

Hope-under-Dinmore and Newton Neighbourhood Plan

Hope-under-Dinmore and Newton Neighbourhood Plan Examination,
A Report to Herefordshire Council

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

Nigel McGurk

Erimax Land, Planning and Communities

erimaxltd.com

October 2016

Contents:

1. Introduction

2. Basic Conditions and Development Plan Status

3. Background Documents and the Hope-under-Dinmore and Newton Neighbourhood Area

4. Public Consultation

5. The Neighbourhood Plan: Introductory Section

6. The Neighbourhood Plan: Policies

7. The Neighbourhood Plan: Other Matters

8. Summary

9. Referendum

1. Introduction

The Neighbourhood Plan

Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in *italics*.

This Report provides the findings of the examination into the Hope-under-Dinmore and Newton Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

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

(Paragraph 183, National Planning Policy Framework)

Hope-under-Dinmore Group Parish Council is the *qualifying body* responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by Herefordshire Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Hope-under-Dinmore and Newton Neighbourhood Area.

Role of the Independent Examiner

I was appointed by Herefordshire Council, with the consent of the qualifying body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.

I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

As the Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Hope-under-Dinmore and Newton Neighbourhood Area to which the Plan relates.

Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan does not specify the plan period, but simply refers to the Submission draft publication date, May 2016.

The Introduction to the Neighbourhood Plan confirms that the document “*looks ahead to 2031*” and page 3 states that:

“The Plan covers the period 2011-2031, coterminous with the Core Strategy.”

For clarity, I recommend:

- **Front cover, change “May 2016” to “2011-2031”**

Taking the above into account, the Neighbourhood Plan satisfies the relevant requirement in this regard.

Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of all of the relevant information, I confirmed to Herefordshire Council that I was satisfied that the Hope-under-Dinmore and Newton Neighbourhood Plan could be examined without the need for a Public Hearing.

2. Basic Conditions and Development Plan Status

Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*¹ following the Localism Act 2011. A neighbourhood plan meets the basic conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.²

An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.³

In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);

¹ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

² Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

³ The Convention rights has the same meaning as in the Human Rights Act 1998.

- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the content of this Report, I am satisfied that these three points have been met.

In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

European Convention on Human Rights (ECHR) Obligations

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.

European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal⁴. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.

With the above in mind, draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.

“Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.” (Planning Practice Guidance⁵).

This process is often referred to as a screening report, opinion, statement or assessment. If the screening report identifies likely significant effects, then an environmental report must be prepared.

A Scoping Report was published by Herefordshire Council in October 2014 and this concluded that, due to the range of environmental designations in and around the Parish, there may be significant environmental effects and that the Neighbourhood Plan:

“will require further environmental assessment for Habitat Regulations Assessment and Strategic Environmental Assessment.”

An environmental appraisal of the Neighbourhood Plan was subsequently undertaken in line with the Environmental Assessment of Plan and Programmes Regulations 2004. The Environmental Report submitted alongside the Neighbourhood Plan concluded that:

⁴ Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance

⁵ Paragraph 027, ibid

“...the Hope under Dinmore 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.”

As part of the appraisal process, each of the statutory consultees, Natural England, Historic England and the Environment Agency, were consulted. These consultees were consulted on the Scoping Report, an initial Environmental Report and the Submission version of the Neighbourhood Plan together with the final version of the Environmental Report. The views of the statutory consultees were taken into account and incorporated into the final version of the Environmental Report.

None of the statutory bodies has raised any concerns with the submitted Environmental Report.

A Habitats Regulations Assessment (HRA) is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites.

Further to the Scoping Report, a Habitats Regulations Assessment was undertaken, a draft version of which was published in October 2015. This recognised the location of the River Wye (including the River Lugg) Special Area of Conservation (SAC) – a European designation - within the proximity of the Neighbourhood Area and concluded that:

“None of the draft Hope-under-Dinmore NDP (November 2015) policies were concluded to be likely to have a significant effect on the River Wye (including the River Lugg) SAC...all of the NDP policies were found to be unlikely to result in significant effects on the River Wye (including the River Lugg) SAC...It is therefore concluded that the Hope-under-Dinmore NDP will not have a likely significant effect on the River Wye (including the River Lugg) SAC.”

