

Progression to Examination Decision Document



Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Leominster Neighbourhood Area
Parish Council	Leominster Town Council
Draft Consultation period (Reg14)	10 December 2014 to 6 February 2014
Submission consultation period (Reg16)	20 January to 2 March 2016

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 (1 and 2)	Yes
Are any 'excluded development' included? <ul style="list-style-type: none"> • County matter • Any operation relating to waste development 	1990 61K / Schedule 1	No

<ul style="list-style-type: none"> 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
<p>Is this a repeat proposal?</p> <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 comments received during submission consultation

Historic England	No substantive comments to add to those within the earlier response (3 February 2015). Support the vision and objective, particularly the comprehensive treatment of the wider historic environment.
Coal Authority	Confirm no specific comments to make.
Natural England	<p>LANP2 - Advise rewording criteria 1 'Adverse impacts are avoided on the natural environment and in particular the River Wye Special Area of Conservation (SAC)</p> <p>We note that many changes suggested at Regulation 14 have been incorporated.</p> <p>HRA – agree with conclusions that the LNP will not have a likely significant effect on the River Wye SAC. Agree LANP4 could be strengthened with additional wording.</p> <p>SEA – Concur with the conclusions of the Environmental Report</p>
Network Rail	Network are concerned that the cumulative impact of the developments referred to in the NDP will materially increase the use of the level crossing at Leominster which would have implications for rail safety and service provision.. Network Rail therefore object on these grounds

	<p>The development proposed in the NDP may also require improvements to Leominster Station and other railway infrastructure in the area. To meet the increase in demand Network Rail feel that the NDP and other related Development Plan Documents should set a context to secure from proposed developers CIL and/or section 106 funding necessary for the improvements in rail infrastructure that are required to serve proposed development. Network Rail are therefore of the view that no development should commence until the full extent of improvement works have been identified and funding measures are in place.</p> <p><i>Level Crossing Manager - as long as the proposed link road at the south of the town is built before any construction commences it will have a positive effect on the AHB level crossing located in the north of the town.</i></p> <p><i>The location for the new housing development for 1500 new homes and the enterprise park will be serviced by the new link road and the existing road. The residential & enterprise construction will not take place until the construction of the new bypass which will move the majority of the through traffic and potential construction traffic away from the level crossing</i></p> <p><i>In the plan there is another 900 residential homes to be built within existing residential areas throughout Leominster there is no mention to the location of these developments, whether they are in the north of south of the town. If 900 new houses were to be built in the north part of the town, there will be an increase of usage over the level crossing for access to the A49."</i></p>
Gladman	<p>Disappointed to see that the LNP has not allocated any land to meet the residual requirement to meet identified housing needs</p> <p>LANP1 – Policy will render any future strategic development unviable. No requirement for the link road to be delivered prior to the housing in Policy LO2 of the adopted Core Strategy. Recommend policy is deleted</p> <p>LANP2 – object to criteria 1c. Qualifying bodies should not set any additional local technical standards or requirements. This could jeopardise viability. References should therefore be deleted</p> <p>Criteria h – evidence is absence to support self-</p>

	<p>build policy. Criteria should be deleted</p> <p>Criteria 2 – fails to define what it considered to be ‘small scale’. Settlement boundary should not preclude the delivery of sustainable growth opportunities given the residual requirement for a minimum 256 dwellings not planned for.</p> <p>LANP3 – too prescriptive especially criteria e and f</p> <p>LANP4 – criteria f is in conflict with S111 of the NPPF</p> <p>LANP11 – Local green spaces are not in accordance with the requirements of the NPPF</p> <p>LANP13 – appropriate assessment should not be required</p> <p>LANP19 – references to energy efficiency standards should be deleted from policy</p> <p>LANP21 – no evidence submitted to support views. Recommend policy is deleted</p> <p>SEA – no robust document. Do not consider that options 1 to 3 are appropriate</p>
Dwrcymru / Welsh Water	<p>Given that the Leominster NDP has been prepared in accordance with the Adopted Herefordshire Local Plan, DCWW are supportive of the aims, objectives and policies set out.</p>
Herefordshire Council - Transportation	<p>LANP1 i) - Sustainable transport routes for the Baron’s Cross Estate won’t go anywhere near the new link as proposed. It should also include adjacent shared use paths to complement those on Southern Avenue as this will provides an active travel access to and from the rail station to the west of the town.</p> <p><i>These comments above were submitted in the last consultation.</i></p> <p>Link road before housing development is very unlikely to happen since the road will need to be funded by developer contributions. Developer contributions are considered vital to fund the road. There are ongoing discussions surrounding this issue.</p> <p>LANP2 - It is likely that the initial building will start at each end of the link road, to generate sufficient funds to continue the link road further. The</p>

