sites would deliver housing at 10 – 15 dwellings to the hectare which can normally be assumed to be large detached market homes.
- 4.43 A representation states that taking account of the Ministerial Statement removing the affordable housing contributions from small scale residential development, not one site will make a contribution to addressing affordable housing needs. This is considered to be a significant omission when Policy EB4 is seeking to help first time buyers and young families. The Local Housing Market Assessment found there was a need for affordable housing across the Hereford Market Area of which Eaton Bishop is part.
- 4.44 The representation considers the restriction in the size of housing to a maximum of three bedrooms with a preference for smaller units is not supported by evidence. Figures from the Local Housing Market Assessment demonstrate that almost 79% of new market homes are required for 3 or more bedrooms and only 21% are for 1 or 2 bedroom properties.
- 4.45 The second part of the policy seeks the inclusion of an element of affordable housing wherever possible. As noted above, the restriction of housing developments to a maximum size of eight dwellings would result in no affordable housing being delivered on the allocated sites. However, my recommendation to delete the restriction on the size of development sites in Policy EB1 may result in the three larger allocations having the potential to be developed at a higher density and delivering 10 or more dwellings. They may therefore be capable of delivering a mix of house types and sizes including affordable housing if the need were demonstrated.
- 4.46 It is considered that the requirements of Policy EB4 are unduly restrictive and are not supported by robust evidence. The type, size and tenure of any affordable housing should be based on evidence from an up to date Local Housing Needs Survey coupled with evidence from the Housing Officer and testing of the local housing market.
- 4.47 The third paragraph of Policy EB4 proposes to monitor the type and size of new housing and suggests that proposals that could lead to the overprovision of one tenure, type or size of dwellings should not be permitted.
- 4.48 Monitoring the type and type of housing provided is to be welcomed. However, the policy does not set out how an overprovision is to be determined. It is considered that this part of the policy will not be capable of implementation and should be deleted.

Recommendation 7: Revise Policy EB4 by replacing paragraphs one and two with:

“New housing development should provide a mix of house types, sizes and tenures to meet the needs of those seeking affordable homes to rent and market homes to purchase including first time buyers, young families and older people. Bungalows and properties designed to meet the needs of older people are particularly encouraged.”

“Where a need for affordable housing has been demonstrated, new housing development on sites of more than 10 dwellings should include an element of affordable housing in accordance with the requirements of Core Strategy Policy H1. The type and size of affordable housing shall be based on evidence from the latest Local Housing Needs Survey.”

Delete paragraph 3 of Policy EB4.

- 4.49 Subject to the recommended modifications, the policy would support the delivery of an appropriate mix of housing in accordance with national and strategic local policy and meet Basic Conditions 1, 2 and 3.

Policy EB5 Green Infrastructure and Protecting Local Landscape Character and Biodiversity

- 4.50 This policy includes sections on green infrastructure, landscape design and the River Wye Special Area for Conservation (SAC). It is considered that some elements of the policy set out specific requirements with little or no flexibility and may be unduly onerous and not deliverable on small scale developments.
- 4.51 The Green Infrastructure section is strongly worded to require new development proposals to include ecological benefits as part of landscaping and building design. Taking into account that many developments in the plan area are likely to be small scale, in order to provide some flexibility in the policy it is recommended that the first paragraph is revised to read “should provide....”.
- 4.52 The second paragraph sets out a wide range of improvements that may be sought, some of which may be large scale such as woodland planting. These may not be considered to be appropriate requirements for small scale development. In order to provide greater flexibility, it is recommended that the first sentence be revised to read “Support will be given to ...”
- 4.53 The third paragraph refers to priority habitats being protected. It is considered that the policy is unclear and does not show the location or name and status of the habitats referred to. The Qualifying Body has confirmed that this policy relates to the three SSSI’s listed in Appendix II. However the Appendix also lists an area of Ancient Woodland and eight Special Wildlife Sites.