Following changes to the Neighbourhood Plan, made between the draft and Submission versions, Herefordshire Council published a HRA Addendum Report in May 2016. This was submitted alongside the Neighbourhood Plan.

In respect of the changes made, the HRA Addendum Report stated that:

“The refinements are not considered to significantly affect the conclusions of the earlier HRA report”

and went on to conclude that:

“...the earlier conclusion that the Hope-under-Dinmore NDP will not have a likely significant effect on the River Wye SAC remains valid.”

As with the Strategic Environmental Assessment, all of the statutory bodies were consulted on the HRA. None of them disagreed with the above conclusion.

Further to all of the above, national guidance establishes that the local planning authority has the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations.

“The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.” (Planning Practice Guidance⁶)

Having undertaken all of the work that it has in this regard, Herefordshire Council has considered the Neighbourhood Plan’s compatibility with EU obligations. It has raised no concerns in this regard.

Taking all of the above into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.

⁶ Paragraph 031, Reference: 11-031-20150209, Planning Practice Guidance

3. Background Documents and the Hope-under-Dinmore and Newton Neighbourhood Area

Background Documents

In undertaking this examination I have considered various information in addition to the Hope-under-Dinmore and Newton Neighbourhood Plan. This has included the following main documents:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- Herefordshire Local Plan Core Strategy 2011-2031 (October 2015)
- Basic Conditions Statement
- Consultation Statement
- Environmental Report (Draft and 2016 versions)
- Habitats Regulations Assessment (draft) and Addendum
- SEA Scoping Report
- Housing Site Assessment

Also:

- Representations received

In addition, I spent an unaccompanied day visiting the Hope-under-Dinmore and Newton Neighbourhood Area.

Hope-under-Dinmore and Newton Neighbourhood Area

A plan showing the boundary of the Hope-under-Dinmore and Newton Neighbourhood Area is provided on page 1 of the Neighbourhood Plan. The Neighbourhood Area follows the group parish boundary comprising the parishes of Hope-under-Dinmore and Newton.

Further to an application made by Hope-under-Dinmore Group Parish Council, Herefordshire Council approved the designation of Hope-under-Dinmore and Newton as a Neighbourhood Area on 28 August 2013.

This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Introduction

As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Hope-under Dinmore and Newton Neighbourhood Plan Consultation

A Consultation Statement was submitted to Herefordshire Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*⁷.

The Consultation Statement provides information to demonstrate that community engagement was at the heart of the plan-making process and that it was carried out in a comprehensive manner.

The Neighbourhood Plan was produced by a Project Group comprising members of the local community, including Parish Councillors.

Further to the creation of the Project Group, two open day events were held in April 2014. These were publicised in two village newsletters, which were distributed by hand to all of the houses in the parishes of Hope-under-Dinmore and Newton. The events were attended by 75 residents and comments were sought and logged.

The results of the open days were reported and the comments received provided information on local issues and concerns, along with feedback about potential development sites. In addition to this, during September 2014, a letter was sent to local landowners, to introduce the plan and to invite expressions of interest in bringing land forward for development.

A resident survey was then carried out during January 2015. Questionnaires were hand-delivered to all households in the Neighbourhood Area and of the 211 surveys distributed, 70 were completed and returned.

⁷Neighbourhood Planning (General) Regulations 2012.

The results of the survey were analysed and then reported in June 2015. The results influenced the emerging plan.

Consultation on the draft plan took place over an eight-week period, between November 2015 and January 2016. This was longer than the regulatory six-week period, to take Christmas and New Year into account. To support the consultation, the draft plan was printed and distributed to households and businesses, together with a covering letter and comments form. Consultation responses were considered and led to a number of changes to the draft plan. The Consultation Statement provides detail on the changes in an Appendix.