	<p>western build will need access through Bargates, as the link won't be completed.</p> <p><i>Please refer to comments from the draft NDP consultation, please note this and take into consideration.</i></p> <p>LANP3 h – should include both within and to and from the site</p> <p>Permeability and priority to active travel modes should be built in to the extension's development to ensure these and sustainable transport modes are the most attractive and obvious modes to use.</p> <p>Please consider note above made at the previous consultation.</p> <p>LANP 23 – should include 'cycle contraflows to one way working on key radial routes</p> <p>LANP24 b – insert 'motorised' before traffic</p> <p>Perhaps pedestrianize the existing one-way streets, at least 10am to 4:30pm as well.</p> <p><i>Investigate prohibiting vehicles from the one-way streets at peak times, as mentioned above.</i></p> <p>LANP24 c – Furth study will be needed on this</p> <p>LANP24 d) – there is an option to develop a route utilising quiet streets to link the town centre to the railway station, this will need further feasibility study</p> <p>General comments</p> <p>In Appendix A, it would be useful to provide a summary of the findings from the reports into the Southern Link Road.</p>
Herefordshire Council – Development Management	A number of comment regarding implementation of the policies. Full details are contained within appendix 2
Herefordshire Council – Strategic Planning	<p>The following policies have been highlighted as not in conformity with the adopted Core Strategy;</p> <p>LANP1 LANP2 LANP4 LANP5 LANP7 LANP9</p>

	Full details can be seen in appendix 1
Herefordshire Council – Economic Development	<p>Note that previous comments have been made and sufficiently incorporated within the plan.</p> <p>Broadband infrastructure is essential in new development</p> <p>It appears that sufficient development land has been earmarked and allocated for employment use.</p> <p>Long running problems with air quality at the Bargates continue, if further development to take place alternative transport routes must be considered.</p> <p>Do not agree with the Mosaic statement that SUE commences before the link road is in place. Any works to the SUE will in itself generate traffic for groundworks and landscaping and therefore the link road is vital. Consider getting this prioritised with the LEP.</p> <p>Of major concern is the drainage problem to the Southern Avenue Industrial Estate. Businesses have reported effluent backing up and flooding offices. It is imperative that any development does not put additional pressures on trunk water mains.</p> <p>Due to the large additional housing requirement it is important that due consideration is given to the complementary community facilities such as schools, services, leisure facilities and additional transport links. This should be factored into the plan.</p>
Herefordshire Council - Environmental Health (contamination)	<p>Unable to provide comment with regard to potential contamination, given that no specific sites have been identified in the plan</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.</p> <p>It should be recognised that contamination is a material planning consideration and is referred to within the NPPF.</p> <p>Finally it is also worth bearing in mind that the NPPF makes clear that the developer and/or</p>

	<p>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>
Herefordshire Council – Environmental Health (pollution)	<p>With reference to the potential impact on the amenity – in terms of noise, dust, odours or general nuisance of residential occupants that might arise as a result of any new residential development or any new commercial or industrial development.</p> <p>Policies LANP2 to LANP5 of the proposed plan addresses the issue of new housing development within Leominster</p> <p>We suggest the following addition to these policies.</p> <p>- Existing development shall not unduly harm the amenity of any new residential property.</p>

Please note the above are summaries of the response received during the submission consultation. Full copies of the representations will be sent to the examiner in due course.

Officer appraisal

6 external and 5 Herefordshire Council internal consultation were received during the consultation period.

There are a number of concerns expressed by both internal and external consultees regarding Leominster Neighbourhood Plans policy compliance with both the National Planning Policy Framework and the adopted Herefordshire Core Strategy.

All neighbourhood development plans are required to meet the 'basic conditions' at examination which includes 'contributing to sustainable development, be in general conformity with the strategic policies of the development plan and have regard to national policy'. At this stage it is concerned that the submission version on the Leominster Neighbourhood Plan would not meet these basic conditions. This is disappointing as a number of these issues and concerns have been raised within the plan writers are draft plan consultations previously.

Assistant Director comment

Given that this NDP fails to meet the basic conditions at examination it is not appropriate to progress this plan at this stage. Dec.