- 4.54 Core Strategy Policy LD2 sets out the strategic approach to the retention and protection of nature conservation sites and habitats and important species in accordance with their status.
- 4.55 In order to improve the clarity of the policy and to ensure that it reflects national and strategic policies, it is recommended that the sites are listed in the policy or justification and shown on the Proposals Map; and that the policy wording differentiates between sites of national and local importance in accordance with Core Strategy Policy LD2.
- 4.56 The Landscape Design section sets out eight matters to be considered in designing the landscaping of new developments. Criterion 3 seeks to protect existing hedgerows and criterion 4 seeks to protect mature and established trees. As these are design principles, it is considered that it would be more appropriate to refer to the hedgerows and trees being “retained where practical” to acknowledge that it may not be possible to retain these features in all cases. There are alternative statutory measures to protect them.
- 4.57 Criterion 5 refers to developments involving the removal of orchards or areas of woodland being “strongly resisted”. As these are design principles, it is considered that it would be more appropriate to refer to “development should avoid the removal of”.
- 4.58 Criterion 6 requires all new development to incorporate sustainable drainage systems compliant with national and local standards. It is recommended that a degree of flexibility be introduced in this aspect of the policy as there are likely to be many factors that could affect the feasibility of providing sustainable drainage. It is recommended that the criterion should read “Where feasible, new development should incorporate....”
- 4.59 Criterion 7 aims to protect footpaths and walking routes through development sites and to ensure that they are sensitively designed. Public footpaths are protected under other legislation and it would not be appropriate to refer to them being protected by the policy. A recommendation is proposed to clarify the application of this criterion.

Recommendation 8: revise Policy EB5 as follows:

Revise Green Infrastructure paragraph 1 to read “New developments *should include....*”

Revise Green Infrastructure paragraph 2 to read “*Support will be given to enhancements such as.....*”

Revise Green Infrastructure paragraph 3 to read: “*Nature conservation sites and habitats, and important species shall be retained and protected in accordance with their status as set out in Core Strategy Policy LD2. The following sites are located in the Plan area: List sites and their status and show on Proposals Map.*”

Revise the second sentence of criterion 3 of the Landscape Design section to read: “Existing hedgerows should be *retained* and enhanced where practical and the planting of new hedgerows....”

Revise the first sentence of criterion 4 to read: “Mature and established trees should be *retained where practical* and incorporated into....”.

Revise the second sentence of criterion 5 to read “Development *proposals should avoid* the removal of existing local orchards or areas of woodland unless it can be clearly demonstrated”.

Revise the first sentence of criterion 6 to read “*Where feasible*, all new development should incorporate....”

Revise the first sentence of criterion 7 to read “*Public footpaths should be retained* through development sites....”.

- 4.60 Subject to the modifications recommended, the policy has had regard to national planning guidance on the environment and is in general conformity with Core Strategy Policies SS6, LD1, LD2 and LD3 and thus meets Basic Conditions 1, 2, 3, 4 and 5.

Policy EB6 Protecting Built Heritage and Archaeology and Requiring High Quality Design

- 4.61 Policy EB6 sets out a number of detailed considerations aimed at protecting the built heritage and promoting high quality design in new development. Historic England has submitted comments in support of the conservation and design policies.
- 4.62 The following recommendations are made to improve the clarity of the wording of the policy to ensure that it can be used consistently by decision makers.
- 4.63 Criterion 1 refers to “*Proposals should fit in with the neighbouring settlements and enhance physical and visual connections and linkages with them*”. No explanation has been included in the justification to explain how it is to be applied or which settlements are to be considered or how connections and linkages are to be enhanced. It is recommended that it be deleted.
- 4.64 Criterion 2 refers to developers demonstrating to both the Parish Council and Herefordshire Council that no alternative layout is viable. Decisions on planning applications are made by Herefordshire Council following consultation with the Parish Council. It is considered to be unnecessary to include reference to the councils in this policy. It is recommended that “to both the Parish Council and Herefordshire Council” is deleted.
- 4.65 Criterion 5 include reasons for the policy within the policy itself which should be included in the justification.

Recommendation 9: Revise Policy EB6 as follows:

Delete “Proposals should fit in with the neighbouring settlements and enhance physical and visual connections and linkages with them” from criterion 1.

Delete “to both the Parish Council and Herefordshire Council” from criterion 2.

Delete “to assist the local economy and sustainability objectives” from criterion 5.

