

Vowchurch and District Group Parish Council

# **Vowchurch and District Group Neighbourhood Development Plan 2011 to 2031**

## **Independent Examiner's Report**

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23 June 2017

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## Summary

I have been appointed as the independent examiner of the Vowchurch and District Group Neighbourhood Development Plan.

The Plan is clearly presented and well organised with planning policies clearly defined. Nine policies seek to preserve or enhance the many environmental attributes of this rural Group Parish which lies in Golden Valley. Whilst no site allocations are made, housing development is guided to the settlements of Michaelchurch Escley, Vowchurch and Lower Maes-coed. Smaller homes and affordable housing are promoted. In addition policies supporting the economy through commercial development and tourism are included.

Further to consideration of the Plan and its policies I have recommended a number of modifications that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear enabling it to provide a practical framework for decision-making as required by national policy and guidance.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Herefordshire Council that the Vowchurch and District Group Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI  
Ann Skippers Planning  
23 June 2017



## 1.0 Introduction

This is the report of the independent examiner into the Vowchurch and District Group Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Herefordshire Council (HC) with the agreement of Vowchurch and District Group Parish Council, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of in excess of 30 neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

## 2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The examiner is required to check<sup>1</sup> whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

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<sup>1</sup> Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

The basic conditions<sup>2</sup> are:

- 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
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and is:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site<sup>3</sup> or a European offshore marine site<sup>4</sup> either alone or in combination with other plans or projects.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.<sup>5</sup>

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Herefordshire Council. The plan then becomes part of the 'development plan' for the

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<sup>2</sup> Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

<sup>3</sup> As defined in the Conservation of Habitats and Species Regulations 2012

<sup>4</sup> As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>5</sup> The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

### **3.0 Neighbourhood plan preparation and the examination process**

A Consultation Statement has been submitted. The document details the journey from the very outset of deciding whether to undertake a neighbourhood plan back in 2013 to the outcome of pre-submission consultation.

Early engagement with the community has largely been achieved through two public meetings advertised by letter to all households across the five parishes and in newsletters and by posters as well as direct contact with those with an interest in the area such as landowners. At the public meetings in Michaelchurch Escley and Vowchurch attendees were encouraged to discuss issues, engage and write comments. These comments have been collated into a summary.

The Steering Group then developed a questionnaire hand delivered to households in the five parishes and contact made with those with an interest in the Autumn of 2014. The results from the questionnaire formed the basis of a draft Plan. Although public meetings were organised to discuss the emerging Plan and its themes, these were not well supported. Work continued on the draft Plan during Summer 2015 and further meetings were arranged to discuss the draft Plan and were attended by small numbers of people. The draft Plan was endorsed by the Parish Council at a meeting in January 2016.

Pre-submission (Regulation 14) consultation took place between 22 March – 2 May 2016. The draft Plan was available to view on the Parish Council website and electronic and paper copies were available on request. Advertisements were placed in local newsletters during the consultation period. In addition various bodies were consulted. The Consultation Statement includes a summary of the comments received and the Parish Council response to them. It is a rather basic summary and I would have liked a little more 'flesh on the bones'. For that reason I asked to see the representations made at pre-submission stage just for completeness. As a general comment I would encourage those writing Consultation Statements to include all those making 'no comments' as well as those making more substantive comments to show the range of response to the consultation and for a little more detail to be included in summaries.

I consider that the consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was carried out between 4 January – 15 February 2017. The Regulation 16 stage resulted in eight representations which I have considered and taken into account in preparing my report. I note that one of those representations was countersigned by 14 residents of Vowchurch and I have counted responses from the different departments of HC, rightly or wrongly, as one.

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).<sup>6</sup> PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.<sup>7</sup> Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further additions or amendments are required.

PPG explains<sup>8</sup> the general rule of thumb is that the examination will take the form of written representations,<sup>9</sup> but there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. After careful consideration of all the documentation and representations, I decided that neither circumstance applied and therefore it was not necessary to hold a hearing.

