

Wyeside Neighbourhood Plan 2011 - 2031

Plan submitted for Examination

January 2017

Report to the Herefordshire Council on the
Independent Examination of the draft
Wyeside Neighbourhood Plan 2011 - 2031

September 2017

Examiner: John R. Mattocks BSc DipTP MRTPI FRGS

Contents	Page No(s).
0. Summary of main findings	1
1. Introduction	2 - 3
Appointment	2
My role as an examiner	2 - 3
2. Statutory compliance and procedural matters	3 - 6
Human Rights Act and EU Obligations	5 - 6
3. Preparation of the plan and pre-submission consultation processes	6 - 7
4. The Plan, meeting the basic conditions	8 - 47
Policy wording - General	8
The Main Planning Issue – Housing provision, Policies WH01&02	8 - 22
Other issues arising in plan policies	22 - 46
<i>Policy WB01</i>	22 - 25
<i>Policy WB02</i>	25 - 26
<i>Policy WH03</i>	26 - 28
<i>Policy WH04</i>	28 - 29
<i>Policy WH05</i>	29 - 31
<i>Policy WHD01</i>	31 - 33
<i>Policy WHD02</i>	33
<i>Policy WE01</i>	33 - 35
<i>Policy WE02</i>	36 - 37
<i>Policy WE03</i>	38 - 40
<i>Policy WE04</i>	40 - 42
<i>Policy WE05</i>	42 - 43
<i>Policy WF01</i>	43 - 44
<i>Policies WF02 and WF03</i>	44
<i>New Policy WF04</i>	44 - 45
<i>Correction of errors</i>	45
Annex A. Recommendation 2 – Modification No. 1	46 - 47
5. Formal Conclusion, Recommendations and consideration of Referendum area	48
Appendix 1 Abbreviations used in report	49

Summary of main findings

0.1 It is a requirement of the Localism Act that this report should contain a summary of its main findings. The reasons for each of the recommendations are given in the following sections of the report.

0.2 The principal findings in this report are that the draft plan, subject to the modifications recommended in this report, meets the basic conditions as set out in the Town and Country Planning 1990 Act (as amended), does not breach and is otherwise compatible with EU obligations and is compatible with Convention Rights.

0.3 It is recommended that the plan, as modified, be submitted to a referendum and that the referendum area need not be extended beyond that of the neighbourhood area. My main recommendations for modifications to the individual plan sections and policies are: -

- that housing policies WH01 and WH02 be completely re-written to state the scale of development envisaged and to clarify the terms of development being 'contiguous with the village centre' along with the criteria to be applied in the consideration of applications;
- that the reference to the designation of a Local Green Space in Bredwardine be removed from Policy WH01 and included in a modified form in Policy WE03 only with a clarification of the policy to be applied and the inclusion of additional text to justify such designation within the plan;
- that the village centre at Preston-on-Wye Church (Preston Court) be deleted;
- that Policy WB01 governing new business developments should be re-structured to split out those elements which are examples of the types of activity to be permitted rather than as policy requirements;
- to clarify that Policy WH03 is to be applied in the consideration of applications for housing on rural exception sites;
- that Policy WE01 should be re-written to clarify its meaning and remove repeated references to the sequential and exceptions tests from policy;
- that specific reference to solar panel farms and small wind turbines be deleted from Policy WE04;
- that repeated references to such matters as highways safety, car parking and residential amenity be replaced by a new policy (WF04) bringing such factors together which applies in the consideration of all development proposals.

Section 1 - Introduction

Appointment

1.01 I have been appointed by the Herefordshire Council (HC), acting as the Local Planning Authority (LPA), under the provisions of the Town and Country Planning Act 1990, as amended by the Localism Act 2011, to carry out an independent examination of the Wyese Neighbourhood Plan (WNP) as submitted to the LPA on 1 February 2017. The HC carried out publicity for the proposed plan for a period of 6 weeks between 6th February and 20th March 2017 giving details of how representations might be made, in accordance with Regulation 16 of the Neighbourhood Plans (General) Regulations 2012 ('the 2012 Regulations')¹. I was sent the documentation required under Regulation 17 on 11th May 2017 including copies of all of the representations received under Regulation 16. The examination commenced formally on 26th June 2017. I have taken that documentation and all of the representations into account in carrying out the examination.

1.02 I am a Chartered Town Planner (Member of the Royal Town Planning Institute) with over 45 years post-qualification professional experience in local and central government and latterly as a sole practitioner specialising in development plan policy work. I am independent of the Wyese Group Parish Council ('the Parish Council' – WGPC) and of the Local Planning Authority. I have no land interests in any part of the plan area.

My role as an examiner

1.03 The terms of reference for the independent examination of a Neighbourhood Development Plan are statutory. They are set out in the Localism Act 2011 and in the 2012 Regulations. As an examiner I must consider whether the plan meets what are called 'the basic conditions'². In summary, these require me to consider: -

- whether, having regard to national policies and to advice contained in guidance issued by the Secretary of State, it would be appropriate to make the plan;

¹ All subsequent reference to a Regulation followed by a number is a reference to the 2012 Regulations.

² These are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as introduced in Schedule 10 of the Localism Act 2011)

- whether the making of the plan would contribute to the achievement of sustainable development;
- whether the making of the plan would be in general conformity with the strategic policies contained in the development plan for the area; and to ensure that:-
- the making of the plan would not breach, and would otherwise be compatible with EU obligations relating to Strategic Environmental and Habitats Assessment and that the plan would be compatible with Convention rights, within the meaning of the Human Rights Act 1998; and
- that 'prescribed conditions' would be met and 'prescribed matters' would be complied with in plan preparation and submission.

1.04 Legislation requires that my report on the draft plan should contain one of the following recommendations:-³

- a) that the draft plan is submitted to a referendum, or
- b) that modifications are made to the draft plan and the modified plan is submitted to a referendum, or
- c) that the proposal for the plan is refused.

I may make recommendations for modifications which I consider need to be made to secure that the plan meets the basic conditions or for compatibility with EU obligations and (Human Rights) Convention Rights. The only other modifications which I may recommend are those to correct errors.

Section 2 – Statutory compliance and procedural matters

2.01 The Herefordshire Council formally designated the Wyeside Group of parishes Neighbourhood Area on 25th January 2013. The plan relates solely to the designated area and has been submitted by the WGPC as the 'qualifying body'.

2.02 The title of the plan is given on the front sheet as the Wyeside Neighbourhood Plan 2011-2031⁴ with the date 2017 in large print also attributed to the Wyeside Steering Group, January 2017. That may be the case but the

³ The group includes five parishes: Blakemere, Bredwardine, Moccas, Preston-on-Wye and Tyberton

⁴ On other submission documents the title is given as the Wyeside NDP ('D' for 'Development') which is the correct generic term but I will use the shortened title used for the plan itself.

qualifying body is the Parish Council not the steering group. Such information will not be appropriate for the final version of the plan. The statutory requirement⁵ that the plan 'must specify the period for which it is to have effect', has been met. With the exception of policy WE01.3⁶ the plan does not include provision about development which is 'excluded development'. A plan showing the area to which the Neighbourhood Plan relates has been submitted as required by Regulation 15(1)(a).

2.03 The legislation states that the 'general rule' is that the examination of the issues by the examiner should take the form of the consideration of written representations. However, an examiner must hold a hearing 'for the purpose of receiving oral representations about an issue' where he or she considers a hearing 'is necessary to ensure adequate examination of the issue or a person has a fair chance to put a case'⁷. Before deciding whether a hearing would be required I issued⁸ a list of written questions seeking clarification and further information by way of justification for plan policies. Following my consideration of the Parish Council's written responses⁹ to those questions I felt it necessary to pose some supplementary questions specifically on the implementation of Policy WH01¹⁰. In the light of all the responses together with a few queries¹¹ addressed to the HC I was able to conclude that I had adequate information to proceed with the examination to proceed without recourse to a hearing. I will be referring to my questions and the responses to them throughout this report which is structured along similar lines.

