

Luston Group NDP Independent Examination

Delegated Decision Statement

7 September 2017

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Luston Group Neighbourhood Area
Parish Council	Luston Group Parish Council
Submission	19 December 2016
Examination Date	22 February 2017
Inspector Report Received	03 August 2017

1 Introduction

- 1.1 The Town and Country Planning Act 1990 (as amended), states that the Council has a statutory duty to assist communities in the preparation of neighbourhood development plans and to take the plans through a process of examination and referendum.
- 1.2 The Localism Act 2011 (Part 6 chapter 3) details the Local Planning Authority's responsibilities under Neighbourhood planning.
- 1.3 This Decision Statement confirms that the modifications proposed by the examiner's report have been accepted, the draft Luston Group Neighbourhood Plan has been amended taking into account the modifications, and that NDP may proceed to referendum.

2 Background

- 2.1 The Neighbourhood Area of Luston Group was designated on 6 December 2012. The Neighbourhood Area follows the Luston Group parish boundary. The Luston Group Neighbourhood Development Plan has been prepared by Luston Group Parish Council. Work on the production of the plan has been undertaken by members of the local community through a Neighbourhood Plan Steering Group since December 2012.

- 2.2 The Plan was submitted to Herefordshire Council on 19 December 2016, and the consultation under Regulation 16 took place between 9 January 2017 and 20 February 2017, where the Plan was publicised and representations invited.
- 2.3 In January 2017, Rosemary Kidd MRTPI Planning Consultant was appointed by Herefordshire Council, with the consent of the Parish Council, to undertake the examination of the Luston Group NDP and to prepare a report of the independent examination.
- 2.4 The Examiner's report concludes that subject to making the modifications recommended by the examiner, the plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.
- 2.5 Having considered each of the recommendations made within the examiner's report and the reasons for them, Herefordshire Council (in accordance with the 1990 Act Schedule 4B paragraph 12) has decided to make the modifications to the draft plan referred to in Section 3 below to ensure that the draft plan meets the basic conditions set out in legislation.

3 Recommendations by the examiner

- 3.1 The table 1 below details the recommendations made by the examiner within the report along with the justification:

Policy	Modification recommended	Justification
Modification 1 Policy Maps	<p>Improve the legibility of the Luston village map to ensure that all site boundaries are clearly legible and the shading is clearly distinguishable.</p> <p>Identify the boundaries of all sites and buildings referred to in policies on the Policies Map/Inset Map.</p>	In the interest of clarity
Modification 2 Vision and Objectives	Revise objective 5 to read: " <i>To conserve and enhance the heritage assets, particularly Luston Conservation Area.</i> "	For clarification
Modification 3 LG1	<p>Revise Policy LG1 as follows:</p> <p>Revise the second sentence of the first paragraph to read: "<i>Development should not have an unacceptable detrimental impact on the character of the area in which it is located.</i>"</p> <p>Delete criteria b) and i)</p> <p>Revise criterion g) to read: "<i>Housing development should not be located where existing agricultural or commercial uses would have unacceptable adverse impact on residential amenity.</i>"</p> <p>Add a new criterion "<i>Agricultural and commercial buildings or uses that are likely to give rise to noise or other pollution shall not be located where they would have an unacceptable</i></p>	For clarification and ensuring policy has regard to national planning policy and is in general conformity with strategic local policies and will satisfy the Basic Conditions

	<p><i>adverse impact on existing or proposed housing.”</i></p> <p>Revise paragraph 5.1.5 to read “.....<i>within the Neighbourhood Plan until a programmed scheme of improvements is implemented. The scheme is within year 3 of the current Asset Management Plan and is due for completion by the end of March 2018.</i>”</p>	
Modification 4 LG2	<p>Revise the first paragraph of Policy LG2 to read:</p> <p>Delete first sentence.</p> <p>Revise the second sentence to read: “<i>All new development should make a positive contribution to the distinctive character of the area and...</i>”</p>	For clarification
Modification 5 LG3	<p>Revise Policy LG3 as follows:</p> <p>Revise criterion d) to read: “<i>Development proposals should take in consideration any adverse impact on the Locally Significant View from Luston to Eye Church and Manor shown on Map 2 through a landscape appraisal and impact study.</i>”</p> <p>Delete “and opportunities for local food production” from criterion g).</p>	In order to ensure that the policy is clear and unambiguous
Modification 6 LG5	<p>Revise the first paragraph of Policy LG5 to read:</p> <p>“<i>Development proposals should be located in accordance with the Sequential Test and Exception Tests (where appropriate) and have regard to the Strategic Flood Risk Assessment (SFRA) 2009 for Herefordshire.</i>”</p>	To ensure that the policy has regard to national and strategic local planning policy and in line with Core Strategy Policy SD3
Modification 7 LG6	<p>Revise Policy LG6 as follows:</p> <p>Revise the first paragraph and criteria as follows:</p> <p>“<i>A minimum of 43 new dwellings shall be developed in the Plan area between 2017 and 2031. New housing development in Luston shall be located within the settlement boundary on a site shown on the Policies Map as a housing allocation or on an infill site or through the conversion of an existing building.</i>”</p> <p>“<i>New housing development shall be in accordance with other policies of the development plan and:</i></p> <p>d) Be of an appropriate density within the context of the immediate surroundings;”</p> <p>Include criteria e), f), g), h), j), k) and l). Only include “and” at the end of the penultimate criterion.</p> <p>Renumber criteria.</p>	To provide clarity in the policy overall and clarity regarding the number of dwellings to be developed in the plan area during the lifetime of the plan. In addition, reference to policies RA3, RA4, RA5, H1 and H2 as ‘other policies’ to be included to show accordance with Core Strategy.