- 4.66 Subject to the modifications being made, the policy has had regard to national planning guidance on the environment and is in general conformity with Core Strategy Policies SS6, LD1 and LD4 and thus meets Basic Conditions 1, 2 and 3.

Policy EB7 Protecting Existing Community Facilities and Supporting New Infrastructure

- 4.67 Policy EB7 aims to protect the community facilities of the village hall and church. The policy sets out detailed considerations that should be followed if either building has been unused for two years. It includes the requirements for marketing and provision of alternative facilities.
- 4.68 It is considered that the policy is in general conformity with Core Strategy Policy SC1 on Social and Community Facilities. Policy EB7 includes a new requirement is added for active marketing of the property before a proposal for its reuse will be supported. It is considered that this is an acceptable requirement in order to provide the opportunity for alternative community uses to be found.
- 4.69 However the wording of the policy is unclear, prescriptive and overly complicated. My recommendation seeks to simplify the policy to improve its clarity and to place the text on the means of advertising and the accessibility requirements in the justification.
- 4.70 The first paragraph lists the village hall and church. However the second paragraph also refers to “other community facilities” and the third paragraph refers to the playing field as well as the church and village hall. To improve the clarity of the policy it is recommended that the first and second paragraphs list the community facilities as the Village Hall, church and playing field.
- 4.71 The policy requires any new facility to be accessible by public transport. The Qualifying Body has confirmed that public transport services in the parish are very limited and I therefore consider that this requirement is unrealistic and undeliverable and should be deleted.
- 4.72 The third paragraph of the policy gives examples of the improvements to local infrastructure that will be sought from developer contributions and CIL. PPG

advises that Qualifying Bodies should set out the prioritised infrastructure required to address the demands of the development identified in the plan; how the infrastructure is to be delivered and consider the impact of the proposed infrastructure on the viability of the development allocated.

- 4.73 Policy EB7 includes some examples of the type of infrastructure improvements that may be sought but does not prioritise them. In response to a question the Qualifying Body has stated that major infrastructure improvements are required to sewage treatment and disposal and water discharge, especially in Ruckhall; and road and access in the whole Parish. In addition to these major infrastructure improvements, local improvements to the community infrastructure is proposed by re-ordering the church to provide an additional venue for social and community activities, the improvement of the village hall and the improvement of the playing field.
- 4.74 It is recommended that the third paragraph should be written to identify the priority infrastructure improvements that will be sought rather than to give examples in order to take account of advice in the PPG.

Recommendation 10: Revise Policy EB7as follows:

Include the playing field in the bulleted list in paragraph 1 of Policy EB7.

Revise the second paragraph of Policy EB7 to read: “*The change of use of the village hall or church or playing field to residential use will only be supported if:*

- ***an equivalent or enhanced community facility has been provided within the settlement boundary or within a nearby accessible location; or***
- ***the developer has satisfactorily demonstrated that there is no longer a need for the premises by the community as they have been unused for a minimum of two years and during that period it has been actively marketed without securing a viable community use.”***

Include the following text in the justification: “*The facility must have been actively marketed for a minimum of two years through a commercial land and premises agent using advertisements and promotional activity on the internet and in regional property journals, without securing a viable alternative community use.”*

Include the following text in the justification: “*Any new community facilities should have a safe access on foot and cycle with adequate car parking. They should be located within the settlement boundary or close by.”*

Revise the third paragraph of Policy EB7 to list the infrastructure priorities: “*.....to support the following priorities to local infrastructure: set out priorities in a bulleted list. “*

The location of the community facilities referred to in Policy EB7 should be shown on the Proposals Maps.

- 4.75 Subject to the modifications being made, the policy has had regard to national planning guidance and is in general conformity with Core Strategy Policy SC1 and thus meets Basic Conditions 1, 2 and 3.