2.06 I visited the Wyeside area on Monday 17th July 2017 (a beautifully sunny summer day). As well as obtaining a general overview of the character and appearance of the area I spent some time in each of the five villages focussing on the implications of the plan policies for possible housing development around each of the village centres identified in the plan. I also walked down from the church at Bredwardine to the River Wye bridge so that I might appreciate the nature of what is described as an 'iconic' view and the area proposed as Local Green Space.

⁵ These statutory requirements are to be found in Section 38B of the Town and Country Planning Act 1990 (as amended by the Localism Act 2011),

⁶ See paragraph 4.82 and recommendation 10

⁷ Paragraph 9 of Schedule 4B to the 1990 Act (as in reference 1 above)

⁸ On 4 July 2017

⁹ Received on 25 July 2017

¹⁰ E-mail to HC dated 2 August 2017

¹¹ E-mail response 3 July 2017

2.07 The WGPC have submitted a Basic Conditions Statement in accordance with the Regulations¹². It includes tables in which the plan is assessed in general terms against the core planning principles in paragraph 17 of the NPPF; against the three dimensions of sustainable development as set out in paragraph 7 of the NPPF and an analysis of individual NP policies in terms of their conformity with the strategic policies of the Herefordshire Local Plan (Core Strategy). It is a helpful analysis which I have taken into account although it is necessary for me to consider the implications and effectiveness of plan policies in rather more detail especially in terms of individual elements of Government policy and sustainable development criteria.

The Human Rights Act and EU Obligations

2.08 Section 6 of the Basic Conditions Statement includes a statement that the plan is fully compatible with the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998. It includes an analysis of the effects of the plan against Articles 1, 6 and 14 of the First Protocol of the Convention. The policies and proposals in the plan are not considered to have a discriminatory impact on any particular group of individuals. No representations have been made concerning this aspect and from my own assessment I have no reason to conclude other than that the approach taken in the plan is fully compatible with, and does not breach, Convention Rights.

2.09 An initial screening report under the Environmental Assessment Regulations¹³ was prepared by Herefordshire Council in May 2013 and consulted upon. The screening opinion was that, owing to the range of environmental designations in an around the plan area, there may be significant environmental effects and that a Strategic Environmental Assessment (SEA) would be required. A scoping report was produced in March 2015 upon which no comments were received from the statutory consultees.

2.10 An initial Environmental Report was prepared in April 2016 prior to the Regulation 14 consultation on the draft plan. It included appendices detailing the environmental effects of the plan objectives, policies, proposals against SEA objectives and identifies alternatives. A revised version was produced in January 2017 taking account of amendments made to 4 policies as the result of that consultation process. Its conclusions are that for the most part many of the

¹² Regulation 15(1)(d)

¹³ The Environmental Assessment of Plans and Programmes Regulations 2004

policies score positively against environmental objectives or have a neutral effect. I am satisfied that the SEA work fully meets the requirements of the EU Obligations¹⁴.

2.11 The initial screening report also includes a section on the requirements of the Habitats Regulations.¹⁵ Three of the parishes within the Wyeside group border the River Wye (including the River Lugg) Special Area of Conservation (SAC), a European site. The conclusion, in paragraph 8.6 of the screening report, is that the neighbourhood plan will not have a likely significant effect on the European site. No responses were received to the statutory consultation. In view of that conclusion an 'appropriate assessment' under the Regulations was not undertaken. An addendum report was issued in January 2017 relating to the amended submission version of the plan reaching the same conclusion.

2.12 From the above, I am satisfied that the submitted plan is compatible with EU environmental obligations and meets the basic condition prescribed by section 1 of Schedule 2 to the Habitats Regulations.

Section 3 - Preparation of the plan and the pre-submission consultation processes

3.01 As required by legislation¹⁶, the WGPC have submitted a Consultation Statement. It sets out details of the public engagement undertaken, meetings and open days summarising the responses received and action taken. In addition a questionnaire was circulated to all households the results of which are set out in Addendum 1 to the Consultation Statement¹⁷. The initial public consultation processes were clearly very thorough and led to a good deal of consensus within the community about the contents of the plan.

3.02 The Consultation Statement sets out the responses to the Regulation 14 consultation identifying the main issues arising and how the representations were addressed in preparing the plan for submission to the local planning authority for examination. Unfortunately there is an omission in that the statement does not include a list of the 'persons and bodies consulted' (the statutory consultees) or details as to how they were consulted.¹⁸ However, this information was supplied¹⁹

¹⁴ European Directive 2001/42/EC

¹⁵ The Conservation of Habitats and Species Regulations 2010, Regulation 102

¹⁶ The Neighbourhood Planning (General) Regulations 2012, Regulations 15(1)(b) and 15(2)

¹⁷ This addendum was not submitted with the initial material and was obtained upon e-mail request.

¹⁸ As required by Regulation 15

upon my request and I am satisfied that that aspect of the consultation process was undertaken effectively.

3.03 I am satisfied that every effort has been taken to publicise the plan and to involve the community in its preparation. In particular, it is notable that no representations were made at the Regulation 16 consultation stage by individual members of the public. Presumably that is an indication of general satisfaction within the community with the plan as a whole.

3.04 I feel that I must, however, comment on the implications of the WGPC decision to produce a criterion based plan rather than to make specific site allocations, particularly for housing. There is, of course, no requirement that neighbourhood plans should make allocations but that places greater emphasis on the wording of the policies which will be used by the local planning authority as a basis for decision-making when planning applications are made. That is one reason why the implementation of Policies WH01-02 is a main issue for my deliberation in the following section.

3.05 In an introductory section of their responses to my initial questions, under the heading 'Adoption of a Criteria Based Plan', the WGPC have stated that following the referendum on the plan, provided it is successful, the Parish Council intend to become more active in consultation with landowners, developers and residents regarding the identification of specific sites for development. A similar point is made in response to my question 12c. There is also mention of other work to identify the need for affordable homes and on housing mix and dwelling sizes. From this it appears to be the intention of the WGPC to undertake this work outside of the neighbourhood plan process and yet it should be a fundamental part of it. There is nothing in the plan about any monitoring or review processes. No plan should be seen as a 'one-off'.

3.06 It is not within my remit to make a formal recommendation on the need for an early plan review but everything the WGPC have stated in their written submission indicates that this plan is, in effect, work in progress. If, through discussions with landowners and developers, specific sites for housing development are identified then community consultation on those sites should be in the context of proposed alterations to the neighbourhood plan. The revised plan would also need to be considered for Strategic Environmental Assessment.

¹⁹ E-mail from Herefordshire Council 26 July 2017

Section 4 - The Plan, meeting the basic conditions

4.01 This section of my report sets out my conclusions on the extent to which the submitted plan meets those basic conditions which are set out in the first three bullet points in paragraph 1.03 above. If I conclude that the inclusion of a policy in the plan means that, as submitted, it does not meet one or more of the basic conditions, I recommend a modification to the plan policy in order to ensure that the plan, taken as a whole, does meet those conditions.

Policy wording - General

4.02 I see that there is an extract from the Planning Practice Guidance²⁰ under the heading Definition of Policy at the top of page 8 in the plan. I referred to it by way of comment in the introductory section to my questions for clarification sent to the WGPC. This states: 'A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.' The same extract also states that a policy should be concise, precise and supported by appropriate evidence. These are important principles which underlie my consideration in the following paragraphs of individual policies against the basic conditions. Cross-references between policies are unnecessary because the plan has to be read as a whole. It also means that planning policy statements, in the coloured boxes, should not include explanatory comments or notes to justify the policy. These are often included in brackets within the policy boxes but they should be separated out and moved to the plan text. I make a general recommendation to that effect before moving on to the main issue.

Recommendation 1

Remove all explanatory statements from within the coloured policy boxes and include such statements within the accompanying explanatory text for the relevant policy. Also delete cross-references between policies.