	<p>Delete criteria c) and i).</p> <p>Revise the second paragraph to read: <i>“The following sites are allocated for housing development.”</i> include the table with the heading in the third column revised to read “indicative number of dwellings”.</p> <p>Revise the indicative numbers for sites 136/212 and 136/214 to a realistic figure that can be satisfactorily accessed. Add the following <i>“The following sites are housing commitments:”</i> include sites 136/213 and 136/220 with the number of housing approved. Ensure that the site areas are correct.</p> <p>The definition of infill development should be moved to the justification to the policy.</p> <p>Revise the key to the Policies Map and Inset Maps to read Housing Allocations and Housing Commitments and differentiate the shading between the two types of sites. Number each site so that it can be identified. Ensure the Settlement Boundary is clearly legible around the allocations.</p> <p>Update the data set out in Table 1 and Appendix 1.</p>	<p>Herefordshire Council and the Parish Council will work together to provide revise indicated for the two fore mentioned sites.</p>
<p>Modification 8 LG7</p>	<p>Revise Policy LG7 as follows: <i>“New housing development in the settlements of Ashton, Eyton and Moreton should be located where it is contiguous with the built form.”</i> <i>“New housing development shall be in accordance with other policies of the development plan and:</i></p> <ul style="list-style-type: none"> b) Be small scale, proportionate to the size of the settlement; c) Be of an appropriate density within the context of the immediate surroundings;” <p>Include criteria d), e), f), g) h), i) and j). Only include “and” at the end of the penultimate criterion. Include final paragraph on physical and visual linkages.</p> <p>Renumber criteria.</p> <p>Delete criteria a).</p> <p>Add a new paragraph: <i>“Exceptionally housing development outside the settlements of Luston, Ashton, Eyton and Moreton will be supported where it satisfies Core Strategy Policies RA3, RA4 or RA5.”</i></p> <p>Add a new paragraph to the justification to explain how “contiguous with the built form” will be interpreted: <i>“Existing built form is where there are a number of dwellings and other buildings that create a recognisable settlement. The group</i></p>	<p>To ensure that the policy is clear and unambiguous. To provide further clarity in the policy and justification to show accordance with Core Strategy and to enhance explanation of phrasing</p>

	<p>may be close or loosely arranged ranging from as few as four dwellings to a continuous stretch of many". "Contiguous with" is defined as "adjacent to".</p>	
<p>Modification 9 LG8</p>	<p>Delete Policy LG8.</p> <p>Move the aspirational non land use infrastructure and those that are not priorities for developer contributions / CIL to a new section of the Plan under the heading Community Aspirations and clearly identified as not forming part of the Neighbourhood Development Plan: <i>"The Parish Council will seek to the following improvements to road safety, traffic management and public transport: X, Y, Z."</i></p>	<p>To eliminate overlap in policies LG8 and LG14 and to make it clear what and how priorities are to be delivered.</p>
<p>Modification 10 LG14</p>	<p>Revise Policy LG14 as follows:</p> <p>Revise the title of Policy LG14 to "<i>Developer Contributions and Community Infrastructure Levy</i>".</p> <p>Revise the first paragraph to read: "<i>Developer contributions and Community Infrastructure Levy will be sought towards proposals to improve the highway infrastructure. Priority will be given to the following proposals:</i></p> <ul style="list-style-type: none"> • <i>Highway improvement schemes to promote the safety of pedestrians and cycle users; and</i> • <i>Traffic calming measures and the reduction in traffic speeds."</i> <p>Where feasible, include a list of proposals to be funded through this means in the justification.</p>	<p>To eliminate overlap in policies LG8 and LG14 and to make it clear what and how priorities are to be delivered.</p>
<p>Modification 11 LG9</p>	<p>Delete Policy LG9</p>	<p>The policy is not deliverable and has not taken account of national planning policy</p>
<p>Modification 12 LG10</p>	<p>Revise Policy LG10 as follows:</p> <p>Delete the first paragraph of the policy.</p> <p>Revise the second paragraph to read: <i>"Proposals for the redevelopment or change of use of existing employment premises to non-employment uses should demonstrate that they have been vacant for 6 months or more and during that time have been actively marketed for appropriate employment uses without securing a viable alternative use."</i></p> <p>Delete the second bullet point.</p> <p>Revise the third paragraph to read: "<i>The development of new small scale employment premises should:</i>" (revise the wording of the bullet points for grammatical reasons) Delete the final bullet point.</p>	<p>Clarification of employment premises criteria and justification to state that planning applications for homeworking will be considered against Core Strategy Policy E3.</p>