I made an unaccompanied site visit to familiarise myself with the Plan area on 27 May 2017.

Where I recommend modifications in this report they appear as bullet points in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in **bold italics**.

## 4.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

### Qualifying body

The Basic Conditions Statement (BCS) confirms that the Vowchurch and District Group Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is met.

### Plan area

The Plan area is coterminous with the Group Parish Council administrative boundary. HC approved the designation of the area on 30 September 2013. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on page 3 of the Plan. It would be helpful in the interests of clarity to add a sentence that confirms the parish areas are the Plan area.

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<sup>6</sup> PPG para 055 ref id 41-055-20140306

<sup>7</sup> *Ibid*

<sup>8</sup> *Ibid* para 056 ref id 41-056-20140306

<sup>9</sup> Schedule 4B (9) of the Town and Country Planning Act 1990

- **Add “*and the Neighbourhood Plan area*” to the title of the map on page 3 of the Plan**

### **Plan period**

The BCS indicates that the Plan covers the period 2011 – 2031 to align with the CS so this requirement is satisfactorily met.

### **Excluded development**

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the BCS.

### **Development and use of land**

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community’s priorities for the future of their local area, but are not related to the development and use of land. Should I consider a policy or proposal to fall within this category, I will recommend it be moved to a clearly differentiated and separate section or annex of the Plan or contained in a separate document. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.<sup>10</sup> Subject to any such recommendations, this requirement can be satisfactorily met.

## **5.0 The basic conditions**

### **Regard to national policy and advice**

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.<sup>11</sup>

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood

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<sup>10</sup> PPG para 004 ref id 41-004-20140306

<sup>11</sup> NPPF paras 14, 16



plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.<sup>12</sup>

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at <https://www.gov.uk/government/collections/planning-practice-guidance>. The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to it in preparing this report.

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.<sup>13</sup>

PPG indicates that a policy should be clear and unambiguous<sup>14</sup> to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.<sup>15</sup>

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.<sup>16</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>17</sup>

The BCS sets out where the Plan has responded to national policy and guidance.

### **Contribute to the achievement of sustainable development**

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole<sup>18</sup> constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.<sup>19</sup>

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<sup>12</sup> NPPF para 184

<sup>13</sup> *Ibid* para 17

<sup>14</sup> PPG para 041 ref id 41-041-20140306

<sup>15</sup> *Ibid*

<sup>16</sup> *Ibid* para 040 ref id 41-040-20160211

<sup>17</sup> *Ibid*

<sup>18</sup> NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

<sup>19</sup> *Ibid* para 7

## **General conformity with the strategic policies in the development plan**

The development plan consists of the Herefordshire Local Plan Core Strategy 2011 – 2031 (CS) which was adopted on 16 October 2015 and various other documents including the saved policies of the Unitary Development Plan (UDP) (found in Appendix 1 of the CS). I have taken all the CS policies to be ‘strategic’.

The BCS contains a table which sets out the relevant CS policy numbers with a short commentary.

## **European Union Obligations**

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG indicates that it is the responsibility of local planning authorities to ensure that the Plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive) when it takes the decision on a) whether the Plan should proceed to referendum and b) whether or not to make the Plan.<sup>20</sup>

## **Strategic Environmental Assessment**

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004 (the Regulations).

An Environmental Report (ER) dated December 2016 has been submitted as an earlier screening opinion of 13 August 2013 concluded that a SEA would be required.

The ER states that a Scoping Report dated November 2014 was prepared and sent to the statutory consultees from 27 November 2016 – 8 January 2016. I suspected a typing error in relation to those dates and HC has confirmed that the dates should be 2014 for the November date and 2015 for the January date and sent proof that the consultation had been carried out on the corrected dates. Two responses were received from Natural England (NE) and Historic England (HE).

