

Progression to Examination Decision Document



Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Bosbury and Catley Group Neighbourhood Area
Parish Council	Bosbury and Coddington Parish Council
Draft Consultation period (Reg14)	18 December 2014 to 12 February 2015
Second Consultation period (Reg 16)	14 May to 25 June 2015
Submission consultation period (Reg 16)	16 November 2016 to 11 January 2017

Determination

Is the organisation making the area application the relevant body under section 61G (2) of the 1990 Act		Yes
Are all the relevant documentation included within the submission <ul style="list-style-type: none"> • Map showing the area • The Neighbourhood Plan • Consultation Statement • SEA/HRA • Basic Condition statement 	Reg15	Yes
Does the plan meet the definition of a NDP - 'a plan which sets out policies in relation to the development use of land in the whole or any part of a particular neighbourhood area specified in the plan'	Localism Act 38A (2)	Yes
Does the plan specify the period for which it is to have effect?	2004 Act 38B (1and 2)	Yes
Are any 'excluded development' included? <ul style="list-style-type: none"> • County matter 	1990 61K / Schedule 1	No

<ul style="list-style-type: none"> • Any operation relating to waste development • National infrastructure project 		
Does it relation to only one neighbourhood area?	2004 Act 38B (1and 2)	Yes
Have the parish council undertaken the correct procedures in relation to consultation under Reg14?		Yes
Is this a repeat proposal? <ul style="list-style-type: none"> • Has an proposal been refused in the last 2 years or • Has a referendum relating to a similar proposal had been held and • No significant change in national or local strategic policies since the refusal or referendum. 	Schedule 4B para 5	No

Summary of the comments received during the submission consultation

Herefordshire Council Environmental Health	From a noise and nuisance objective Environmental Health department has no comments to make with regard to this neighbourhood plan.
Herefordshire Council Transport Planning	<p>Transport Planning would like to see the additional wording (in red) onto the end of policy 5B.</p> <p>5B - Maximise opportunities to walk and/or cycle to the village centre and within Local area <i>by including proposals for local active travel infrastructure and supporting facilities such as secure cycle parking and workplace changing facilities.</i></p> <p>Transport Planning would like to actively encourage Bosbury to continue with the original scheme at every opportunity, as there is a lot of potential given what has already been achieved. The nature and character of the road / village and traffic levels through here also has potential to build the original scheme into a comprehensive "trial" which would help inform future works in other villages... plus we have an excellent working relationship with the Parish who have displayed competency in understanding and carrying out works.</p> <p>It would also be worth noting that Bosbury residents can access Worcester by using the bus service also.</p>
Herefordshire Council	Strategic Planning have accepted Bosbury NDP justification to not being able to meet housing target due to environmental and conservation constraints.

Strategic Planning	Full comments can be found in appendix 1.
<p>Herefordshire Council</p> <p>Environmental Heath</p> <p>LATE RESPONSE (12/01/17)</p> <p>Air, Water and Waste</p>	<p>I refer to the above and would make the following comments with regard to the proposed development area identified in the re submitted "Bosbury Neighbourhood Development Plan-Final Submission-Oct 2016":</p> <p>Having reviewed Ordnance survey historical plans, I would advise regarding the 'Housing Site' indicated in brown on the "Bosbury Village Policies Map":</p> <ul style="list-style-type: none"> • The site seems to have largely an agricultural use history. By way of general advice I would mention that agricultural practices such as uncontrolled burial of wastes or excessive pesticide or herbicide application may be thought of as potentially contaminative and any development should consider this. • Records indicate the proposed site encroaches onto an area historically used in association with petrol tanks. <p>I recommended on the 17th June 2016 in the previous plan titled 'Bosbury Neighbourhood Development Plan-Final Submission-6th March' 'that because the proposed site encroached on to a site which has a potentially contaminative use, it would be likely that we would ask that any application submitted should include, as a minimum, a 'desk top study' considering risk from contamination in accordance with BS10175:2011 so that the proposal can be fully considered'</p> <p>However a more detailed inspection of historical maps indicate that the former petrol tank site did not encroach onto the proposed 'Housing Site'. It would therefore seem disproportionate to recommend a site investigation be carried out.</p> <p>Due to the petrol tank site's proximity however, it's possible that unforeseen contamination may be present at the proposed site. Consideration should be given to the possibility of encountering contamination as a result of its former use and specialist advice be sought should any be encountered during the development</p> <p><u>General comments:</u></p> <p>Developments such as hospitals, homes and schools may be considered 'sensitive' and as such consideration should be given to risk from contamination notwithstanding any comments. Please note that the above does not constitute a detailed investigation or desk study to consider risk from contamination. Should any information about the former uses of the proposed development areas be available I would recommend they be submitted for consideration as they may change the comments provided.</p> <p>It should be recognised that contamination is a material planning consideration and is referred to within the NPPF. I would recommend applicants and those involved in the parish plan refer to the pertinent parts of the NPPF and be familiar with the requirements and meanings given when considering risk from contamination during development.</p>