²⁰ Reference ID: 41-041-20140306

Main planning issue – housing provision and delivery – Policies WH01 and WH02

4.03 The main planning issue for this examination arises in part from representations made on the plan by the Herefordshire Council. These have come from both the strategic planning and development management teams. The main issue is whether the plan, particularly in meeting with the provisions of WNP Policies WH01 and WH02, is likely to deliver the amount of housing required under the strategic policies of the adopted Herefordshire Local Plan (Core Strategy)(HCS) in a manner which has regard to Government policy and guidance and which would contribute to sustainable development.

4.04 The HCS was adopted in October 2015 and so is a relatively recent planning document. As such it may reasonably be expected to accord with Government policy and guidance in the shape of the National Planning Policy Framework (the NPPF) and the accompanying Planning Practice Guidance (PPG). It is evident from the Basic Conditions Statement submitted with the plan by the WGPC that attention has been paid to these documents when compiling the WNP.

4.05 The HCS strategy for the development of rural areas is to improve sustainability by providing for positive growth through the development of appropriate rural businesses and housing²¹. The evidence base for housing provision in the HCS identifies needs at the level of Housing Market Areas (HMAs)²². The minimum housing provision for the rural areas of 5300 dwellings 2011-31 under HCS Policy RA1 is apportioned between the HMAs in accordance with the table thereunder with 304 dwellings to be provided within the Golden Valley HMA within which Wyeseide is located. That represents a growth of 12% against the base (2011) housing stock over the plan period. As indicated in paragraph 4.3 of the WNP the proportionate requirement²³ for Wyeseide is 39 dwellings of which 6 were committed in 2014. I am informed²⁴ that the position as at 1 April 2017 was that 3 of the 6 dwellings had been completed with 3 outstanding permissions. The table will require updating. The 'residual' requirement 2011-2031 remains as 33 dwellings.

²¹ HCS, paras. 4.81-3

²² GL Hearn Local Housing Requirements Update September 2014

²³ Derived from HC Rural Housing Background Paper, March 2013, para. 5.26

²⁴ E-mails from HC, 3 July 2017

4.06 There is strong emphasis in Government policy on ensuring that housing proposals in plans are deliverable. In the PPG²⁵ it is stated that if the policies and proposals are to be implemented as the community intend a neighbourhood plan needs to be deliverable. Sites are not allocated in the WNP for housing development nor does the plan set any target for the totality of housing provision although the total numbers deemed to be acceptable in each village are given in paragraph 4.4 derived from questionnaire survey. The figures in that paragraph total 38 which would, as stated, 'reasonably support' the HCS requirement if that number of houses is actually built.

4.07 The strategic planning team of the Herefordshire Council have made formal representation questioning the deliverability of sites contiguous with the village centres. However, it is necessarily the case that a criterion-based policy does not provide the same degree of certainty about delivery as would site allocations made after discussion with landowners and developers about their intentions, at least for the first five years of the plan period. In paragraph 5.4 of the Consultation Statement it is stated that 'careful on-site analysis has confirmed that the criteria-based approach ... offers significantly more development options than is required to meet growth requirements.' That analysis work has been made available as part of this examination at my request because I wished to satisfy myself in the light of the HC comments that there would be a reasonable prospect of sufficient land being brought forward to meet the HCS requirements.

4.08 Although the WGPC see under-provision as more of a problem than over-provision from the plans provided I concur with the conclusion that the potential development options could, indeed, significantly exceed the proportionate HCS provision for this area. Neighbourhood Plans may promote more development than the local plan but there is no indication in the WNP of such intention. Furthermore, the absence of any indication in policy of the overall quantum of housing within each village would make it difficult for the LPA to refuse applications for development which meet the policy criteria even if the amount of new housing development indicated in paragraph 4.4 had already taken place. The HCS figure is a minimum²⁶ but the quantum is reflective of a strategy which places emphasis on support for the sustainability of the rural area. A level of

²⁵ Ref. ID 41-005-20140306

²⁶ As explained in the HCS para. 4.8.21

development unrelated to the services and facilities needed in support would not contribute to sustainable development which is one of the basic conditions for neighbourhood plans.

4.09 National policy, as stated in paragraph 55 of the NPPF encourages a more flexible approach to development in groups of smaller settlements assuming a functional relationship between the settlements in a group to maintain or enhance sustainability. In that respect, the Wyeside group does not function in isolation from those larger settlements within the Golden Valley HMA which have a higher order of service provision, including a primary school. The level of housing development envisaged by the WNP is in line with the proportionate approach advocated in the HCS. Significantly greater amounts of housing development would not be in general conformity with the HCS. For those reasons, I consider that a figure for the overall provision of housing within the plan area should be stated within Policy WH01, albeit in approximate terms to provide a degree of flexibility.

4.10 Any criterion which gives a target for the number of houses to be completed over the plan period should be as up to date as possible when the plan is made. It should, therefore, relate to the residual figure as discussed in paragraph 4.05 above specifying the distribution between the villages given in WNP paragraph 4.4. However, as explained in that paragraph it is a priority to provide developments in Bredwardine and Preston-on-Wye of a sufficient size to secure an element of affordable housing. No local housing needs survey has been undertaken for Wyeside. Instead, reliance is placed on the questionnaire circulated at parish level and comments made at an open day for young farmers showing some variation from the GL Hearn study at HMA level which, as discussed in paragraph 4.58 below, suggests a need for the provision of affordable housing for young families. Under Government policy and HCS Policy H1 the minimum site size threshold to achieve an element of affordable housing on a mixed site is 'more than 10' (i.e. 11 or more) not '10 or more', subject to floor space considerations. That is a simple error of interpretation. Commitments and completions²⁷ in Bredwardine and Preston-on-Wye will, therefore, be over and above that requirement. The only completion outside those two larger villages has been the one in Tyberton.

²⁷ Completions: Bredwardine 2, Peston 1; Commitments: Bredwardine 2 (Tyberton 1)

4.11 Government policy on neighbourhood plans is that communities should be able to shape the nature and type of development in their area²⁸. In that regard it is not unusual for indications to be given in plans about the optimum size of development schemes which would respect the character of any particular village. As indicated in paragraph 4.5 of the WNP, the Wyeside communities through the questionnaire returns, as detailed in Appendix 4, have expressed opinions on the acceptable size of development in each place although it is stated in the text that the numbers are provided 'as a guide only'. This brings in to question²⁹ the purpose of including the fourth bullet point in the policy which gives the numbers as a 'preferred maximum'.

4.12 It is made clear in the Planning Practice Guidance that policies in neighbourhood plans are implemented through decisions on planning applications, mostly by the LPA but it can be by an Inspector on appeal or even the Secretary of State in some instances. There is no place within policy, as shown in this plan by coloured boxes, for anything intended as guidance. Explanatory notes should not be included within the policy box either. That is a function of the plan text by way of justification for a particular policy choice. Guidance and community preferences do not have the status of statutory policy³⁰ and, for clarity, should be distinct. The size of development sites is clearly a land-use matter which would be capable of inclusion in statutory policy, but because it would pose a constraint on development there would need to be robust and proportionate evidence to support it. An expression of opinion does not constitute evidence. However, the parish has chosen not to specify site size in the policy but to give an indication of community preference. That is an aspirational statement.

4.13 However, as discussed in paragraph 4.10 above, an interpretation of paragraphs 4.4 and 4.5 in the plan text together with the 'preference' for larger housing developments in Bredwardine and Preston-on-Wye means that only one development of a minimum of 11 dwellings is envisaged in each of those villages, although there may be alternative sites for such provision. The wording in brackets within the fourth bullet point of Policy WH01, although really an explanation of the larger site size, indicates it is more than just a preference. It is a distinct policy requirement which is repeated in the second bullet point of

²⁸ NPPF, paragraphs 185-6

²⁹ My question 14

³⁰ Meaning statutory development plan policy for the purpose of applying s38(6) of the 1990 Act

Policy WH02 – ‘where sites of ten or more dwellings are supported’. For clarity, the fourth bullet point in Policy WH01 should be replaced, linked to a statement of the overall quantum of housing development in the plan area³¹, by a policy criterion stating specifically that housing development of sites for 11 or more dwellings will be permitted in Bredwardine and Preston-on-Wye. That would then complement and provide greater detail than HCS Policies RA1 and RA2. The Development Management team are, however, correct to point out that the policy cannot require a development to be for more than ten dwellings.