The plan-making process was widely publicised. In addition to the delivery of leaflets and the events referred to above, information relating to the Neighbourhood Plan was provided on the Group Parish Council website; monthly Parish Council meetings and regular project group meetings were open to the public; and material was posted on village notice boards.

The Consultation Statement provides significant evidence to demonstrate that community engagement was encouraged throughout the plan-making process, that matters raised were considered and that the reporting process was transparent.

Taking everything into account, I am satisfied that the consultation process was robust.

Representations have been made on behalf of the owners of land in the Neighbourhood Area, stating that *“There is no evidence of the NPG seeking to work with local landowners.”* The representation goes on to *“object in the strongest possible terms to the draft Plan and its legal validity.”*

However, the evidence demonstrates that plan-makers pro-actively sought to engage with the community. This included work to identify and write to landowners, as above. There was ample opportunity to attend public meetings and comment on the emerging plan over a number of years. The consultation process was open and transparent. In addition, I note that the *“NP Group and their Planning Consultant”* also met with the objectors to discuss a proposed planning application.

There is no requirement for plan-makers to agree with all of the views expressed during consultation. The evidence before me does not indicate that *“...it is nothing short of a disgrace that the Neighbourhood Plan Group have seemingly failed to engage...”* as is alleged. Rather, as set out above, the consultation process was robust.

5. The Neighbourhood Plan – Introductory Section

The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner’s Report. This Chapter considers the Introductory Section of the Neighbourhood Plan.

The Introduction, prior to the Contents page, is clear and concise, although I note that it relates very much to the Submission stage of the Neighbourhood Plan. If an Introduction is to be included in a “made” version of the Neighbourhood Plan, I recommend:

- **Update the Introduction**

Paragraph 1.9 is out of date, I recommend:

- **Page 2, delete Paragraph 1.9 and replace with “*The Neighbourhood Plan has been supported by the production of an Environmental Statement. A Strategic Environmental Assessment and a Habitats Regulations Assessment were carried out as part of this.*”**

Part of Paragraph 1.11 is incorrect, I recommend:

- **Page 3, Para 1.11, delete “..., which was published in March 2010 and is regularly updated and amended.”**

The rest of the Introductory Section of the Neighbourhood Plan is clear and concise and provides a relevant and distinctive introduction to the Policies that follow.

6. The Neighbourhood Plan – Neighbourhood Plan Policies

Social and Community

Housing Requirement, Strategy and Policies

Pages 10-13 of the Neighbourhood Plan provide background information and establish the basis of the Policies that follow. A clear and simple summary of the requirements of the Herefordshire Local Plan Core Strategy (Core Strategy) is provided and this has regard to the Framework, which states:

“Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan...Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.”

(Paragraph 184)

Policy RA1 (*Rural housing distribution*) of the Core Strategy establishes that 5,300 new dwellings will be provided in Herefordshire’s rural areas between 2011-2031. Hope-under Dinmore falls within the Bromyard Rural Housing Market Area, where around 364 dwellings will be provided during the plan period. Policy RA1 provides a table showing that indicative housing growth during the plan period within or adjacent to settlements in the Bromyard Rural Housing Market Area should be 15%.

Helpfully, the Neighbourhood Plan provides a table demonstrating that 15% growth between 2011 and 2031 (based on the 2011 Census) would amount to an increase of 26 dwellings. Taking into account one completion, the Neighbourhood Plan equates this to a need for 25 dwellings over the plan period.

Policy HUD1: Housing Strategy

Policy HUD1 is explicit in stating that a *minimum* (my emphasis) of 25 new dwellings will be provided in the Neighbourhood Area over the plan period. As above, this approach meets the indicative housing growth target set in the Core Strategy.

The Policy sets out a positive approach to supporting sustainable growth. It does not seek to set a maximum figure, or to place a cap on housing development.