	<p>Finally it is also worth bearing in mind that the NPPF makes clear that the developer and/or landowner is responsible for securing safe development where a site is affected by contamination.</p> <p>These comments are provided on the basis that any other developments would be subject to application through the normal planning process.</p>
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External Comments

CPRE	I will forward to volunteers for comment.
Coal Authority	No substantive comments.
Natural England	<p>Natural England have no further comments to make regarding the amended Regulation 16 submission for the Bosbury and Catley Group Neighbourhood Development Plan.</p> <p>Please refer to our response of 24 June; our reference 153726.</p>
Historic England	<p>As noted in our previous consultation responses we are supportive of the content of the document, particularly its' emphasis on local distinctiveness and the protection of local rural landscape character and overall consider it to be a well-considered, concise and fit for purpose document.</p> <p>Beyond those observations we have no substantive further comments to make on what Historic England considers is a very good example of community led planning.</p>
Severn Trent	No substantive or specific comments.
Welsh Water	<p>Welsh Water have no specific comment to make over and above the following:</p> <p>You may be aware that this Group Parish Council falls outside of Welsh Water's operational area for sewerage, as such Severn Trent Water should be consulted for comments on sewerage and wastewater treatment. With regard to clean water supply, there are no issues in supplying the level of growth proposed though some level of off-site mains may be required.</p>
National Grid	<p>Generic comments.</p> <p>An assessment has been carried out with respect to National Grid's electricity and gas transmission apparatus which includes high voltage electricity assets and high pressure gas pipelines, and also National Grid Gas Distribution's intermediate and High Pressure apparatus.</p> <p>National Grid has identified that it has no record of such apparatus within the Neighbourhood Plan area.</p>
Environmental Agency	I have no further comments to offer on the Bosbury Reg 16 Plan and would re-iterate those made in my previous response (please refer to appendix 2.)