Policy EB8 Managing Flood Risk

- 4.76 Policy EB8 sets out a comprehensive policy on managing flood risk which includes the sequential test, the reduction of flood risk through the application of sustainable drainage systems, the sustainable design of buildings and designing development to be flood resilient.
- 4.77 Some aspects of the policy include a degree of flexibility, however the policy places a strict requirement on the provision of water attenuation measures within development sites. It is recommended that some flexibility be introduced into this aspect of the policy to ensure the policy is deliverable as small scale development sites may not be able to accommodate water attenuation facilities.
- 4.78 The section of the policy on flood resilience states that “all new development is required to be flood resilient”. It is recommended that some flexibility should be introduced to ensure the policy is deliverable by revising this to “Development in areas liable to flooding....”
- 4.79 There is a typographical error in the last line of the policy as some text is missing. The Qualifying Body has supplied the corrected text.

Recommendation 11: Revise Policy EB8 as follows:

**Revise the third paragraph on Reducing the Flood Risk as follows:
“.....rainwater filtration) should be provided within development sites wherever possible.”**

**Revise the first line of the section on Flood Resilience to read:
“*Development in areas liable to flooding....*”**

Revise the last line of the final paragraph of Policy EB8 to read:

“This could include boundary walls and fencing such as solid gates with waterproof seals, and where possible integral drains *or fencing. The lower levels should be constructed to be more resistant to flooding.*”

- 4.80 Subject to the recommended modifications, Policy EB8 has had regard to national planning guidance on the challenge from climate change and flooding and is in general conformity with Core Strategy Policies SS7 and SD3 and thus meets Basic Conditions 1, 2 and 3.

Policy EB9 Wastewater Treatment and Water Supply

- 4.81 Policy EB9 sets out a comprehensive policy on waste water treatment and water supply.
- 4.82 The policy and justification was added to the Neighbourhood Plan in response to a representation from Dwr Cymru / Welsh Water at the Regulation 14 stage. Dwr Cymru / Welsh Water has confirmed that they have no further comments to make on the submission draft policy.
- 4.83 The Environment Agency has commented that it is important that the Neighbourhood Plan ensures that development is not impacted by flooding and that there is sufficient waste water infrastructure in place to accommodate growth during the plan period. The policies on flood risk and waste water (EB8 and EB9) are welcomed.
- 4.84 No modifications are proposed to the policy. It is considered that the policy has had regard to national planning guidance and is in general conformity with Core Strategy Policies SS7 and SD3 and meets Basic Conditions 1, 2 and 3.

Policy EB10 New Business Development in Former Agricultural Buildings

- 4.85 Policy EB10 sets out six criteria to be taken into account in considering proposals for the change of use of former agricultural buildings to business uses.
- 4.86 Core Strategy Policies RA5 and RA6 set out a number of additional factors to be taken in account in considering proposals for the re-use of rural buildings and the development of the rural economy. It is recommended that reference should be made in Policy EB10 to the need to satisfy the requirements of the strategic policies as well, in the interests of clarity for decision makers.
- 4.87 Criterion 1 refers to the “fragile road network”. In the interests of consistency it is suggested that the same terminology is used as in the Core Strategy: “local road network”.
- 4.88 Criterion 2 includes “etc” at the end. This introduces uncertainty in the policy and it is recommended that it is deleted .

Recommendation 12: revise Policy EB10 as follows:

Revise the second paragraph to read “ that the proposals address the factors set out in Core Strategy Policies RA5 and RA6 and the following criteria:”

In criterion 1 replace “fragile road network” with “local road network”.

Revise criterion 2 to read “.....industrial buildings and parking.”.

- 4.89 Subject to the recommended modifications, Policy EB10 has had regard to national planning guidance on the rural economy and is in general conformity with Core Strategy Policies RA5 and RA6 and thus meets Basic Conditions 1, 2 and 3.

Policy EB11 Poly-tunnels and Large Agricultural Buildings and other Rural Business Buildings