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<sup>20</sup> PPG para 031 ref id 11-031-20150209

A draft ER of February 2016 underwent a period of consultation from 22 March – 2 May 2016 alongside the pre-submission version of the Plan. Only NE responded noting that the ER concludes the objectives of the Plan are in general conformity with the CS and therefore no further comments are made.

After the pre-submission stage, Policies 2, 5 and 7 of the Plan were revised alongside the settlement boundary for Vowchurch and the ER revised accordingly.

The ER was published for consultation alongside the submission version of the Plan between 4 January – 15 February 2017 with no further comments on it received from the statutory consultees.

HC will monitor the outcomes from the Plan's policies annually.

The ER is a comprehensive document that deals with the issues appropriately for the content and level of detail in the Plan. This is in line with PPG advice that confirms the SEA does not have to be done in any more detail or using more resources than is considered to be appropriate for the content and level of detail in the Plan.<sup>21</sup> In my view, it has been prepared in accordance with the Regulations. Therefore EU obligations in respect of SEA have been satisfied.

### **Habitats Regulations Assessment**

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.<sup>22</sup> The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

An initial screening assessment of 13 August 2013 found that no further assessment would be required as there are no European sites within or in close proximity to the Plan area.

A draft HRA was consulted upon alongside the draft Plan at pre-submission stage. A HRA dated February 2016 was consulted upon alongside the Plan at submission stage.

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in primary legislation as detailed in section 2.0 of this report. In my view, requirements relating to HRA have been met and the Plan complies with this basic condition.

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<sup>21</sup> PPG para 030 ref id 11-030-20150209

<sup>22</sup> *Ibid* para 047 ref id 11-047-20150209

## European Convention on Human Rights (ECHR)

The BCS contains a statement on human rights. There is nothing in the Plan that leads me to conclude there is any breach of the fundamental rights and freedoms guaranteed under the ECHR or that the Plan is otherwise incompatible with it or does not comply with the Human Rights Act 1998.

## 6.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. As a reminder, where I suggest specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is very well presented with an eye catching front cover. It contains nine policies which are clearly differentiated from supporting text.

### Introduction

This section explains that the Plan applies to the five parishes of Michaelchurch Escley, Newton, St Margaret's, Turnastone and Vowchurch.

The clearly articulated vision for the Plan area is:

“Looking ahead to 2031, we wish to preserve the beautiful and essentially rural character of the area, whilst accommodating housing developments that enable more families to live in the area, including within existing settlements.”

The vision is underpinned by three objectives. All are clearly worded and relate to the development and use of land covering housing needs, the design of new development and support for businesses including farming and local services.

### Background

Setting out the characteristics of the five parishes, this section explains that together the parishes have a population of about 600. Located in the Golden Valley, renowned for its beauty, all are rural in nature with dispersed settlements and few services.

## The Basis for the Policies in this Plan

This section explains that a number of informal consultations have been carried out with the community. A survey was also undertaken in 2014. The Regulation 14 period of consultation was held in 2016.

The strategy for the rural areas in the CS<sup>23</sup> is positive growth. Overall a minimum of 5,300 new dwellings in the rural areas are to be provided. The strategy is based on seven housing market areas (HMA) and the Parish falls within the Golden Valley HMA which has an indicative housing growth target of 12% according to CS Policy RA1. The CS explains that this proportional growth target in CS Policy RA1 will form the basis for the minimum level of new housing to be accommodated in each neighbourhood plan across the County.

The main focus for development is within or adjacent to existing settlements listed in two figures, 4.14 and 4.15. CS Policy RA2 translates this into policy. Michaelchurch Escley and Vowchurch are identified in Figure 4.14 as settlements which will be the main focus of proportionate housing development. Lower Maes-coed is identified as a settlement where proportionate housing is appropriate in Figure 4.15. In the settlements listed in Figure 4.15 the CS states that attention should be paid to ensuring that development respects the scale, form, layout, character and setting of the settlement.<sup>24</sup> It recognises that by their very nature these settlements do not necessarily have a village centre and are more dispersed in nature.