Whilst the Policy relies on windfalls, evidence has been provided in respect of there being significant scope for at least 20 dwellings to arise through a single windfall opportunity. In this regard, I note that permission was granted as recently as March 2016 for the creation of 21 dwellings at Hampton Court Estate cottages⁸.

In respect of the above, comments have been received from Herefordshire Council's Development Management asking:

"In the absence of the scheme coming forward, how would proportionate growth get delivered?"

However, the same question could be asked of any site allocation, prior to the completion of development. Furthermore, a site allocation is not the same thing as a planning permission. It can reasonably be considered that a site with planning permission has a good chance of coming forward. Furthermore, there is no substantive evidence before me to demonstrate that, in the case of the permission above, there is little or no chance of it being developed over the plan period.

However, I acknowledge that the permission above does not provide a minimum of 25 dwellings. In this regard, the Neighbourhood Plan states that:

"As well as new housing coming forward within the village, other windfall units may be expected to arise in the rural area..."

Given a history of windfall development, I see no reason to doubt that this will be the case. Furthermore, there is nothing of substance before me to demonstrate beyond reasonable doubt that windfall opportunities will not arise during the remaining fifteen years of the plan period.

I recognise that there are landowners who would like to see their land allocated for development in the Neighbourhood Plan. However, the Neighbourhood Plan simply needs to meet the basic conditions. There is no requirement for it to allocate housing land.

⁸ Reference: P140817/F. I note that the reference to this planning application in the Housing Site Assessments document is incorrect. For clarity, I have provided the correct reference.

For the reasons set out above, Policy HUD1 is in general conformity with Core Strategy Policy RA1. It is also in general conformity with Core Strategy Policy RA2 (*Housing in settlements outside Hereford and the market towns*), which states that:

“Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets, by indicating levels of suitable and available capacity.”

I note that Policy HUD1 has emerged through an open and transparent consultation process and that there is evidence of community support for the approach set out.

The second sentence of Policy HUD1 is superfluous. There are a lot of things that the Policy does not do and mentioning just one of these makes little sense and does not have regard to Planning Practice Guidance, which requires planning policies to be precise and concise⁹.

In addition, all of the Neighbourhood Plan Policies should be read together. Consequently, there is no need to cross reference individual Policies with other Policies in the Neighbourhood Plan. I also note that the Neighbourhood Plan does not control other policies in other documents and taking this and all of the above into account, I recommend:

- **Policy HUD1, delete “Having regard to...allocated for development.”**
- **Delete “..., coming forward either...of the Local Plan.”**

Representations have been made in objection to Policy HUD1. It is suggested that the indicative housing growth target for the Neighbourhood Area could have been calculated differently. This is simply a matter of fact.

As identified above, the Neighbourhood Plan calculated the indicative housing growth target on the basis of the number of dwellings in Hope-under-Dinmore (which is the settlement identified in the table relating to Core Strategy Policy RA1) as per the 2011 Census. This was a reasonable and appropriate approach given that the plan period runs from 2011 and 2031.

⁹ Ref: Planning Practice Guidance 41-041020140306.

Policy HUD2: Settlement Boundary

Policy HUD2 establishes a settlement boundary around Hope-under-Dinmore.

In establishing a settlement boundary, Policy HUD2 is in general conformity with the strategic policies of the development plan for the area. Core Strategy Policy RA3 (*Herefordshire's countryside*) states:

“In rural locations, outside of settlements, as to be defined in either Neighbourhood Plans or the Rural Areas Sites Allocations DPD...”

Supporting Paragraph 4.8.23 in the Core Strategy establishes that settlement boundaries “*will be defined*” in Neighbourhood Plans.

I note above that the Neighbourhood Plan provides for sustainable growth in the Neighbourhood Area in a way that is in general conformity with the Core Strategy. The main part of Policy HUD2 meets the basic conditions.