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

It is recommended that the Leominster Neighbourhood Plan does not progress to examination at this stage and that additional consultation (under Regulation 16) is undertaken following the town council's consideration of the issues outlined above.

A handwritten signature in black ink, appearing to read 'Richard Gabb', with a large, stylized initial 'R' that loops back.

Richard Gabb

Programme Director – Growth

Date: 15 March 2016

Appendix 1

Neighbourhood Development Plan (NDP) – Core Strategy Conformity Assessment

From Herefordshire Council Strategic Planning Team

Name of NDP: Leominster Reg 16

Date: -02/03/16

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
LANP1	LO1 LO2	N	<p>This policy requires the construction of the road before the development of the urban extension and other strategic sites commence. The Core Strategy policies do not make provision for this and it is not considered viable or deliverable. This represents a significant conformity issue with the Core Strategy.</p> <p>The plan also states that if the urban expansion site does not go ahead, the benefits of the link road are such that it should be built as a priority anyway. There is no explanation of how this will be funded and again the Core Strategy does not make provision for this as Policy LO2 makes provision for the delivery of the road as part of the urban extension.</p>
LANP2	LO1	N	<p>I am concerned at the plan's delivery mechanism for ensuring that the minimum requirement for housing outside the urban extension set out in Policy LO1 is met.</p> <p>There are no allocated sites for this purpose and the settlement boundary has not been revised since the Unitary Development Plan 2007 was published.</p> <p>It is not clear whether there has been any formal review of the boundary to ensure that this is appropriate and up to date. This is particularly important as the plan does not allocate sites for development to meet the housing requirement over the</p>

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
			<p>plan period</p> <p>The plan states that it is not necessary to allocate sites given that “since the publication of the draft HCC Core Strategy a number of planning applications for sites totalling over a hundred homes have been approved.” It would be useful for further information to be included on this for the remaining residual housing requirement to be identified. This will provide a better steer for future development proposals.</p> <p>Criteria c reference to infilling not being allowed. This requires clarification whether this means no infilling at all which would be too restrictive as in some cases it may be an appropriate form of development and efficient use of land.</p> <p>The requirement for energy efficiency standards to exceed national standards is likely to have a detrimental impact on the viability of development.</p>
LANP3	LO2	Y	<p>Criterion q regarding construction traffic would be better dealt with as a planning condition rather than as part of the policy.</p> <p>Repeat comment in relation to exceeding energy efficiency standards made in relation to LANP2</p>
LANP4	RA2	N	<p>There is no indication of the level of growth to be accommodated in the 3 villages as previously advised. Furthermore there are no settlement boundaries which could assist in demonstrating how the growth will be delivered.</p>
LANP 5	RA3	N	<p>This policy does not include reference to rural exception housing or provision of sites for the needs of gypsies and travellers. Therefore it does not conform</p>

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
			to Policy RA3 of the Core Strategy.
LANP6	SD2	Y	This policy refers to all types of renewable energy and therefore would include wind energy. This policy does not make reference to the additional requirements set out in Policy SD2. It may be that wind energy is not envisaged due to wind speeds but there is no discussion of this issue about this.
LANP7	E1, E3, LO1	N	<p>This policy makes reference to B1 light industry. It would be advisable to remove specific reference to light industry as B1 also includes offices and research and development of products and processes.</p> <p>Given that some of these developments are likely to be of a small scale I am concerned that the blanket requirement to prepare a renewable energy statement may be too onerous.</p>
LANP8	E2	Y	
LANP9	E5	N	This does not reflect the sequential approach that is set out in Policy E5. The NDP has not identified a primary shopping area. However if there is cross reference to E5 and reference to the sequential approach in the policy this will address this concern.
LANP 10	LD3	Y	
LANP11			<p>Further information regarding the justification for designation as open space needs to be included. Large swathes to the south of Leominster have been designated and these could conflict with policy LO1 and LO2 relating to the strategic urban extension.</p> <p>An area of open space is included at Westcroft. This should be removed as</p>