The CS allows those parishes which have more than one settlement listed in Figure 4.14 and 4.15 of the CS, as this Group Parish does, to have flexibility to apportion the housing requirement between the settlements concerned.

Focusing on settlement boundaries, this section explains that the starting point for designating boundaries for Michaelchurch Escley and Vowchurch was the historical ones. It is clear that attention has been paid to HC's "Neighbourhood Planning Guidance Note 20 Guide to settlement boundaries". For Vowchurch there is a single boundary whilst Michaelchurch Escley has two separate boundaries. Although the CS allows for a boundary to be drawn up for Lower Maes-coed, the Plan explains that this is not considered necessary or desirable given the form of the settlement.

Turning then to housing and businesses, the Plan explains that the survey supported smaller houses and that this is also consistent with HC's Local Housing Market Assessment – 2012 Update (November 2013). The footnote on page 9 of the Plan refers to the title of this document incorrectly and this should be remedied in the interests of accuracy.

The survey also supports the provision of privately owned homes as well as affordable housing. The style of buildings reflecting existing buildings was preferred. The

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<sup>23</sup> Core Strategy Section 4.8

<sup>24</sup> *Ibid* para 4.8.12

conversion of redundant buildings is supported together with the development of small businesses.

- **Correct footnote 2 on page 9 to read: “Herefordshire Local *Housing Market Assessment – 2012 Update, November 2013*”**

## Conclusion

Although this part of the Plan is titled “Conclusion” it contains the Plan’s policies. I found this title a little strange and wonder whether this section could or should be amalgamated with the previous section or retitled, but this is not a matter for me.

### ***Policies for protecting and enhancing the local environmental***

I suspect that the title for this policy is meant to be “environment”. The section also covers just one policy and so, in the interests of clarity, it might be better to change the title of this subsection to “Protecting and enhancing the local environment”.

- **Change the subsection heading to “*Protecting and enhancing the local environment*”**

## Policy 1

Unlike the other policies, this policy does not include a title. This should be remedied in the interests of clarity and consistency.

The policy seeks to ensure that any new development is appropriate, both in terms of scale and design and that important features such as trees and hedgerows and heritage assets are protected. This is in line with national policy and guidance and CS Policies SS6, LD1, LD2, LD3, LD4 and SD1.

The first criterion requires all new development to enhance the natural and historic beauty of the local area. This is a high bar; for every development including small scale developments to demonstrate enhancement, particularly in combination with the other two criteria of the policy, would be difficult and may, unintentionally, thwart the achievement of sustainable development. To help ensure that sustainable development can be achieved and delivered, a modification is recommended.

- **Add a title to the policy which reads “*Protection and enhancement of the local environment*”**
- **Add the words “*preserves or*” before “enhances the natural and historic beauty...” in criterion one**

## *Policies for assessing planning applications for new homes*

### **Policy 2**

Policy 2 permits new housing within the settlement boundaries of Michaelchurch Escley and Vowchurch and within the settlement area of Lower Maes-coed. The defined settlement boundaries for Michaelchurch Escley and Vowchurch are shown on maps found earlier in the Plan and it would be useful for a cross-reference to be inserted into the policy so that there is clarity.

The appropriateness of the settlement boundaries drawn up for Michaelchurch Escley and Vowchurch is something I carefully considered at my site visit to the Plan area.

In relation to Vowchurch, I note there is opposition to the boundary as proposed in the Plan from a number of local residents and I spent quite some time considering the points made in the representation during my visit.

The proposed boundary is drawn around where built development is focused whilst allowing for some scope to add to the existing building groups on areas that, in my view, would not adversely affect the existing buildings or views or the countryside if sensitively designed or on areas that currently contain farm or farm related buildings. Therefore I consider that the boundary has been defined logically and in line with the HC's Neighbourhood Planning Guidance Note 20 Guide to settlement boundaries.