Like the preceding Policy, Policy HUD2 goes on to cross reference other Policies in the Neighbourhood Plan, as well as rely upon other policies in other documents not within the control of the Neighbourhood Plan. Taking this into account, I recommend:

- **Policy HUD2, delete “Within the boundary...outside the boundary.”**

In making the recommendation above, I note that the supporting text to Policy HUD2 provides an appropriate reference to Local Plan Policy RA3.

Policy HUD3: Criteria for New Housing Development

Good design is recognised by national policy as comprising

“a key aspect of sustainable development...indivisible from good planning.”
(Paragraph 56, The Framework)

In addition, national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework) and Core Strategy Policies LD1 (*Landscape and townscape*) and SD1 (*Sustainable design and energy efficiency*) promote good design.

Policy HUD3 seeks to promote good design and in so doing, has regard to national policy and is in general conformity with the Core Strategy.

Policy HUD3 establishes a number of criteria that should be met. Of these, Criteria 3 seeks to limit residential development to five or fewer houses, unless developments are phased. Whilst I note that some members of the community would support this, Paragraph 173 of the Framework states that:

“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable.”

No substantive evidence has been provided to demonstrate that, in every case, it would be viable to deliver schemes of more than 5 dwellings in phases and this part of the Policy does not meet the basic conditions.

I also note that the Policy requires all housing proposals to deliver a range of dwelling types and sizes. It is not clear how, say, a proposal for a single dwelling can achieve this.

Furthermore, the Policy refers to the need to meet local housing requirements. It is not clear what these are and consequently, this part of the Policy is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

Paragraphs 4.19 and 4.20 of the Neighbourhood Plan are presented as though they comprise local housing requirements, which they do not. They simply contain excerpts from various documents along with some local opinions. They also read as though they comprise Policies in the Neighbourhood Plan, which they do not. For example:

“...the majority of open market housing...will need to be either 2 or 3 bedroom (33% and 76% respectively of the total requirement).”

Rather than provide for clarity, I find that these two Paragraphs introduce the scope for much confusion and consequently, their inclusion detracts from the precise and concise nature of the Neighbourhood Plan.

Criteria 4 states that where existing uses “*may*” harm the residential amenity of future occupiers, development will not be permitted. Such an approach is vague and it potentially fails to provide for a balanced consideration of a proposal, and may prevent development from coming forward where the benefits outweigh the harm. In this way, this part of the Policy fails to contribute to the achievement of sustainable development and does not meet the basic conditions.

Furthermore, in this context, the phrase “*will not be permitted*” runs the risk of pre-determining the planning application process, without taking relevant factors into account.

The Policy goes on to refer to “*acceptable internal and external noise levels.*” No indication of what “*acceptable*” might comprise is provided and this part of the Policy is imprecise. Further, no indication of how a proposal can “*further promote sustainability through water and energy conservation,*” who will measure this and on what basis, is provided. In this regard, I note that Building Regulations are different from land use planning policies.

Furthermore, it is not clear how every new housing development can provide for renewable energy and green infrastructure, or why it should need to do so. Policy HUD3 lacks detail in this regard and consequently, it is imprecise. Also, no indication of how every residential can, or why it should, provide self-build and live/work schemes is provided. No indication is provided of whether such a requirement would be deliverable, viable or even appropriate in every circumstance where it may be “*possible.*” The Policy fails to have regard to Paragraph 173 of the Framework.

Taking all of the above into account, I recommend:

- **Policy HUD3, delete Criteria 2, 3, 5 and 9**
- **Criteria 4, delete and replace with “*Have regard to residential amenity; and*”**
- **Criteria 7, delete and replace with “*Provide for recycling and cycle storage; and*”**
- **Delete Paragraphs 4.19 and 4.20**

Flood Risk

Policy HUD4: Flood Risk

The Framework state that:

“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.” (Paragraph 100)

In seeking to reduce flood risk and not increase flood risk elsewhere, Policy HUD4 has regard to the Framework and meets the basic conditions.

No changes are recommended.

Community Facilities

Policy HUD5: Community Facilities

Chapter 8 of the Framework, “*Promoting healthy communities,*” recognises that the planning system can play an important role in creating healthy, inclusive communities.