4.14 That leaves the preferences for the amount and size of development in Moccas, Blakemere and Tyberton as indicated in paragraphs 4.4 and 4.5. Those are aspirations, no more no less, and should not be stated in policy. A complication has also been introduced by the last WGPC response to me in which they indicate that there is a lack of interest in development from landowners in both Tyberton and Blakemere ‘although an occasional development plot and some re-use of farm buildings may occur in the longer term.’ That casts considerable doubt on the community aspirations for those two smaller villages although it would seem that various development options have been discussed with landowners at Moccas. On reviewing all of the material which has been presented to me I am satisfied that there is a reasonable prospect that the residual HCS housing requirement might be met by the two large developments in Bredwardine and Preston-on-Wye (11 each) plus the preference for 8 in Moccas. The total of 30 takes no account of potential conversions of existing buildings for residential use. The extant permissions and recent completions demonstrate the potential for that source of supply. It means that, given the uncertainties, there would be no mention in the plan of possible housing provision in either Blakemere or Tyberton. I deal with the implications for the identification of village centres below. WNP paragraph 4.5 may remain unaltered allowing a decision-maker to take it into account as a material consideration.

4.15 In order to ensure the delivery of the housing envisaged by the HCS the criteria in Policy WH01, as well as WH02 which is closely associated with it, need to reflect the positive approach to planning sought by Government³². The criteria included within the policies should not, either individually or in aggregate, present such a list of requirements that they pose undue constraints

³¹ See paragraph 4.09

³² NPPF paragraph 16.

on development. That is especially so given the statement that all criteria need to be satisfied before an application for housing development is approved. I examine the remaining criteria within the two policies in that light.

4.16 *Relationship between policies WH01 and WH02.* As I pointed out in my questions there is an overlap between these two policies. The first bullet point in Policy WH02 overlaps with the sixth in Policy WH01 and the second bullet point in Policy WH02 with the fourth and thirteenth bullet points in Policy WH01. In response the WGPC suggest the deletion of the sixth and thirteenth bullet points in Policy WH01 and some amendments to the wording in Policy WH02. I agree that for the sake of clarity the overlap between the two policies should be avoided. Policy WH01 should be the main policy to determine the overall quantum and location of housing development with Policy WH02 dealing with dwelling type and size. I recommend a composite modification (No. 1) to both policies WH01 and WH02 as set out in Annex A to this report.

4.17 *Policy WH01. First bullet point.* In response to my question (no. 10) about the intentions behind this criterion, which arose from a representation by the HC DM section the WGPC have stated that it 'is meant to refer to a consultation process with the local community prior to submission of a plan for approval'. By that I assume a 'plan' means a proposal for development, i.e. pre-application. But that rather misses the point. It is the neighbourhood plan process itself which provides an opportunity for the local community to be involved in the selection of sites and Housing Objective 1 should have been delivered as part of that³³. As that has not been done it is clearly desirable that the community should be given an opportunity to comment as at early a stage as possible in the formulation of any proposal but it cannot be made a requirement that an applicant should 'demonstrate community support' as a pre-condition for permission to be granted, which is the way Policy WH01 is phrased. Consultation processes are procedural matters properly dealt with in Herefordshire Council's Statement of Community Involvement (SCI). SCI paragraph 10.16 strongly encourages pre-application community consultation for 'significant development', which includes proposals for 10 or more houses, but it does not, and could not, require it.

³³ See also my comments on the possible need for plan review if sites for development are identified.

4.18 How consultation is undertaken is an entirely procedural matter, not a land-use one. The PPG advice is that non land-use matters can be included in a neighbourhood plan but should be clearly distinguishable from statutory policy, for example in an annex. As a community aspiration, the WGPC's desire that any proposal should receive community support could be included in such an annex which could cover the Parish Council's own procedures for community consultation when an application is received. The fact that the community did not support a particular proposal and the reasons for that lack of support, or opposition, would undoubtedly be a material consideration for the LPA which might well influence the eventual decision but there would have to be sound planning reasons for any refusal.

4.19 For the above reasons I recommend deletion of the first bullet point from the policy for the plan to meet the basic condition of having regard to Government policy and guidance. There is no basis for me to recommend how the WGPC might then involve the local community in discussions with landowners and developers to promote development within the parameters set by the neighbourhood plan policy criteria. It will be a matter entirely for the Parish Council to decide how best to publicise their intended approach to public involvement in any such negotiations.

4.20 *Policy WH01. Second bullet point.* This policy provision is one of the most important in the whole plan. I regard it as so central to the implementation of the plan that, for clarity, it should not be treated as a criterion on an equal basis with the others but as the main tenet of the policy which is stated at the outset. The other criteria would then represent factors to be taken into account in deciding whether housing development on sites which are contiguous with the village centre(s) were acceptable. It is crucial in that respect that the meaning of the words used are precise and clearly understandable for the decision-maker.

4.21 The WGPC have chosen not to use the conventional approach of identifying settlement boundaries drawn on a Policies Map to define the edge of the main built-up part of the villages. Unfortunately words are always more open to interpretation and argument as to their meaning than lines on maps. Lines represent certainty both for the decision-maker and the landowner. They also provide an opportunity for representation on a plan that a line should be drawn in a different place to that chosen by those drawing up the plan.

4.22 In response to my initial questions the WGPC suggested that they might produce a supplementary document expanding upon the circumstances in which an area of land (by its very nature an area of land must always be 'spatial') is considered to be *contiguous with the village centre*. However, the meaning of the terms in a plan must be clear from the plan itself.

4.23 The WGPC's responses to my questions, including my supplementary request for clarification, confirms the concept of the 'village centre' is broader than that of the red circle shown on the Policies Maps around a village facility (community hall, pub, church) but includes any existing development which is itself 'contiguous with' (that is adjacent to, neighbouring or abutting) that centre, as indicated in the wording at the foot of page 23 of the plan under Figure 7. The WGPC have accepted a revised wording for the policy which I recommend within Modification No. 1 with a slight variation.

4.24 The variation is to include the word 'existing' to qualify the word 'centre'. That is because without such qualification there would be the potential for the outward extension of ribbon development along roads leading away from the village centre which would not contribute to sustainable development. Using as an example the excellent diagrams within Figure 7, the existing centre is shown by green squares in Phase I but the new houses abutting the centre shown as yellow are shown as green at Phase II with some additional 'acceptable' houses in yellow. Where those additional yellow boxes represent infill there would be no difficulty but where they are on the outer edge of the settlement there would be the potential for a further 'yellow' plot further out at the next 'phase' *ad infinitum*. Cumulatively, such ribbon development could have a significant effect on the character of the village especially as, for individual dwellings, it could take as little as a year to 18 months to complete a 'phase'.

4.25 I also questioned the appropriateness of new housing development in all instances contiguous with the centres shown on the Policies Maps. The WGPC have responded indicating that the identification of a centre at Preston-on-Wye Church (Preston Court) is of an historical nature there being little potential there owing to fluvial flooding. This leads me to conclude that the identification of Preston Church as a village centre when applying Policy WH01 to it would not contribute to sustainable development and it should not be so identified for that reason. The position of the centres at Blakemere and Tyberton is less clear cut. The potential for housing development there may be minimal but they are listed

in Figure 4.15 of the HCS as smaller settlements to which HCS Policy RA2 applies. If they were to be deleted as centres the HCS policy would continue to apply but it might be more difficult to deliver on the community aspirations for those villages should opportunities arise. On balance, I consider that the application of the criteria in Policy WH01, subject to the recommended modification discussed above, will not contravene any of the objectives behind the basic conditions for neighbourhood planning. They should remain as centres.