The representation also raised two other matters; the designation of a Conservation Area which falls outside the remit of this Plan. The suitability of the roads for further development is a matter which can be considered on a case-by-case basis at planning application stage. Safety improvements to the crossroads per se would not be a matter for a neighbourhood plan.

With regard to Michaelchurch Escley, two areas have been defined. Both reflect the pattern of development on the ground which essentially is a group of dwellings around a junction. Both areas are defined logically.

The Plan does not take the opportunity given by the CS to define a settlement boundary for Lower Maes-coed. Only the area north of the road falls within the Plan area. I saw at my visit that this is a very scattered settlement with fragmented and loose development. There is no particular or obvious legibility to draw a boundary.

I therefore consider the Plan takes an appropriate approach in relation to the settlements selected for defined settlement boundaries and defines the boundaries in an appropriate way.

The policy then sets out four criteria. The first restricts schemes to a maximum of three homes on each site. This will help to preserve local distinctiveness and manage development.

The second criterion restricts development to “In-fill on land around or between existing buildings”. Infill has a particular definition in planning which I do not think is reflected in its usage here or is what is meant. It is also difficult to see where infill sites in the commonly used definition of the word would be found in the three settlements. Therefore to ensure clarity and to provide a practical framework for decision-making and to provide sufficient opportunities within the three settlements for development whilst respecting the pattern of development in the area and helping to ensure new development integrates satisfactorily with existing buildings, a modification is recommended.

The third and fourth criteria are clear and will help to retain local distinctiveness. The ER makes the point that some areas of Michaelchurch Escley and Vowchurch are subject to flooding and that this should be reflected in the policy. This would add clarity to the Plan and help to ensure sustainable development is achieved. A simple way of incorporating this would be through the addition of a new criterion.

An earlier section in the Plan indicates that about 28 new homes are needed to enable the Parish to achieve proportional growth and this figure is accepted by HC. The settlement boundaries and this policy help to guide where that development might be appropriately located. Whilst I accept there is a level of uncertainty, and that this policy could result in quite a significant amount of development in Lower Maes-coed, the Plan guides development and has, in my view, sufficient safeguards alongside the policies in the CS to resist development that is not sustainable whilst supporting the growth needed. The policy generally conforms to CS Policies SS2, RA1, RA2 and SD1.

- **Add the words “as shown on pages 6 and 7 of the Plan and on the Policies Maps” after “...Michaelchurch Escley and Vowchurch” in the first sentence of the policy**
- **Delete the words “for in-fill” from the second criterion**
- **Add a new fifth criterion that reads: “They are protected from the risk of flooding and will not result in increased flooding to elsewhere.”**

### Policy 3

Similar to CS Policy RA3, this policy addresses development in the countryside. It essentially mirrors CS Policy RA3 and arguably there is no need to include it in the Plan. However, there are some differences including a more flexible approach to the reuse of rural buildings and the needs of travellers. Therefore subject to the correction of a typo, the policy takes account of national policy and guidance in relation to development in the countryside, is in general conformity with CS Policy RA3 and will help to achieve sustainable development.

- **Change the word “designate” in criterion six to “design”**



#### Policy 4

Smaller homes are supported by this policy. There is sufficient flexibility in the policy. It reflects the wishes of the community and the available evidence base at HC level. It will help to deliver a wider choice of high quality homes sought by the NPPF<sup>25</sup> and CS Policy H3. It is clearly worded. It meets the basic conditions and no modifications are recommended.

#### Policy 5

The NPPF explains that good design is indivisible from good planning and is a key aspect of sustainable development.<sup>26</sup> This policy encourages a high standard of design including energy efficiency which both reflects and reinforces local distinctiveness. The policy is clearly worded, it takes account of national policy and guidance, reflects CS Policy SD1 and will help to achieve sustainable development. It meets the basic conditions and no modifications are recommended.