In Paragraph 70, the Framework requires planning policies to:

“...plan positively for the provision of...community facilities...and...local services to enhance the sustainability of communities and residential environments.”

Whilst Policy HUD5 seeks to protect, retain and enhance community facilities, no indication is provided with regards how community facilities will be protected and consequently, the Policy does not provide a decision maker with a clear indication of how to react to a development proposal. Furthermore, no detail is provided in respect of how community facilities will be retained and enhanced. There is no mechanism set out, for example, that might provide for the funding of enhancement. Also, no indication of what enhancement might comprise is provided.

As the opening sentence of Policy HUD5 is vague and imprecise, it does not have regard to the Framework.

The Policy goes on to state that “*appropriate developer contributions will be sought.*” Again, the Policy is imprecise as it does not provide any indication of what might comprise an appropriate developer contribution. Paragraph 204 of the Framework states that planning obligations should only be sought where they are:

“...necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.”

Rather than have regard to the Framework, Policy HUD5 reads as a general wish-list. However, in recognising that the list included sets out some local aspirations, I make a recommendation to include it in a new Community Action.

The remaining part of Policy HUD5 provides support for the provision of community facilities and this has regard to Paragraph 70 of the Framework.

Taking everything into account, I recommend:

- **Policy HUD5, delete all but the second sentence (“Proposals for new community...residential amenity.”)**
- **Create a new *“Community Action: Where appropriate, the Parish Council will seek funding, including from developer contributions, to meet the following identified community needs: (Include list 1 -5 here).”***
- **For clarity, a Community Action is not a land use planning policy, but it enables the Neighbourhood Plan to capture local aspirations**

Environment and Heritage

Policy HUD6: Landscape Character

Core Strategy Policy LD1 (*Landscape and townscape*) requires development proposals to respect the landscape.

The first paragraph of Policy HUD6 simply repeats part of Policy HUD6. It is not the role of neighbourhood planning policies to repeat policies that already exist within the development plan.

The first part of the second paragraph of HUD6 is distinctive to Hope-under-Dinmore and is in general conformity with Core Strategy Policy LD1, which states that:

“Development proposals should...conserve and enhance...”

This part of the Policy meets the basic conditions.

However, the final sentence of the Policy does not provide for the balanced consideration of a planning proposal, whereby the benefits arising may outweigh any harm; and it is worded in a manner which runs the risk of pre-determining a planning application without taking all relevant factors into account. As a consequence, the final sentence of the Policy does not contribute to the achievement of sustainable development.

I recommend:

- **Policy HUD6, delete the first paragraph (“Development should...landscape character.”)**
- **Delete the final sentence (“Development which...not be permitted.”)**

Policy HUD7: Local Green Space

The Framework enables local communities to identify, for special protection, green areas of particular importance to them. Paragraph 76 states that

“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”

Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land. Notably, the Framework is explicit in stating that

“The Local Green Space designation will not be appropriate for most green areas or open space.” (Para 77)

Consequently, when designating Local Green Space, plan-makers should demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

Policy HUD7 seeks to designate land at Tavern Meadow as Local Green Space. Its approach to doing so is confusing in a number of respects.

Firstly, Paragraph 5.7 refers to open land to the rear of Tavern Meadow as being *“suitable for amenity use.”* As set out in the Framework, Local Green Space is a designation for land that is demonstrably special – as opposed to an opportunity to designate land for a future change of use.

Secondly, Paragraph 5.7 states that the land was considered in the Housing Site Assessment as *“site HUD2.”* However, the boundary of the site shown on page 20 of the Neighbourhood Plan is not the same as that shown on page 14 of the Housing Site Assessment. Local Green Space is an important designation, the management of development within it is consistent with policy for Green Belts and the lack of consistency between the relevant plans, in respect of the proposed designation, suggests a lack of precision.