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
			officers have been authorised to grant outline planning permission under delegated powers subject to the completion of a Section 106 agreement. It is not necessary to designate the areas to the East of Leominster as open space as these would be classed as being open countryside.
LANP 12	LD3 part	y	
LANP 13	SD1 part	y	
LANP14	-		
LANP 15	-		
LANP 16	SC1	Y	
LANP 17	LD1	Y	
LANP 18	LD4	Y	
LANP 19	SD1		Requirement to exceed minimum standards is to onerous and could affect viability. Concerned about the implementation of the criteria of the policy.
LANP 20	E4	Y	
LANP21			This policy needs further detail to be more specific and to explain how the policy will be implemented and how applications will be assessed.
LANP 22	MT1	Y	Policies 22, 23 and 24 could be combined into one policy.
LANP 23	MT1	Y	
LANP 24	MT1	Y	

Other comments/conformity issues:

- Objective 2 gives priority to the development of Baron's Cross as it is brownfield land. NPPF encourages the re-use of previously developed land where appropriate rather than giving priority to it. This is also reflected in Core Strategy Policy SS2.
- The use of the term open space throughout the plan could benefit from clarification as to whether the designated spaces identified in LANP11 or whether they are being referred to in the wider sense. If it is the latter then this is potentially over restrictive. It might be advisable to refer to 'designated' open spaces.

Appendix 2

Neighbourhood Development Plan (NDP) – Core Strategy Conformity Assessment

From Herefordshire Council Development Management Team

2nd March 2016

Comments on Leominster Neighbourhood Development Plan – Regulation 16

Policy	Comment
LANP1	<ul style="list-style-type: none"> • The insistence that the link road be provided before any development on the Urban Extension takes place is unrealistic. It fails to recognise the viability of the development as a whole • Reference to a Comprehensive Traffic Management Plan. Not clear who will be responsible for its preparation • Is it appropriate for an NDP to seek to restrict HGV traffic movements in the town? This appears to go beyond the remit of the plan to provide planning policies for new development <p>As a whole the policy is very prescriptive and seeks to control matters of road design that will more appropriately be dealt with by other legislation</p>
LANP2	<p>Part 1</p> <ul style="list-style-type: none"> • Point c requires developers to ‘meet and exceed’ efficiency standards. This is imprecise (a minimum standard should either be met or exceeded) and unnecessary, as development will be required to meet Building Control standards. • Point g is also imprecise. How is a ‘family sized garden’ defined? It also refers to ‘visitor accommodation’, but how does this relate to a policy about housing? • Point h requires provision to be made for self-build on the SUE which will be built out by volume house builders. This is not a reasonable approach • Point j is negatively worded and contrary to the approach advocated by the NPPF. Its intentions are valid but it should be more positively phrased • Points k and l are both unnecessary and should be removed <p>Part 2</p> <ul style="list-style-type: none"> • This refers to small-scale development ‘within or adjoining’ the settlement boundary. If a settlement boundary is to be used then development should be within it, otherwise it is not necessary. • The plan uses the old UDP settlement boundary for Leominster. I fail to understand how the amount of growth required for Leominster over the Core Strategy plan period can be accommodated without re-drawing the boundary. The note to the policy (pg 29) makes reference to this. Its inclusion as a note is inappropriate and should be removed • A re-drawn boundary should include developments that have been permitted recently to reflect the changes to Leominster and should also include the SUE • Points a and b refer back to earlier parts of the policy. Rather than have two parts, there really should be a separate policy for small scale development

LANP3	<ul style="list-style-type: none"> • Point b uses inappropriate language in its reference to ‘off the shelf’ house types. Remove • Point f uses the phrase ‘meet and exceed’ again • Point h is poorly worded and negative and should be re-worded to accord with the NPPF • Point n is negative but would be NPPF compliant with the removal of the words ‘only be’ • Point q is too prescriptive
LANP4	<ul style="list-style-type: none"> • Points a and b - The plan does not provide settlement boundaries for Brierley, Ivington or Wharton and therefore it is a matter of judgement as to whether new proposals are within or adjacent to the main built up area of the settlement. The plan should consider the se of boundaries for these settlements • Point f prioritises the use of previously developed land. Do any of the settlements have any and, if not, is this necessary? • Point j doesn’t actually mean anything and should be removed
LANP5	<ul style="list-style-type: none"> • The policy uses different notation. It should be consistent throughout • Point ii says that replacement dwellings should be no larger than the dwelling to be replaced. This is completely unworkable. If a proposal is one square metre larger, or 0.1 taller, does it mean that it should be refused? This needs to be re-worded to give greater flexibility
LANP7	<ul style="list-style-type: none"> • Point a – The policy needs to be more positive towards development in pre-existing employment areas • Point b - The phrase ‘does not interfere with other residents’ is imprecise and needs to be re-phrased to refer to residential amenity • Point c lack clarity. I don’t understand its intention • Point d seems to refer to improvements to existing business premises. However, the improvements referred to are unlikely to require planning permission and therefore this is largely unnecessary • Point v of the criteria against which proposals will be assessed is unduly restrictive and is adequately covered by points i to iv
LANP8	<ul style="list-style-type: none"> • There should be a plan to identify employment sites
LANP9	<ul style="list-style-type: none"> • Point a completely disregards the sequential approach towards retail development. Also fails to recognise the need for convenience goods floor space as identified in the 2012 Town Centre Study Update. This is contrary to paragraphs 23-27 of the NPPF • Points d to j are again very prescriptive and do not allow any flexibility in the decision making process • It is unclear whether point k refers to the public realm or within application sites. Again very prescriptive in suggesting that tarmac should be avoided. Would this be the case if tarmac was the prevalent material in an area? (no) • What is the justification for point l? Does it apply to new development only? I would suggest that it cannot be applied retrospectively through the planning process to existing development and therefore would prejudice the