4.26 Moccas also has two centres identified by red circles on the Policies Map. The northern group is centred around the village hall but the identification of the war memorial at the crossroads between Woodbury Lane and the B4352 as a village centre does not easily fit the criteria for the identification of such centres. The only existing development which might be described as being contiguous with such a centre is the ribbon of housing along the southern side of the B4352 westwards from the cross. The WGPC have clarified that the intention would be to provide for a more coherent settlement pattern consolidating the small group of older houses further down Woodbury Lane.

4.27 This drew to my attention the omission of the qualifying words 'where land on the opposite side of the road from a building designated as the centre of a village is a green space (no houses having been built in that location) no housing development will be allowed in that area.' which had been included in Policy WH01 in the Regulation 14 draft. Without such a qualification the three fields to the NW, NE and SE of Moccas Cross would be candidates for development being contiguous with that centre. I am in little doubt that development of that nature in this location would not contribute to sustainable development and would be unlikely to be regarded favourably in terms of general conformity with the HCS. The WGPC have confirmed that this omission was an unintended consequence of a revision specifically relating to land opposite the Red Lion in Bredwardine. Even though there has since been written confirmation by representatives of the Moccas Estate that development of the fields in question is not envisaged I consider that a modification to the policy to include the qualifying words remains necessary to ensure that the objectives of the plan are achieved.

4.28 *Policy WH01. Third bullet point.* In my questions I drew attention to the overlap between this bullet point and Policy WE03 and the fact that it does not read as a criterion but as an individual policy constraint. The WGPC have agreed that the plan would have greater clarity if this bullet point was to be deleted and

the issue of the protection of green spaces dealt with only in Policy WE03. I agree and consider the merits of a revised Policy WE03 in paragraphs 4.89 to 4.96 below, specifically on the designation of a Local Green Space.

4.29 *Policy WH01. Fifth bullet point.* My main concern with regard to the inclusion of a reference within policy to the 'RIBA 2016 Best Practice on Village Design' is the degree of specification and the fact that there has been no discussion with landowners or developers about the acceptability of this particular model of village development. It would be important to establish, for any particular site, whether it would be feasible or practicable to achieve this particular layout and access arrangement bearing in mind marketability and hence viability factors. There is also no evidential basis to justify applying the model to developments as small as three dwellings when providing access at to more than one road, as shown on the diagram, may not be a viable proposition. As currently worded, the policy could preclude otherwise desirable development contrary to Government policy.

4.30 The intentions behind the policy to achieve development which is in character and well connected to the existing village are laudable ones but if the main purpose is to avoid dead-end culs-de-sac then that should be explicitly stated together with a wording which provides greater flexibility. It is neither appropriate nor necessary to name the RIBA model within policy as its status is unclear³⁴ and such specific reference introduces potential obsolescence to the plan should the source document be modified, revised or withdrawn. I recommend a revised criterion which encompasses the principles sought but with some flexibility and less prescription.

4.31 *Policy WH01. Seventh bullet point.* The main part of the policy, to replace the second bullet point, is recommended for modification to cover infilling within the existing centre(s). Also, relating to the existing built form is a similar consideration to the effect of development on the character of the area. The criteria are recommended to be merged for simplicity and clarity.

4.32 *Policy WH01. Ninth bullet point.* I understand that this criterion, to encourage 'active travel', was introduced as the result of a suggestion by the Herefordshire Council even though it adds nothing to the third criterion in HCS Policy MT1. Furthermore, it is not at all clear what provisions it is intended should be made and how it would be achieved. There is no justification in the

³⁴ It does not appear to be an RIBA policy document and is not referenced in any planning practice guidance.

plan for the criterion and no evidence to support it. The inclusion of such a requirement without supporting evidence is contrary to Planning Practice Guidance³⁵.

4.33 *Policy WH01. Tenth bullet point.* The WGPC have accepted that in the interests of clarity repetitive criteria covering such matters as the effect on residential amenity along with highways considerations should be replaced by a new policy (WF04) covering all such factors. It is also agreed that cross-references between policies are unnecessary because the plan has to be read as a whole, as recognised in the final sentence of paragraph 1.2 in the plan. This will be covered by a general recommendation at the end of this report.

4.34 More specifically, the requirement that there should be 'no adverse impact on future residential occupants from existing development' would be impossible to implement because conditions or restrictions could not be imposed retrospectively on any existing development unless, for example, a use was taking place in contravention of environmental conditions. On the related point raised by the Environmental Health Officer, I consider that Housing Objective 7 is wide enough in its scope. It is the location of noise-sensitive development relative to existing uses which may cause disturbance which is the relevant planning consideration.

4.35 *Policy WH01. Twelfth bullet point.* The national priority given to the use of brownfield sites for housing is put into effect primarily through the choice of sites for housing when options present themselves for site allocations through the development plan process. The WGPC have acknowledged that there are presently no known brownfield sites within Wyese. This policy is worded as a development management policy with criteria needing to be satisfied before planning permission is granted. An applicant cannot 'give priority' to the development of a brownfield site which is not in their ownership. This criterion could, potentially, result in the refusal of a proposal meeting the other criteria in the policy which would otherwise be sustainable development. It represents a potentially harmful constraint on development contrary to national policy and should be deleted to satisfy the basic conditions.

4.36 *Policy WH02.* As indicated in the preceding paragraphs, for clarity in the plan, as the title suggests, this policy should deal with housing mix; tenures, types and sizes. The WGPC have suggested that the sixth bullet point in Policy

³⁵ Ref ID 41-040-20160211

WH01 should be deleted and merged with the first criterion in Policy WH02. In the submitted plan this criterion provides only general encouragement for 'an appropriate mix' of tenures, types and sizes 'that reflect the needs of Wyeside'. On the other hand, the sixth bullet point in Policy WH01 is more prescriptive and specifies that the mix should be of 'predominantly two and three bedroom properties' but may be one bedroom 'where a local need has been identified' or 'larger homes where a market has been identified'.

4.37 In practice, both of these policy criteria are so broadly phrased that they give no real guidance to a plan user on what is required, nor for that matter would they assist a decision-maker in assessing whether a particular proposal met with plan requirements. More significantly, this is an example of where any policy stipulation, because it would potentially intervene in the judgment of the market as to the type of housing which would sell, should have had regard to the practice guidance advice that any choices, in this case of house sizes, should be based on 'proportionate, robust evidence'.

4.38 The statistical analysis in Figure 8, paragraph 4.8 of the plan represents robust evidence for existing dwelling sizes. It shows that there is a significantly smaller proportion of small (one and two bedroom) properties and a higher proportion of larger (three and four bedroom) houses in Wyeside than in the Golden Valley HMA as a whole. However, it is not clear what conclusion can be drawn from that about future needs.

4.39 I accept the comment made by the WGPC that the GL Hearn study, from which statistics about future needs have been extracted³⁶ and quoted at the start of paragraph 4.8 in the plan, relates to the HMA as a whole and makes assumptions that may not be applicable in Wyeside. However it should be noted that the figures in paragraph 4.8 apply only to open market housing, not to affordable housing. If Policy WH02 is intended to apply to all new housing then it must also include affordable housing for which GL Hearn identify a significantly different profile of need by dwelling size with a markedly larger proportion of smaller dwellings, especially one-bedroomed³⁷.

4.40 In effect, the WGPC challenge the conclusions of the GL Hearn study and prefer information gathered 'on the ground' in Wyeside. They have expanded upon their criticism in their written responses. I do not accept that the GL Hearn

³⁶ Herefordshire Local Housing Market Assessment – 2012 Update, paragraph 13.49, Figure 65.