Thirdly, Paragraphs 5.7 and 5.8 refer to the *“informal recreational use”* of the land. However, the Housing Site Assessment refers to only the *“main field”* as providing for informal recreational use. The proposed designation includes other areas of land in addition to the *“main field.”*

Fourthly, the owners of the site dispute the fact that that the land provides for informal recreation. Evidence that the land is in private ownership and that access is restricted to the public footpaths that run through the site, has been provided. There is no substantive evidence to demonstrate that the whole of the area proposed for designation has informal recreational value.

Fifthly, relative to the settlement of Hope-under-Dinmore, the proposed designation appears large. With regards to whether or not it comprises an extensive tract of land, I am mindful that the Housing Site Assessment refers to the “*excessive size*” of the site. This is something that adds weight to my recommendation below.

Taking all of the above into account, I am concerned that the proposed designation of land to the rear of Tavern Meadows does not have regard to the Framework. Whilst I recognise that the site is open in character and makes a contribution to local character, the same could be said for many tracts of land around Hope-under-Dinmore.

As above, the Framework is explicit in pointing out that a Local Green Space designation will not be appropriate for most areas of open space.

Taking all of the above into account, I find that Policy HUD7 does not have regard to the Framework and does not meet the basic conditions. I recommend:

- **Delete Policy HUD7**
- **Delete Paras 5.7 and 5.8**
- **Delete Plan 4 on page 20**

Policy HUD8: Biodiversity and Heritage Assets

Biodiversity and heritage assets tend to be two very different things. It is not clear why the Neighbourhood Plan seeks to conjoin them in one Policy. I find that this has the scope to lead to confusion and that it makes for an imprecise Policy.

Chapter 11 of the Framework, *“Conserving and enhancing the natural environment,”* states that:

“The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible...” (Paragraph 109).

However, Policy HUD8 requires all development proposals to conserve, restore and enhance biodiversity and geodiversity. No evidence is provided to demonstrate that such an approach would be viable, deliverable or even relevant in all circumstances. For example, it is not clear why a household extension or a new advert above a shop would need to enhance biodiversity.

Rather than delete the biodiversity and geodiversity part of the Policy (as it does not meet the basic conditions) and with reference to the supporting information, which clearly recognises the importance of biodiversity to the local community, I recommend:

Policy HUD8. Replace text with *“Policy HUD8: Biodiversity. The conservation, restoration and enhancement of biodiversity will be supported, especially where this contributes to local character and green infrastructure.”*

National policy, in Chapter 12 of the Framework, *“Conserving and enhancing the historic environment,”* recognises heritage assets as irreplaceable and requires the conservation of heritage assets in a manner appropriate to their significance.

Policy HUD8 requires all development to conserve, restore and enhance heritage assets without providing evidence to demonstrate that such an approach is viable, or that it has regard to national policy, or is in general conformity with local strategic policy. The Policy also refers to *“appropriate proposals at Hampton Court”* but does not provide any indication of what might or might not be appropriate.

Taking into account the supporting information provided and in acknowledgement of the community's high regard for local heritage, I recommend:

- **Create a new *“Policy HUD9: Heritage Assets. The conservation, restoration and enhancement of heritage assets, in a manner appropriate to their significance, will be supported.”***

Policy HUD9: Renewable Energy

Core Strategy Policy SD2 (*Renewable energy and low carbon energy generation*) promotes renewable energy. This takes into account national policy which, in Chapter 11 of the Framework, "*Meeting the challenge of climate change, flooding and coastal change,*" seeks to:

"...help increase the use and supply of renewable and low carbon energy..."
(Paragraph 97)

In general, by supporting renewable energy, Policy HUD9 has regard to national policy and is in general conformity with the Local Plan. However, no indication is provided of what "*undue adverse individual impacts*" might comprise and consequently, the Policy is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal.

Further, no indication of the difference between "*particular support*" and "*support*" is provided. Consequently, the last sentence appears unnecessarily confusing and unclear.