- 4.90 Policy EB11 sets out matters to be considered in the location and design of poly-tunnels and larger agricultural buildings and other rural business buildings. The content of the policy has been informed by the Herefordshire Supplementary Planning Document (SPD) on Poly-tunnels.
- 4.91 Herefordshire Council adopted a SPD entitled “Polytunnels” in 2008. The Local Planning Authority has confirmed that the SPD is out of date as it is mostly based around the policies of the Unitary Development Plan. However it is recognised that the principles of the document remain valid. It is recommended that the title of the SPD referred to in paragraph 6.4.5 be corrected to “Polytunnels”.
- 4.92 The SPD included a number of guidelines, some of which have been taken forward into Policy EB11. The application of this policy has been widened considerably beyond poly-tunnels to include large agricultural buildings and other rural business buildings.
- 4.93 Core Strategy Policy LD1 sets out matters to be considered in the conservation, restoration and enhancement of landscape and townscape management. Policy LD2 considers development and biodiversity; Policy LD4 considered development and heritage assets. Consideration of the impact of large agricultural buildings and other rural business buildings on landscape, views, habitats and heritage assets as set out in Policy EB11 would accord with these policies.
- 4.94 Paragraph 6 of Policy EB11 requires poly-tunnels, agricultural units and associated developments to be sited more than 30m from the boundary of a residential curtilage and 50m from a dwelling with buffer zones being kept free from any storage.
- 4.95 It is considered that this requirement would be unduly restrictive and does not take into account the impact of varying types of agricultural development, some of which such as intensive livestock units would have a significant effect on residential amenity whilst others uses may have a more limited impact. It is recommended that the criterion be revised to give greater flexibility, at the same time recognising that some uses would cause unacceptable adverse impact on residential amenity.
- 4.96 Paragraph 8 requires poly-tunnels and buildings to be sited 2 metres away from the centreline of a public right of way and 3 metres from the centreline of a bridleway.

- 4.97 No evidence has been supplied to demonstrate why this requirement is being imposed. It is considered to be unduly prescriptive and it is recommended that it be deleted.

Recommendation 13: revise Policy EB11 as follows:

Correct the title of the SPD in paragraph 6.4.5 to “Polytunnels SPD”.

Revise paragraph 6 of Policy EB11 to read: “*The siting of poly-tunnels, agricultural units and associated developments should be sited so that they do not have an unacceptable adverse impact on the amenity of residents of nearby dwellings.*”

Delete paragraph 8 of Policy EB11.

- 4.98 Subject to the recommended modifications, Policy EB11 has had regard to national planning guidance on the rural economy and safeguarding the environment and is in general conformity with Core Strategy Policies LD1 to LD4 and thus meets Basic Conditions 1, 2 and 3.

Policy EB12 Design Guidance for Large Agricultural Buildings and other Rural Business Buildings

- 4.99 Policy EB12 sets out six principles to guide the design of large agricultural buildings and other rural business buildings aimed at ensuring that these buildings are successfully accommodated in the rural landscape of the parish.
- 4.100 It is considered that the policy has had regard to national planning guidance and is in general conformity with Core Strategy Policies RA6 and LD1 and thus meets Basic Conditions 1, 2 and 3. No modifications are proposed to the policy.

Policy EB13 Intensive Livestock Units

- 4.101 Policy EB13 sets out factors to be taken into account in considering proposals for intensive livestock units and associated structures and facilities for the storage and disposal of waste.
- 4.102 It is considered that the policy has had regard to national planning guidance and is in general conformity with Core Strategy Policies RA6 and LD1 and thus meets Basic Conditions 1, 2 and 3. No modifications are proposed to the policy.

Policy EB14 Supporting Community Energy Schemes

- 4.103 Policy EB14 lends support to small scale community led energy schemes and sets out five criteria to be met.
- 4.104 It would be helpful to plan users for the justification to the policy to briefly set out the context for the policy with reference to national advice in NPPF paragraph 97 on the responsibility of all communities to contribute to energy

generation from renewable or low carbon sources. It is recommended that the title of the policy should be revised to “Community Energy Schemes”.

Recommendation 14: Revise the title of Policy EB14 to “Community Energy Schemes”.

Add the following to the beginning of paragraph 6.4.8 “*The Plan seeks to encourage new community led energy schemes in appropriate locations to help increase the supply of renewable and low carbon energy.*”

- 4.105 Subject to the modifications recommended, the policy has had regard to national planning guidance and is in general conformity with Core Strategy Policies SS1 and SD2 and thus meets Basic Conditions 1, 2 and 3.