#### Policy 6

Affordable housing is supported by this policy. It does not differentiate between locations for affordable homes, but instead favours schemes that will provide for local needs. Given the characteristics of this particular rural Plan area, this flexibility will help to deliver the affordable housing needed and the rural exception sites permitted by CS Policy H2 whilst other policies of the CS and the Plan will help to ensure that such development is appropriately located. No modifications are suggested as the policy meets the basic conditions.

#### Policy 7

Policy 7 addresses lighting and other amenity considerations. The justification explains that lighting can have an adverse impact on neighbours, the environment and the night sky whilst providing benefits such as reducing the risk of crime and improving safety.

The NPPF seeks to limit the impact of light pollution on intrinsically dark landscapes and nature conservation as well as local amenity.<sup>27</sup> PPG states that artificial light can provide many benefits, but is not always necessary. Light pollution can be harmful or a source of annoyance to people and wildlife, undermine enjoyment of the countryside or

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<sup>25</sup> NPPF para 50

<sup>26</sup> *Ibid* para 56

<sup>27</sup> *Ibid* para 125

detract from enjoyment of the night sky.<sup>28</sup> It continues “the best use of artificial light is getting the right light, in the right place and providing light at the right time”.<sup>29</sup>

The second element of the policy seeks to ensure that the effect on the occupiers of neighbouring properties is acceptable and that new occupiers will not be affected by noise or nuisance.

The thrust of the policy meets the basic conditions. However, the policy sits under a sub heading of “Policies for assessing planning applications for new homes”. I think the first part of the policy regarding lighting applies to all development, not just housing. Arguably it is also development other than housing which is likely to have more of an impact in this respect. My view is reinforced by the second element of the policy which specifically mentions housing development. Therefore to ensure that the policy provides the practical framework sought by the NPPF,<sup>30</sup> to secure one of the NPPF’s<sup>31</sup> core planning principles on amenity and to help achieve sustainable development, modifications are recommended.

- **Split Policy 7 into two separate policies**
- **One policy (to be numbered) will sit under the sub heading title “Policies for other developments” and will read:**

***“Any planning proposals that are for or include external lighting will have to demonstrate that there has been a proper assessment of the need for such lighting. In particular it should be demonstrated that care has been taken to design appropriate lighting which minimises the impact on the occupiers of nearby properties and minimises light pollution and energy consumption.”***
- **The second new policy will be numbered Policy 7 and titled “Amenity” and will read:**

***“New development must provide a good standard of amenity for future occupants and have an acceptable impact on the amenity of the occupiers of existing residential properties.”***

### ***Policies for other developments***

#### **Policy 8**

One of the core planning principles in the NPPF is the need for planning to proactively drive and support sustainable economic development and this is a theme running

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<sup>28</sup> PPG para 001 ref id 31-001-20140306

<sup>29</sup> *Ibid*

<sup>30</sup> NPPF para 17

<sup>31</sup> *Ibid* para 17

through national policy.<sup>32</sup> On the face of it this policy takes account of this by offering support for small businesses. However, the policy is caveated with the phrase “where they are consistent with the overall objective of preserving the existing rural character of the area”. I think in practice it would be difficult for an applicant to demonstrate compliance with this short policy.

The justification refers to CS Policy RA6 and appears to quote from it although I could not find that wording in that CS policy. A modification is recommended to address this. Nevertheless it explains that proposals should be of an appropriate scale, accessible and protects and respects the environment. This then is an indicator of what the policy means. Therefore in order to provide the practical framework sought by the NPPF,<sup>33</sup> a modification to the policy is recommended which brings the thrust of the supporting text into the policy. This will also take account of CS Policies SS5, RA6 and E1.