³⁷ As above, paragraph 13.51, Figure 66.

study is erroneous. It is soundly based on a study of demographic trends at County level working down to the HMAs. It is not designed for direct translation down to smaller areas although there is some mention of differences between the northern and southern wards of the Golden Valley HMA. As the balance within the existing stock varies by smaller area so will any needs analysis. In the local questionnaire, question H4 does not ask the respondent to indicate what their household requirements might be in the future. It seeks an opinion as to what sizes of dwelling there should be within the plan area. It does not ask about need or demand nor does it identify whether the respondent is likely to want to move from their existing accommodation. That is neither robust nor proportionate evidence of the kind required to specify any particular house size by way of policy. There is no specific identification in Appendix 1 of the Consultation Statement of the responses made at the Young Farmers Club (YFC) in August 2014 nor is there any reference to verification interviews. I have been supplied with more information about the questions put to the YFC and it is understandable that there will have been emphasis by that group on the need for accommodation large enough to accommodate families.

4.41 There would also be practical difficulties in the implementation of a policy which would permit larger, presumably 4 bedrooms and more, houses where a market had been identified. It might well be that it is seen to be desirable to attract families into the area but as the policy is drafted it would enable any developer who identified a market for larger houses to provide only for that market.

4.42 In summary on this matter, the evidence does not support a policy which specifies any particular range of house sizes other than a general provision that there should be 'predominantly two and three bedroomed properties' and then only within market housing, not affordable. There is no local analysis of any dwelling size requirements within the affordable housing sector. A requirement to 'reflect the needs of Wyeside' would be meaningless unless that need was clearly identified and supported by evidence. The numbers involved are small. It is to be noted that HCS Policy H3 applies only to developments of 50 houses or more. I recommend, within Modification No. 1, the deletion of the sixth bullet point in Policy WH01 and the inclusion of an abbreviated requirement in the first criterion of Policy WH02.

4.43 I turn now to the second part of Policy WH02 which is linked to the requirement in the fourth bullet point of Policy WH01 for the provision of larger (11+ dwellings) housing developments in Bredwardine and Preston-on-Wye to secure a proportion of affordable housing. There is a degree of repetition of the first bullet point requiring an unspecified mix of tenures, (house) types and sizes. The main thrust appears to be that there should be some affordable housing within the mix on the larger sites and that these should be integrated across the site. I also consider that the final bullet point in Policy WH03 is out-of-place in that policy which, it has been clarified, should apply to 'exception sites', as discussed in paragraphs 4.54-62 below. In order to provide a clear policy context, the treatment of affordable housing on mixed sites is more appropriately covered within Policy WH02.

Recommendation 2

Delete Policies WH01 and WH02 and replace them by new policies as set out in Modification No. 1 in Annex A to this report.

Other issues arising in plan policies

4.44 In this part of my report I deal with the remainder of the plan policies primarily seeking to ensure that sufficient regard is had to Planning Practice Guidance on the need for policies to be clear and unambiguously worded so as to provide a context for decisions on planning applications. This is done in plan order, starting with the employment (WB) policies in section 3. Where a policy is not mentioned it means that I am satisfied that the plan meets the basic conditions with the inclusion of that policy

4.45 *Policy WB01 – New Business Opportunities.* The WGPC have accepted that the first six bullet points under this policy are not, in themselves, policy requirements. They are examples of the types of employment uses which are seen as diversifying the local economy but it is not clear how they relate to the list of the types of employment to be encouraged in paragraph 3.6. That makes the plan unclear. It is likely that any new employment would be regarded as a local benefit unless it resulted in demonstrable harm. Full regard must be had to paragraph 28 in the NPPF.

4.46 I notice that the policy is very closely modelled on HCS Policy RA6 with only subtle differences, presumably examples which do not apply locally. The purpose of a neighbourhood plan policy should be to provide greater detail than

the local plan, applying it to the particular local circumstances. It seems to me that it is paragraph 3.6 in the text which does that and it is that list which might most usefully be included at the start of the NP policy using a similar form of words to that of the HCS policy. Examples might be given of what would constitute sustainable tourism but the reference to the Employment Land Study should be omitted because it is part of the CS evidence base, not policy. The cross-reference to HCS Policy E4 might also be omitted. Paragraph 3.6 itself should provide explanation and justification for the choice of the employment activities which it is considered would help diversify the local economy.

Obviously, the list is not exhaustive and that needs to be clear from the wording.

4.47 The seventh bullet point is out-of-place and does not reflect national policy for business (B class) development. The effect on the vitality and viability of a nearby centre is a policy consideration for retail development and is, therefore, more properly included within Policy WB02.

4.48 The effect of development on residential amenities and on the safety of the local road network and parking are common considerations applicable in many different situations. The WGPC have accepted that the plan should be read as a whole and that its clarity would be improved by the addition of an over-arching policy dealing with such factors. They suggest it be numbered WF04. I recommend this towards the end of this report (Recommendation 16). It obviates the need for similar criteria to be included in many policies, including this one. Also, as indicated in paragraph 4.02 there is no need for cross-references between policies and, for clarity, I have recommended their removal.

4.49 The meaning of the final bullet point in this policy is far from clear. It appears to suggest that if the proposal involves the development of a brownfield site other policy criteria would not apply. The WGPC suggest a generalised statement that development must comply with 'relevant building design and/or change of use, environmental and facilities and services policies set out in this plan.' Such a statement is unnecessary because, as the WGPC have themselves acknowledged, all relevant plan policies will apply in any event.

4.50 I am informed that there are no identified brownfield sites within the plan area. Even if some arise in the future they would not be exempt from other policy considerations. The WGPC do not suggest in response to my question 6a. any particular reason why any brownfield site should be treated differently to green field, for example in terms of offering employment to local people. There

is no justification for any differentiation and those references should be deleted for that reason. The use of the word 'must' is unduly prescriptive and potentially restrictive rather than being positive and permissive. It needs to be replaced by 'should' to properly reflect Government policy. The CPRE's concern about the impact of large-scale industrial farming is covered by the last bullet point.

4.51 It is not stated how it is intended to ensure that any new business should offer employment either to existing residents or to any new residents re-locating to the area, presumably such as key workers moving with a new employer. One possibility might be to use a planning obligation under s106 of the Planning Act but any such obligation must meet the requirements of paragraph 204 in the NPPF. Any obligation, or planning condition, can only be used if it is necessary to make the development acceptable; in other words, without it permission would be refused. Government policy as expressed in paragraph 28 of the NPPF is that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. There is no suggestion that to be sustainable those jobs should only be available for local people or people moving in to take up such jobs. I very much doubt that permission would be refused in the absence of any such obligation. Sufficient regard has not been had to the need for a positive approach to employment provision. That criterion should be deleted for that reason.

Recommendation 3

Delete the introduction to Policy WB01 and all but the final bullet point and replace it by the following:-

Employment generating proposals which help to diversify the economy of Wyese will be permitted where they are of a scale which is commensurate with the location and setting. A range of economic activities will be supported, including:-

- **local food and drink production and agricultural diversification;**
- **commercial facilities such as village shops, garden centres and public houses;**
- **high value knowledge based employment such as financial, technical and professional services;**
- **the small-scale expansion or extension of existing businesses;**

- **light industry and/or manufacturing; trades and crafts;**
- **transport, storage and distribution;**
- **health and social care;**
- **sustainable tourism including bed and breakfast/ holiday accommodation;, restaurants and cafes; leisure-related community facilities.**

In the final bullet point delete the introductory sentence 'That the proposal is...must:' and replace it by 'All proposals should:'. Delete the first requirement 'Provide employment for the local community;'

Re-draft paragraph 3.6 to provide an explanation and justification for the choice of types of employment which are listed in the policy as helping to diversify the local economy.

4.52 *Policy WB02 – Retail Development.* As indicated in paragraph 4.47 the 'test' that development should not be of such a scale that it threatens the vitality and viability of a nearby centre is a long-standing aspect of national policy governing the consideration of proposals for new retail development³⁸. Given the nature of the area the term 'centre' might apply to only one shop. On being asked what the definition of a small retail development might be the WGPC have responded by relating it to the footfall experienced 'in one or more of the larger villages'. It would be difficult for any decision-maker to judge what that might actually mean.