5.0 Referendum

- 5.1 The Eaton Bishop Neighbourhood Plan reflects the views held by the community as demonstrated through the consultations and, subject to the modifications proposed, sets out a realistic and achievable vision to support the future improvement of community.
- 5.2 I am satisfied that the Neighbourhood Plan meets all the statutory requirements, in particular those set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and, subject to the modifications I have identified, meets the basic conditions namely:
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contributes to the achievement of sustainable development;
 - is in general conformity with the strategic policies contained in the Development Plan for the area;
 - does not breach, and is otherwise compatible with, EU obligations and human rights requirements
- 5.3 **I am pleased to recommend to Herefordshire Council that the Eaton Bishop Neighbourhood Plan should, subject to the modifications I have put forward, proceed to referendum.**
- 5.4 I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. In all the matters I have considered I have not seen anything that suggests the referendum area should be extended beyond the boundaries of the plan area as they are currently defined. I recommend that the Neighbourhood Plan should proceed to a referendum based on the neighbourhood area defined by the Herefordshire Council on 17 September 2014.

6.0 Background Documents

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

- Eaton Bishop Neighbourhood Plan Submission Draft Version 2016
- Eaton Bishop Neighbourhood Plan Basic Conditions Statement
- Eaton Bishop Neighbourhood Plan Consultation Statement
- Eaton Bishop Neighbourhood Plan Environmental Report
- Eaton Bishop Neighbourhood Plan HRA Addendum Report
- Eaton Bishop Neighbourhood Plan Planning Policy Assessment and Evidence Base Review
- Eaton Bishop Neighbourhood Plan Call for Sites and Housing Sites Assessment
- National Planning Policy Framework March 2012
- Planning Practice Guidance March 2014 (as amended)
- The Town and Country Planning Act 1990 (as amended)
- The Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012
- Herefordshire Core Strategy 2010
- Herefordshire Polytunnels SPD 2008

7.0 Summary of Recommendations

Recommendation 1: revise the date on the front cover to 2017 -2031.

Recommendation 2: revise the Parish Policies Map as to Proposals Map and show the plan boundary, the boundary of the Inset Maps and the location of priority habitats. Retitle the Village Policies Maps as Inset Maps and show the settlement boundaries, site allocations and community facilities. Revise the keys of the Maps to refer to the relevant policies of the Neighbourhood Plan.

Recommendation 3: Include a brief description of the location of and significance of the unregistered parks and gardens and the River Wye SAC in Section 2.

Recommendation 4: Delete objective one, the first sentence of objective two and objective 4. Delete “Also to” from the second sentence of objective two. Renumber the objectives and update Appendix III.

Recommendation 5: Revise Policy EB1 as follows:

Add the following at the end of paragraph 6.1.4 to read “Taking into account the existing commitments of seven dwellings, the net housing requirement is at least 26 new dwellings over the plan period.”

Revise the first paragraph of Policy EB1 to read: “New housing development of at least 26 net additional dwellings will be supported on the Proposals Map in the plan period up to 2031.”

Delete the second and third sentences of the third paragraph of Policy EB1: “In particular, linear development character of the villages.”

Delete paragraph 4 of Policy EB1: “Where possible, development should be restrictedRuckhall.”

Delete “etc” from the fifth paragraph of Policy EB1.

Replace the words “are required to” in paragraph 5 of Policy EB1 and “will be required to” in paragraph 6 of Policy EB1 with the word “should”.

Revise the final paragraph of Policy EB1 to read: “Outside the identified settlement boundaries, housing development will only be supported exceptionally where it is in accordance with the NPPF and Core Strategy Policies RA3 and RA4. Affordable rural housing schemes will be supported where they accord with Core Strategy Policy H2 on Rural Exception Sites.”

Revise the Executive Summary to refer to 90% of the development being in Eaton Bishop and 10% in Ruckhall.

Recommendation 6: Delete Policy EB3.

Recommendation 7: Revise Policy EB4 by replacing paragraphs one and two with:

“New housing development should provide a mix of house types, sizes and tenures to meet the needs of those seeking affordable homes to rent and market homes to purchase including first time buyers, young families and older people. Bungalows and properties designed to meet the needs of older people are particularly encouraged.”

“Where a need for affordable housing has been demonstrated, new housing development on sites of more than 10 dwellings should include an element of affordable housing in accordance with the requirements of Core Strategy Policy H1. The type and size of affordable housing shall be based on evidence from the latest Local Housing Needs Survey.”