	viability of new ones. This should be removed.
LANP11	<ul style="list-style-type: none"> • Many of the areas identified for protection are entirely acceptable. However, the extent of protected open spaces in and around Cockcroft Hill and areas to the west (point j) would preclude development on significant areas of the SUE. It also includes an area that has been granted planning permission for residential development (application reference 150812 – Land off Westcroft) • The text after points a to s then goes on to afford protection to other smaller areas of open space. Again, this is negatively worded in saying that development ‘will not be permitted’. The first sentence should be deleted.
LANP12	<ul style="list-style-type: none"> • The final sentence is negatively worded and unnecessary in the context of the policy. Delete
LANP14	<ul style="list-style-type: none"> • Point b, c and f – I’m not sure that these actually relate to the promotion of healthy communities in the context of the way the policy has been written.
LANP15	<ul style="list-style-type: none"> • This policy is imprecise and should be re-worded. Has it been demonstrated that a new health centre is required? If so, where is the evidence to support this?
LANP17	<ul style="list-style-type: none"> • Point c refers to ‘areas that have traditional “black and white” timber buildings’. This is imprecise and it might be assumed that heritage buildings that are not “black and white” are not afforded any protection. The policy should really refer to listed buildings and others that are considered to be locally important
LANP19	<ul style="list-style-type: none"> • This policy encourages developers to exceed minimum sustainable development standards, where previously (policies LANP2 and LANP3) it is suggested that they should be met and exceeded. What is the implication if developers decide not to exceed standards? These type of references and do not add anything to the eventual determination of planning applications. • With the exception of the point raised above, this policy is well worded and should be the benchmark against which all others are written. It gives clear advice about the expectation of good design.
LANP20	<ul style="list-style-type: none"> • There is a spacing issue in the first sentence • The opening paragraph is negatively worded and needs to be re-phrased to have a positive emphasis • The section in bold at the end of the policy is unnecessary. Impacts on the River Wye SAC should be dealt with under a separate policy
LANP21	<ul style="list-style-type: none"> • Again, negatively worded. Re-draft required to give positive emphasis
LANP23	<ul style="list-style-type: none"> • Remove the final bullet point
LANP24	<ul style="list-style-type: none"> • Who will be responsible for the preparation of a Travel Plan for Leominster Town Centre? This isn’t a planning policy

General comments

The opening sections of the plan are very negatively worded and the inference is that the NDP is seeking to divorce itself from the policies contained within the Core Strategy. It is clear that the suggestion is that housing growth has been imposed on the town, that the NDP does not agree with it but that it has to be accommodated.

The failure to re-draft a settlement boundary for the town is a significant shortcoming of the plan. Without this, it is unclear as to how the projected growth for the town would be met. The use of a boundary will give greater certainty to developers and residents of the town alike.

The plan does not include a specific policy for extensions to dwellings. In an urban area such as Leominster this should be a pre-requisite.

Similarly, there is no policy to cover agricultural development in the outlying areas of the parish. This ought to be considered as there is a potential for large scale development that could have significant impacts. Such a policy might look at the assessment of impacts and refer to measures required to mitigate.

Whilst there are numerous references to biodiversity, water quality and the River Wye SAC, these are all as notes or addendums to other policies. There should be a specific policy that requires development to have regard to the impacts on the River Lugg, its water quality and the consequential impacts on the River Wye SAC.