Taking all of the above into account, I recommend:

- **Policy HUD9, change to "*...will be supported. Proposals are encouraged to take into account: (include list: 1 to 5 here) Community-led renewable energy proposals where benefits can be demonstrated are encouraged.*"**

Economy and Employment

Policy HUD10: Employment Development

Paragraph 28 of the Framework states that:

“Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.”

In addition, in order to support a prosperous rural economy, national policy promotes:

“...the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion...and well-designed new buildings...the development and diversification of agricultural and other land-based rural businesses...supporting the provision and expansion of tourist and visitor facilities”
(Paragraph 28, the Framework)

This strong support for economic growth in rural areas is reflected in Core Strategy Policy RA6 (*Rural economy*), which supports employment generating proposals which help diversity the rural economy.

By way of conflict with this strong national and local support, Policy HUD10 is severely restrictive. Unlike national policy, it only supports small scale-employment which, itself needs to meet a long list of criteria.

Whilst “*small scale*” is undefined, leading the Policy to be imprecise, the supporting text to the Policy, in Paragraph 6.4, states that such development will be “*in existing buildings...rather than new build.*” Further, no substantive evidence is provided to justify why all employment development needs to be small-scale. This is not a national or local policy requirement and there is nothing to lead me to the conclusion that any employment development larger than small-scale (which is, in any case, undefined in the Neighbourhood Plan) would be inappropriate in all circumstances. For example, there is no evidence to demonstrate what type of development would be commensurate with which locations and settings.

I note that the various criteria include imprecise requirements, such as “*traffic generated...without...undue environmental circumstances.*” In this specific regard I also note that Paragraph 32 of the Framework states:

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

By further way of example, there is no evidence to demonstrate that it would be appropriate, viable or relevant for all employment development to “*promote sustainability through...provision for...green infrastructure.*” The Policy does not have regard to Paragraph 173 of the Framework.

Whilst Policy HUD10 largely fails to have regard to national policy, the final sentence of the Policy seeks to prevent the loss of existing employment land. This has regard to the aims of Chapter 3 of the Framework, to support “*a prosperous rural economy.*”

Taking all of the above into account, I recommend:

- **Policy HUD10, delete “Proposals for small-scale...will be welcomed.” The Policy will thus comprise one sentence “*Proposals which would result in the loss..economically viable.*”**
- **Delete Paragraph 6.4**

Communications Infrastructure

Policy HUD11: Communications Infrastructure

Chapter 5 of the Framework, “*Supporting high quality communications infrastructure,*” recognises that:

“Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.” (Paragraph 42)

In general, Policy HUD11 supports the provision of high quality communications infrastructure. The phrase “*mobile telephony*” appears quaint and is historically associated with the telephone (a handheld device containing a speaker or transmitter and a receiver). Given the rapid and continuing advances in telecommunications and today’s particular focus on the need for the transmission of high volumes of data in various forms, in the interest of clarity, I recommend:

- **Policy HUD11, change to “...provision of *communications* and broadband infrastructure...for broadband and *communications* services...”**

7. The Neighbourhood Plan: Other Matters

I note that the recommendations made in this Report will have a subsequent impact on page numbering and Contents. I recommend:

- **Update the Contents page to reflect the recommendations above**

8. Summary

I have recommended a number of modifications further to consideration of the Hope-under-Dinmore and Newton Neighbourhood Plan against the basic conditions.

Subject to these modifications, I confirm that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

Taking the above into account, I find that the Hope-under-Dinmore and Newton Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

9. Referendum

I recommend to Herefordshire Council that, subject to the modifications proposed, the **Hope-under-Dinmore and Newton Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

I am required to consider whether the Referendum Area should be extended beyond the Hope-under-Dinmore and Newton Neighbourhood Area.

I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

Consequently, I recommend that the Plan should proceed to a Referendum based on the Hope-under-Dinmore and Newton Neighbourhood Area approved by Herefordshire Council on 28 August 2013.

Nigel McGurk, October 2016
Erimax – Land, Planning and Communities

www.erimaxltd.com