Delete paragraph 3 of Policy EB4.

Recommendation 8: revise Policy EB5 as follows:

Revise Green Infrastructure paragraph 1 to read “New developments should include....”

Revise Green Infrastructure paragraph 2 to read “Support will be given to enhancements such as.....”

Revise Green Infrastructure paragraph 3 to read: “Nature conservation sites and habitats, and important species shall be retained and protected in accordance with their status as set out in Core Strategy Policy LD2. The following sites are located in the Plan area: List sites and their status and show on Proposals Map.”

Revise the second sentence of criterion 3 of the Landscape Design section to read: “Existing hedgerows should be *retained* and enhanced where practical and the planting of new hedgerows....”

Revise the first sentence of criterion 4 to read: “Mature and established trees should be *retained where practical* and incorporated into....”.

Revise the second sentence of criterion 5 to read “Development proposals should avoid the removal of existing local orchards or areas of woodland unless it can be clearly demonstrated”.

Revise the first sentence of criterion 6 to read “Where feasible, all new development should incorporate....”

Revise the first sentence of criterion 7 to read “Public footpaths should be *retained* through development sites....”.

Recommendation 9: Revise Policy EB6 as follows:

Delete *“Proposals should fit in with the neighbouring settlements and enhance physical and visual connections and linkages with them”* from criterion 1.

Delete *“to both the Parish Council and Herefordshire Council”* from criterion 2.

Delete *“to assist the local economy and sustainability objectives”* from criterion 5.

Recommendation 10: Revise Policy EB7as follows:

Include the playing field in the bulleted list in paragraph 1 of Policy EB7.

Revise the second paragraph of Policy EB7 to read: *“The change of use of the village hall or church or playing field to residential use will only be supported if:*

- *an equivalent or enhanced community facility has been provided within the settlement boundary or within a nearby accessible location; or*
- *the developer has satisfactorily demonstrated that there is no longer a need for the premises by the community as they have been unused for a minimum of two years and during that period it has been actively marketed without securing a viable community use.”*

Include the following text in the justification: *“The facility must have been actively marketed for a minimum of two years through a commercial land and premises agent using advertisements and promotional activity on the internet and in regional property journals, without securing a viable alternative community use.”*

Include the following text in the justification: *“Any new community facilities should have a safe access on foot and cycle with adequate car parking. They should be located within the settlement boundary or close by.”*

Revise the third paragraph of Policy EB7 to list the infrastructure priorities: *“.....to support the following priorities to local infrastructure: set out priorities in a bulleted list.”*

The location of the community facilities referred to in Policy EB7 should be shown on the Proposals Maps.

Recommendation 11: Revise Policy EB8 as follows:

Revise the third paragraph on Reducing the Flood Risk as follows: *“.....rainwater filtration) should be provided within development sites wherever possible.”*

Revise the first line of the section on Flood Resilience to read:
“Development in areas liable to flooding....”

Revise the last line of the final paragraph of Policy EB8 to read:

“This could include boundary walls and fencing such as solid gates with waterproof seals, and where possible integral drains or fencing. The lower levels should be constructed to be more resistant to flooding.”

Recommendation 12: revise Policy EB10 as follows:

Revise the second paragraph to read “ that the proposals address the factors set out *in Core Strategy Policies RA5 and RA6 and the following criteria:*”

In criterion 1 replace “fragile road network” with “local road network”.

Revise criterion 2 to read “.....industrial buildings and parking.”.

Recommendation 13: revise Policy EB11 as follows:

Correct the title of the SPD in paragraph 6.4.5 to “Polytunnels SPD”.

Revise paragraph 6 of Policy EB11 to read: *“The siting of poly-tunnels, agricultural units and associated developments should be sited so that they do not have an unacceptable adverse impact on the amenity of residents of nearby dwellings.”*

Delete paragraph 8 of Policy EB11.

Recommendation 14: Revise the title of Policy EB14 to “Community Energy Schemes”.

Add the following to the beginning of paragraph 6.4.8 *“The Plan seeks to encourage new community led energy schemes in appropriate locations to help increase the supply of renewable and low carbon energy.”*