RCA Regeneration	<p>Objection</p> <ul style="list-style-type: none"> • Herefordshire Council's Core Strategy has been subject to Examination in Public and found to be sound. Accordingly, the policies contained therein must be adhered to by any draft NDP. Should a draft NDP fail to be aligned to the content of those policies, the NDP would fail a key basic test. In this instance, it is considered that the Bosbury draft NDP is in conflict with the Core Strategy. • As identified, the Core Strategy requires Bosbury to accommodate a minimum of 14% growth based upon existing housing numbers within the Parish. This figure equates to 48 new homes. Paragraph 4.8.21 of the Core Strategy states that such a figure is the minimum to be contained within a NDP. However, the emerging NDP only makes a small allocation on a perceived brownfield site that is heavily constrained. Indeed, it is considered important to note that Herefordshire Council has previously recognised the shortcoming of the emerging NDP in respect of its housing policies. • During an appeal hearing on land west of Upper Court Road, Bosbury (PINS Ref: APP/W1850/W/15/3002571) the issue of the weighting applicable to the draft NDP was examined. Paragraph 16 of the Inspector's Report stated that "The Bosbury NDP has completed the 'Regulation 16' stage of formal consultation by the local planning authority but has not yet proceeded to Examination. • The appellant has objected to the plan as it stands. Moreover, a Council officer view from a planning policy perspective, put to me at the hearing, is that the emerging NDP does not conform entirely with the strategic policies of the emerging CS [subsequently since adopted following Examination in Public], specifically in terms of its highly cautious approach to allocation of housing sites and to development adjacent to the settlement boundary". It is considered that no substantial alteration has been made to the draft NDP since this date. Accordingly, the flaws identified by Herefordshire Council with the draft NDP still remain. For completeness, a copy of this appeal decision is attached in original response. • The draft NDP needs significant work to rectify this shortcoming. Firstly, it must recognise the minimum level of housing growth as prescribed by the development plan. Therein it must work to identify suitable and deliverable sites capable of accommodating this growth. • The draft NDP only seeks to allocate one site for development. This site itself is heavily constrained due to its location in an area liable to flooding. By directing growth to this location, the draft NDP is not aligned to the Core Strategy (policy SD3) or the Framework (paragraph 101). Accordingly, this is another significant shortfall of the NDP. Indeed, to justify this site, viability evidence would be required that the site's redevelopment could resolve the identified flooding issues. • A lack of a flood risk assessment or any deliverable mechanism to resolve flooding is again a substantial shortcoming in the evidence underpinning the draft NDP.
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	<ul style="list-style-type: none"> • It should be noted that land to the east of the village, and under control of our clients, was also subject to an appeal. Ultimately, the Inspector dismissed the proposal primarily on the basis that the development would not adhere to the linear characteristics of the existing built form. However, a revised scheme is currently awaiting determination. This revised scheme has significantly reduced housing numbers and can be delivered in a linear format. • The development proposed to the east of the village is not in an area liable to flooding. Accordingly, the proposed allocation cannot meet the sequential test insofar as land in a lower flood risk category is available for development. Another key issue is the need for affordable housing. The Council's evidence base notes that there is an existing need for affordable housing within the parish. The current iteration of the NDP is seeking to promote a single housing development that would fail to deliver any affordable homes. Accordingly, this need would go unmet. • Affordable housing is recognised within the NDP as an important issue; yet policies contained therein will not positively address this housing need. Due to the scale and nature of the additional work, it is not considered appropriate for the Bosbury Neighbourhood Plan to progress to independent examination until further work is completed. • This work includes significantly increasing the scale of housing development within the NDP to ensure that it is aligned to the adopted Core Strategy. • Given the identified constraints and existing settlement characteristics, land to the east of the village should also be allocated for residential development. Only with such amendments can the draft NDP meet the basic conditions.
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Officer's Appraisal

This plan has met the requirements of the regulations as set out in the table above. No concern has been raised from internal consultees with regards to the ability of the plan to meet the required minimum proportional growth contributing towards the deliverability of the Core Strategy.

There are one site allocation on a brownfield site but the plan and also have reliance on windfalls and capacity within the settlement boundaries of Bosbury. The plan proposes sites to accommodate up to 21 dwellings within the settlement of Bosbury, the rest will rely on windfall to contribute the target of 46 for Bosbury parish. This has contributed along with the 7 (2011-2014) commitments within Bosbury. Overall, 13 Responses have been received from 4 internal service providers and 9 from external consultees.

Bosbury village have accept the target growth of 46 for the parish area of Bosbury. As highlighted in the plan Bosbury village has significant environmental constraints from potential flooding and conservation constraints. There have been 2 appeals refused on the basis of these constraints P143370, app/w1850/w/15/3053084, P160450.

Herefordshire Council Strategic Planning have accepted the justification and raised no objections towards the plan and assured that the policies within the Bosbury and Catley NDP comply with the Core Strategy.