4.53 I am also informed that there is no requirement for an A1 retail development and it would seem unlikely given the small population within the plan area that any proposal would be forthcoming. It is, therefore, difficult to understand what the policy is intended to achieve. Nevertheless, I am sure that if any such proposal was made it would be a welcome facility for the community. The only relevant planning consideration, subject to the general amenity and traffic/parking factors, would be the vitality-viability 'test' as mentioned above. To have full regard to national guidance that is all that the policy might reasonably state and I recommend accordingly.

³⁸ Now incorporated within paragraph 23 of the NPPF

Recommendation 4

Modify Policy WB02 to read:-

Proposals for retail development will be permitted provided that it is of a scale which would not threaten the vitality and/or viability of any nearby centre.

4.54 *Policy WH03 – Affordable Housing.* Returning to the housing chapter, there is a degree of overlap between this policy and policies WH01 and 02 but only in so far as policy WH03 relates to the setting of occupancy criteria. It is not clear from the drafting of Policy WH03 whether it is intended to apply only to exception sites. The WGPC have now confirmed that it is so intended, in which case the wording needs to be amended to avoid any doubt. Policies WH01 and WH02 do not apply because they refer to mixed tenure sites.

4.55 HCS Policy H2 applies to rural exception sites which states that such sites are on land which would not normally be released for housing. Where there are settlement boundaries the position is clear on the ground. Exception sites are so called because they are permitted as an exception to rural settlement policies which permit development within the boundary only. It means that land values outside the settlement boundaries are lower but if a site is well located, often immediately adjacent to the boundary and satisfying other locational criteria, development may be permitted for affordable housing only, although a small element of open market housing might be permitted should the scheme otherwise not be viable, as provided for in the last part HCS Policy H2.

4.56 It is much less certain how suitable exception sites might be brought forward under the terms of Policy WH01 either as originally drafted or as recommended to be modified. That is because land which is considered to be contiguous with the existing settlement is likely to be regarded as having potential for housing development

4.57 WNP Policy WH03 is another example of a policy which doesn't add anything to the HCS policy. However, as long as there is no unjustified contradiction which would add uncertainty in the interpretation of the development plan taken as a whole I do not regard such duplication as a failure to comply with the basic conditions. The first two bullet points are covered by the HCS policy although the words are different.

4.58 In response to my questions 20 and 23 the WGPC have stated that there is a lack of an evident demand in the short-term for affordable housing but it is a concern and they want to keep the options open. The meeting and interviews with the young farmers certainly suggest that it is a concern of theirs but, as I indicate in paragraph 4.40 above, the questionnaire was not framed in such a way as to identify local need.

4.59 For an exception to policy to be justified HCS Policy H2 requires the proposal to assist in meeting a proven local need. I am informed that the 2008 Planning Obligations SPD remains in effect although pre-dates the HCS. In that respect it does not assist in clarifying what evidence will be required to provide proof of need at the local level. At present the only robust evidence is the 2012 Local Housing Market Assessment³⁹ which indicates that 56% of all households in the HMA cannot afford market housing without subsidy, 68% of those under the age of 45. Even though the Wyese group represents only 12% of the HMA housing stock and the socio-economic characteristics will vary across HMA it would seem highly likely that there is a local housing need in Wyese which cannot be met by open market housing. However, the numbers involved are too low and variants too great to be able to use the HMA statistics at the level of the neighbourhood area with any degree of certainty. That could only be firmly established by a properly structured Local Housing Needs Study, as mentioned in the third bullet point of WNP Policy WH03.

4.60 In the meantime, as the WGPC acknowledge, there is no local evidence to justify any specification of the form of tenure for affordable housing. In the third bullet point of Policy WH03 it is stated that there is a 'preference' for shared equity/shared ownership. The same considerations apply as to the preference on site sizes in Policy WH01; it can be no more than a community aspiration. Also, as indicated in paragraph 4.42 above, the evidence does not support any requirement for two to three bedrooms for affordable housing. For all of these reasons, the third bullet point as drafted does not meet the basic conditions. It needs to be replaced by a more generalised statement that the size and tenure of any affordable housing on exception sites will be in accordance with evidence provided in an up-to-date local housing needs survey.

³⁹ GL Hearn, paragraph 13.22

4.61 The second part of HCS Policy H2 indicates that the housing provided on rural exception sites should be made available to, and retained in perpetuity for, local people in need of affordable housing. The Planning Obligations SPD refers to cascading arrangements but not specifically to local occupancy criteria. Such matters are usually covered in s106 obligations as stated but for the benefit of the plan-user it needs to be stated where the 'local occupancy criteria defined by Herefordshire Council' are, in fact, defined. That may be a Housing, rather than Planning, matter in which case compliance cannot be required in a planning policy. A more flexible wording is required.

4.62 As indicated in paragraph 4.43 above, the final bullet point in this policy is more appropriately applied on mixed tenure sites and is recommended to be merged into a revised Policy WH02 (Modification No. 1). Otherwise the design of dwellings on exception sites is covered by WNP Policy WHD01.

Recommendation 5

Replace Policy WH03 by the following policy:-

Exceptionally, where there is a proven local need established by an up-to-date local housing needs survey, a site or sites may be developed primarily for affordable housing outside the areas considered suitable for general housing in accordance with Policy WH01. Any permission shall be subject to a s106 planning obligation to ensure that the housing is available to local people and remains so in perpetuity.

4.63 *Policy WH04 – Re-use of Rural Buildings.* This policy refers simply to 're-use' without stating what uses are intended although its inclusion in the housing section suggests that it covers conversion to residential use. It is closely modelled on HCS Policy RA5 with bullet points 3, 4, 5 and 8 using precisely the same wording as criteria within the HCS policy. Nothing is achieved by that. Moreover, the inclusion of the second bullet point as a criterion applying to any proposal for the re-use of existing buildings confuses matters. HCS Policy RA5 makes clear that a proposal which would make a positive contribution to rural business and enterprise and support for the local economy is supported as well as residential use⁴⁰. It is not expressed as a requirement for all uses and it would appear from the WGPC response to my question 24 that that was not intended. However, deletion of the criterion would create some uncertainty about how the

⁴⁰ The wording in HCS Policy RA5 is 'or which otherwise contributes to residential development'

WNP policy might be interpreted alongside HCS Policy RA5. Even though there would be a great deal of overlap with the HCS policy it would reduce any ambiguity if the wording were to be incorporated into the introductory section rather than included as a bullet pointed criterion and, having regard to PPG guidelines, I recommend accordingly.

4.64 I note the WGPC mention of the use of existing rural buildings for affordable housing for local people but national policy for the conversion of existing buildings in the countryside⁴¹ to residential use is generally permissive or is 'permitted development' and that is reflected by HCS Policy RA3.4. Given such a policy background there would need to be a strong local justification for any limitation requiring affordable housing use quite apart from any viability considerations.

4.65 The sixth bullet point is to be covered by the new general policy WF04 (see paragraph 4.48 above) and the final point is an unnecessary cross-reference. Bearing in mind that this policy is likely to apply to individual buildings or small groups of buildings in a very rural area I consider that the inclusion of bullet point 7 would be disproportionate in its impact, difficult to implement and has not been justified by supporting evidence. It is also covered by HCS Policy MT1.3. My comments in paragraph 4.28 above also apply. The criterion should be deleted for those reasons for the plan to meet the basic conditions.

Recommendation 6

In policy WH04, delete bullet points 2, 6, 7 and 9 and, in the second line of the introductory part of the policy, insert the words 'which will make a positive contribution to rural businesses and enterprise and support the local economy or which would otherwise contribute to residential development,' between '...rural areas,' and 'will be permitted where:'

4.66 *Policy WH05 – Housing in Open Countryside.* It needs to be explicit rather than implicit that this policy applies to new build houses and not to those created through the conversion of existing buildings which is covered by Policy WH04.