	<p>Reference the criteria with letters instead of bullet points.</p> <p>Delete the second sentence from paragraph 5.5.1. Revise paragraph 5.5.2 to read: "<i>The Neighbourhood Plan seeks to safeguard existing employment premises and encourage</i>"</p> <p>Add the following to paragraph 5.5.4 "<i>Homeworking is also encouraged and where permission is required, proposals will be considered against Core Strategy Policy E3.</i>"</p>	
<p>Modification 13</p> <p>LG11 and Policy Map</p>	<p>Revise the first paragraph of Policy LG11 to read:</p> <p>"The following areas shown on the Policies Map are designated as Local Green Spaces:"</p> <p>Delete Lydiatts Crossroads and delete it from the Policies Map</p>	<p>To ensure clarity of what is included as a green space and remove one allocation as it does not satisfy the criteria of paragraph 77 and should not be designated as a Local Green Space under Policy LG11</p>
<p>Modification 14</p> <p>LG12 and Policy Map</p>	<p>Delete Policy LG12 and delete the sites from the Policies Map</p>	<p>The land is no different to other nearby land in the countryside to warrant special additional protection.</p>
<p>Modification 15</p> <p>LG13 and Policy Map</p>	<p>Revise Policy LG13 as follows:</p> <p>Delete the first sentence of the first paragraph. Revise the second sentence to read: "The re-use of local community facilities for health, education or community uses <i>will be preferred.</i>"</p> <p>Move the sentence to after criterion b).</p> <p>Revise the second paragraph to read: "Proposals for the change of use of an existing community facility to other uses <i>should demonstrate that.</i>"</p> <p>Revise the second sentence of criterion a) "...Such sites should, <i>where feasible</i>, be accessible by"</p> <p>Identify the community facilities on the Policies Map/Inset Map.</p>	<p>To ensure the policy is clear and unambiguous</p>

4 Post Adoption SEA and HRA

- 4.1 The modifications made as a result of the Examiner's report, as outlined above in Section 3 of this document, have been considered in terms of any resultant changes to the Strategic Environmental Assessment and Habitat Regulations Assessment. None of the changes are considered to have a significant effect on the overall appraisals. The updated SEA and addendum to the HRA are available to accompany the final plan.

5 Decision

- 5.1 The Neighbourhood Planning (General) Regulations 2012 requires the local planning authority to outline what action to take in response to the recommendations that the examiner made in the report under paragraph 10 of Schedule 4A to the 1990 act (as applied by Section 38A of the 2004 Act) in relation to a neighbourhood development plan.
- 5.2 Herefordshire Council have considered each of the recommendations made in the examiner's report and the reasons for them and have decided to accept the modifications to the draft plan. The draft plan will be altered in line with Table 1 above in line with paragraph 12 (6) of Schedule 4B to the 1990 Act.
- 5.3 Following the modifications made, the Luston Group Neighbourhood Development Plan will meet the basic conditions:
- Having regard to national policies and advice contained in guidance issues by the Secretary of State, it is appropriate to make the 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 Herefordshire Local Plan – Core Strategy
 - The making of the neighbourhood plan does not breach and is otherwise compatible with EU obligations and
 - The making of the neighbourhood plan is not likely to have a significant effect on a European site either alone or in combination with other plans and projects.
- 5.4 It is recommended that the Luston Group Neighbourhood Plan progresses to referendum. Consideration has been given as to whether the area should be extended beyond that of the neighbourhood area. Herefordshire Council concur with Examiner's conclusion that nothing has been suggested which would require an extension of the area beyond that designated on 4 September 2013.

Signed 

Dated: 7 September 2017

Richard Gabb
Programme Officer – Housing and Growth