External responses from technical bodies such as Historic England, Natural England, Welsh Water, Severn Trent, National Grid and Environment Agency have raised no objection to the Regulation 16 draft plan. There have been 1 objection from RCA Planning, this objection raised around the concern of conformity with the Core Strategy over housing numbers ability to meet affordable housing needs.

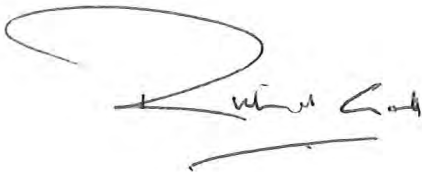
However the view expressed by the Strategy Planning team believe that the plan is in general conformity with the Core Strategy and overall meets the basic conditions. Therefore is recommended that the Bosbury and Catley Neighbourhood Plan progresses to examination.

Programme Director's comments

Decision under Regulation 17 of the Neighbourhood Planning (General) Regulations 2012.

The decision to progress to appoint an examiner for the above neighbourhood plan has been

Approved

A handwritten signature in black ink, appearing to read 'Richard Gabb', with a large, sweeping initial 'R' and a horizontal line underneath.

Richard Gabb

Programme Director – Growth

Date: 16.01.2017

Appendix 1

Neighbourhood Development Plan (NDP) – Core Strategy Conformity Assessment

From Herefordshire Council Strategic Planning Team

Name of NDP: Bosbury and Catley NDP - Regulation 16 re-submission version

Date: 11/01/16

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
Policy 1- Housing Growth	SS2, RA1, H1-H3	Y	Reasoned justification for not being able to meet the Parish's Core Strategy proportional growth target has been demonstrated. The environmental concerns highlighted have been underlined by recent planning decisions in Bosbury.
Policy 2- Local Character	LD1-LD4, SD1-SD4	Y	2B- Are there any particular key "positive views and vistas" defined or listed for protection?
Policy 3- Local Economy	RA3, RA6, SC1	Y/N	3C- Policy H2 of the Core Strategy only applies to affordable housing schemes on rural exception sites. Any policies for dwellings in the countryside outside of the settlement boundary should comply with policy RA3, and more specifically with regard to agricultural workers accommodation, RA4.
Policy 4- Local Facilities	SC1	Y	
Policy 5- Transport	SS4, MT1	Y	
Policy 6- Landscape & Environment	LD1	Y/N	Please see comments for Policy 3C.

Appendix 2

Environment Agency Response in June 2015

Mr. James Latham
Neighbourhood Planning Team
Herefordshire Council
Forward Planning
PO Box 4
Hereford
Herefordshire
HR4 0XH

Our ref: SV/2010/103979

Your ref:

Date: 24 June 2015

Dear Mr. Latham

BOSBURY NEIGHBOURHOOD PLAN REGULATION 16 CONSULTATION

I refer to your email of the 14 May 2015 in relation to the above Neighbourhood Plan (NP) consultation. We have reviewed the submitted document and would offer the following comments at this time.

Vision: We note, and welcome, that part of the Vision of the Bosbury NP is to endorse policies that have a positive effect on the environment, including those that remove or minimise flood risk.

This is supported by the associated Environmental Report (December 2014) which states that 'flood risk is the largest environmental issue within the Parish and therefore policies should aim to mitigate the risk of flooding or aim to alleviate flooding'.

Policy 1 – Housing Growth: Housing growth is to be accommodated through small scale development and it is estimated that 14 homes will be needed between now and 2031. In line with the Vision Statement it is important that new development within the village does not exacerbate flood risk issues and, where possible, seek to reduce the impacts of flooding.