- **Reword Policy 8 to read:**

***“Proposals for small businesses in the five parishes will be supported where the rural character of the area is preserved. In particular this means that proposals should be of a scale appropriate to their location and setting, suitably accessed by a choice of transport modes and be of a form that protects and respects the environmental and landscape quality of the area in which they are located.”***

- **Delete the words “...which supports proposals “where they are of an appropriate scale for their location, accessible by a choice of transport modes and of a form which protects and respects the environmental and landscape quality.” from the justification to Policy 8**

## Policy 9

Policy 9 supports the provision of new tourism facilities “where this is appropriate and meets current planning guidelines”. Whilst the Plan has identified tourism as a sector worthy of support, the wording of the policy is vague and does not provide the practical framework for decision making sought by the NPPF.<sup>34</sup> Similar to Policy 8, the justification provides more flesh on the bones and it is suggested that this is used as a basis for ensuring the policy meets the basic conditions; in particular the provision of a practical framework and the NPPF’s reference to sustainable rural tourism which benefits businesses, communities and visitors, but which also respects the character of the countryside.<sup>35</sup> This will also reflect CS Policy E4 which supports tourism. The modification is shown on the next page.

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<sup>32</sup> NPPF para 17, sections 1 and 3

<sup>33</sup> *Ibid* para 17

<sup>34</sup> *Ibid*

<sup>35</sup> *Ibid* para 28

- **Reword Policy 9 to read:**

***“The development of new tourism facilities will be supported where they are appropriately located and respect the environmental, landscape and historic character of the area in which they are located.”***

- **Delete the last paragraph of the justification that begins “Any developments...”**

## **7.0 Conclusions and recommendations**

I am satisfied that the Vowchurch and District Group Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Herefordshire Council that, subject to the modifications proposed in this report, the Vowchurch and District Group Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Vowchurch and District Group Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.

I therefore consider that the Plan should proceed to a referendum based on the Vowchurch and District Group Neighbourhood Plan area as approved by Herefordshire Council on 30 September 2013.

*Ann Skippers* MRTPI  
Ann Skippers Planning  
23 June 2017

## **Appendix 1 List of key documents specific to this examination**

Vowchurch and District Group Parish Council Neighbourhood Development Plan 2011 to 2031

Basic Conditions Statement September 2016

Consultation Statement October 2016

Environmental Report December 2016

Habitats Regulations Assessment February 2016

Lower Maes-coed Policies Map

Michaelchurch Escley Policies Map

Vowchurch Policies Map

Herefordshire Core Strategy 2011-2031 October 2015 and Appendices

Saved Policies of the Unitary Development Plan 2007

Herefordshire Local Housing Market Assessment – 2012 Update, November 2013

**List ends**

## Appendix 2

### Questions of clarification to HC and the Parish Council

#### Vowchurch and District Neighbourhood Plan Examination

#### Questions of clarification from the Examiner to the Group Parish Council and HC

Having completed my initial review of the Neighbourhood Plan (the Plan) and the evidence submitted in support of it, I would be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information.

Please ensure that your answers are as brief as possible and factual in nature. Please do not send or direct me to evidence that is not already publicly available.

1. The Consultation Statement at Appendix 3 has a useful summary of the representations received at pre-submission (Regulation 14) stage, but is rather sparse on details. For the sake of completeness I would find it useful to have sight of these representations. Please could copies of all the pre-submission representations be provided to me electronically or in paper format whichever is easier?

This will also allow me to see whether there were any responses to Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment at this stage.

2. The Environmental Report at submission stage (Regulations 15 and 16) link is dated December 2016, but the link goes to an Environmental Report dated February 2016. Is this simply a minor date error or please advise? The Environmental Report seems to be the same as at the Regulation 14 stage?
3. The SEA Scoping Report appears to have been consulted on between 27 November 2016 and 8 January 2016; is this a minor error and should it be 27 November 2014 – 8 January 2015 or please advise.

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this list of clarification questions is a public document and that your answers will also be in the public domain. Both my questions and your responses should be placed on the Councils' websites as appropriate.

With many thanks.

Ann Skippers  
13 June 2017