Part B of Policy 1 makes reference to the conversion of the existing farm buildings at Old Court Farm, to the north of the village. Further reference to this site is found in The Bosbury Settlement Boundary Note 1, which confirms that the site is partially within Flood Zone 3 (High Risk). The Policies Map indicates that the site is primarily within Flood Zone's 2/1 (Medium and Low Risk) but lies immediately adjacent to the Dowding's Brook (Main River). Whilst this site may be appropriate for conversion a site specific Flood Risk Assessment (FRA) would be required to confirm that the development is safe, will not increase flood risk to third parties post development, and will offer flood risk betterment where possible. Development of the site, in flood risk terms, will need to accord with Herefordshire Council's Core Strategy as well as your own NP document. I would offer the following comments on your flood risk related policy below:

Flood Risk and Surface Water Management: In addition to the above the western portion of Bosbury Village falls primarily within Flood Zone 3, the high risk Zone. This has been identified on the Bosbury Village Policy Map which identifies both the River Leadon and the Dowding's Brook (both designated as Main River) as sources of flood risk.

We note that flood risk is addressed within Policy 2 (Local Character) and is quite limited in its scope. We would recommend that flood risk is instead inserted into Policy 6 (Landscape & Environment) and expanded upon. We would expect the Policy to confirm that all built development (proposed and windfall) will be located within Flood Zone 1 and that it should accord with existing planning policy, in this instance the National Planning Policy Guidance (NPPG) and Herefordshire Council's Core Strategy (CS).

As stated above there is one proposed housing site which falls on the edge of Flood Zone 3 but lies primarily within Flood Zones 2/1. However, since the improvements to conveyance on the Dowding's Brook (increased culvert capacity), immediately upstream of the Old Court Farm site, flood risk has been reduced and the site is likely to fall within Flood Zone 1. Notwithstanding this, any redevelopment of this site should be accompanied by a detailed FRA to confirm that the site is not impacted by flooding. We would also not expect any further encroachment on land towards the watercourse to allow for maintenance access in a flood event.

As part of an expanded Policy 6 we would also welcome a reference to SuDS design standards and the types of options available to reduce flood risk, improve water quality (contributing to wider Water Framework Directive

(WFD) objectives) and improve ecology. Whilst, the detail would also be informed by discussion with the Herefordshire Council and their Land Drainage team we include the following wording to assist: 'opportunities, where appropriate, should help to conserve and enhance watercourses and riverside habitats. Where necessary, this should be through management and mitigation measures for the improvement and/or enhancement of water quality and habitat of any aquatic environment in or adjoining the development site'.

Flood defences: Bosbury village currently benefits from flood alleviation measures which comprise of an improved culvert on the Dowding's Brook to ensure that waters are kept within the channel in a flood event. In addition to this further improvements have been proposed on the Dowdings Brook with a view to reducing surface water flooding in the area. The scheme has been allocated £15,000 of Local Levy funding and is to be led by Herefordshire Council with the earliest estimated start time of 2017.

Water Quality: As stated within the associated Environmental Report (December 2014) 'New development proposed through the Bosbury NDP should be assessed against the capacity of local infrastructure to ensure that rivers meet their conservation objectives and do not fall below the required standard of quality'. On this point there is no mention within the Plan to foul drainage infrastructure. In this instance we would expect consultation with Welsh Water to ensure that the scale of development can be accommodated over the plan period. As you are aware, as part of the WSC update/addendum, an assessment of Sewage Treatment Works within the County was undertaken with data collated by both Welsh Water and ourselves. The Plan should make reference to this information to provide re-assurance that there is adequate foul infrastructure to accommodate growth throughout the plan period. Whilst, due to the limited scale of development proposed, this is unlikely to cause problems clarification should be sought and provided in any future revisions to the Plan.

Water Framework Directive (WFD): The EC Water Framework Directive European Union 2000 Commits all EU member states to achieve good qualitative and quantitative status of all water courses by 2027 Aims for 'good status' for all ground and surface waters (rivers, lakes, transitional waters, and coastal waters) in the EU The River Leadon (Main river) runs down the western edge of Bosbury and is currently at 'moderate status'. In line with the above we would expect development in Bosbury to have no detrimental impact on the watercourse and, where possible, aid in it achieving 'good status' by 2027.

I trust the above is of assistance at this time. We would be happy to co-operate further on the areas detailed above prior to the proposed Neighbourhood Plan adoption.

Yours faithfully

Mr. Graeme Irwin
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