4.67 The term 'open countryside' usually applies to everywhere that is not within an identified settlement, that is one with a settlement boundary. That is

⁴¹ NPPF, paragraph 55, third bullet point

intimated in the wording of HCS Policy RA3 which refers to 'rural locations outside of settlements' indicating that neighbourhood plans will decide where those settlements are. That approach has passed muster as being consistent with paragraph 55 of the NPPF. In Wyese there are five villages but two centres in Preston-on-Wye and Moccas so the reference to five centres is misleading. As I have recommended the deletion of one, at Preston Court/Church, there are six centres. Also, as discussed in paragraph 4.23, the term 'village centre' is used in a rather wider sense than just the red circles shown on the Policies Maps. It must be clear to what areas of land the policy is intended to apply.

4.68 There is a direct link with the interpretation of Policy WH01 in respect of those areas where general housing development may be permitted. This policy would apply to anywhere outside of those areas. Rather than repeat the wording in Policy WH01 a cross-reference to it has to be included with a similar wording used to that recommended for Policy WH03.

4.69 Herefordshire Council's DM section regard the policy as being too restrictive in the context of HCS Policy RA3 and paragraph 55 in the NPPF. That relates to the first two bullet points in the WNP policy. To my mind, it is primarily the phraseology that individual houses will only (my emphasis) be permitted in the circumstances stated that makes it unduly restrictive. Other instances are listed in HCS Policy RA3 which are either covered by other WNP policies or not at all. The latter instance is not a problem because the HCS policy will apply in any event. HCS Policy RA4 also provides a much more detailed set of policy factors in consideration of proposals for either new agricultural worker's dwellings or for accommodation to support new rural businesses.

4.70 I do not consider that the first criterion in the WNP policy is any different in intent than either the HCS policies or in national policy. For clarity the word 'or' should be inserted before the second criterion. I also consider that the wording of the second criterion leaves open the question as to when a dwelling to support a viable rural enterprise would be 'required'. The proper 'test' is that there should be shown to be an essential need for a dwelling to support the enterprise which cannot be met by existing accommodation. I recommend the addition of those words, having regard to paragraph 55 in the NPPF.

4.71 In response to my question 28 the WGPC have accepted that the subject matter of the final bullet point in this policy is covered elsewhere in the plan and that it might be deleted. Otherwise, the meaning of the term 'neutral or positive environmental impact' would have required further explanation for clarity in implementation.

Recommendation 7

Modify the introduction to Policy WH05 to read:-

Outside the areas considered suitable for general housing in accordance with Policy WH01 proposals for dwellings associated with agriculture, forestry and rural enterprises will be permitted:-

Insert the word 'or' between the first and second bullet points.

In the second bullet point, delete the words 'which requires an onsite dwelling' and substitute the words ' and that there is an essential need for a dwelling to support the enterprise which cannot be met by existing accommodation.'

Delete the third bullet point.

4.72 *Policy WHD01 – New Building Design.* The WGPC have suggested a revised wording for the introductory section to this policy because it does not read correctly as currently written. I recommend accordingly. The first part of the policy should also apply to proposal for buildings associated with forestry as well as agriculture as many of the same national policy provisions and similar permitted development rights apply.

4.73 The first bullet point in the first part of the policy, in restricting development to one or two storeys, is prescriptive with nothing in the plan to explain or justify why such a policy restriction would be appropriate in the local context. The fourth bullet point in the same policy would achieve much the same aim and allow for a consideration of the character of the immediate surroundings to a proposed development. The WGPC have accepted that there are examples of three-storey manor houses and farms in the area. I recommend the deletion of the first bullet point because it has not been adequately justified and is also unnecessary to protect the character of the area. Otherwise, as with other policies, the cross-reference to Policy WE01 is unnecessary.

4.74 The same criteria relating to sustainable construction techniques and sustainable drainage systems (SuDS) are repeated in both parts of this policy as well as in Policy WHD02. The criterion requiring SuDS is prescriptive in stating that all new development must incorporate SuDS (underlining my emphasis). There is no specific justification for such a policy requirement. The Government has made such systems mandatory only for 'major development'⁴². However, as indicated in paragraph 5.7 of the WNP the plan area is subject to flooding from the River Wye and the use of SuDS is good practice wherever appropriate, which will depend upon the hydrological setting of the site, as stated in HCS Policy SD3 and referenced in a representation by Herefordshire's Development Management team. Having regard to national policy on this matter and for greater consistency with the HCS I recommend that the criterion be amended to be less prescriptive and to recognise that SuDS is not always appropriate. This applies to both parts of Policy WHD01.

4.75 The second part of the policy dealing with agricultural and business buildings is an attempt to cover circumstances in which full planning permission is required and those where the Government has granted permitted development rights subject only to prior approval of the siting, design and external appearance of the building and access arrangements, if required by the LPA.

4.76 I accept that the matters that may be subject to the prior approval procedure are sufficiently wide to warrant being covered by policy. My main concern is that the meaning of the phrase 'if prior approval exists with permitted development' is somewhat obscure. The introductory section requires re-drafting to achieve clarity of meaning. For similar reasons to other policies, bullet points 4, 5 and 7 are either covered elsewhere or duplicate other policy provisions in the plan.

Recommendation 8

Delete the introductory wording to Policy WHD01 and replace by the words 'Proposals for the erection of new buildings will be permitted provided the following requirements are met:-'

Amend the heading of the first part of the policy to 'Non-agriculture/forestry or Business Buildings' and the second heading to 'Agricultural or Forestry and Business Buildings'

⁴² As defined in the Development Management Procedure Order 2015 as 10 or more houses or major commercial development.

In the first part of the policy, delete the first and final bullet points and amend the penultimate point by replacing 'must' with 'should' and insert ',where appropriate taking account of the hydrological setting of the site,' after '...(SUDS)'

In the introductory text to the second part of the policy delete the words 'If prior approval exists with permitted development' and replace by 'Where prior approval is required under the provisions of the General Permitted Development Order⁴³'

Delete bullet points 4, 5 and 7 from the second part of the policy and amend the penultimate bullet point as in the first part.

4.77 *Policy WHD02. Change of Use.* Many of the comments above apply to this policy, including the need to delete the fifth and final bullet points. Despite the heading, it is apparent from the wording of the policy that it is not intended to apply to applications which involve only a change of use but where alterations and, possibly, some extensions are also involved associated with the change of use of the building. For clarity I recommend an amendment to the policy heading and to criterion dealing with SuDS.

Recommendation 9

Amend the heading for Policy WHD02 to read 'Changes of use and associated building alterations and/or extensions'

Delete the fifth and final bullet points and amend the penultimate point by replacing 'must' with 'should' and insert ', where appropriate taking account of the hydrological setting of the site,' after '...(SUDS)'

4.78 *Policy WE01 – Environmental Restrictions on Development.* There is a significant amount of text included within the coloured 'policy' box which is not policy at all but either of the nature of an explanation for the terms of the policy or cross-references to national and local plan policies, including the 'Sequential and Exceptions Test which is mentioned three times. The additional text detracts from the main thrust of the policy and makes it less than clear. It is also not good practice to refer to exceptions to policies within policies. Much of this text would be better placed within the explanatory sections of the plan.

⁴³ The Town and Country Planning (England) General Permitted Development Order, 2015 (or any Order amending or re-enacting that Order)

4.79 The whole of the first paragraph is explanation or justification for the plan. The policy itself starts after the number 1. Herefordshire Council questioned in a representation the basis for specifying a 100 m. exclusion zone from the River Wye SAC. In the WGPC response to my request for clarification I have been referred to correspondence with Natural England during the preparation stages of the WNP in which they mention the possibility of disturbance to otters and a recommendation in the HRA for the Local Plan. However, nowhere is a justification given for a policy which prevents development within the specific distance of 100 m. from the boundary of the SAC. There is nothing in national policy⁴⁴ or in the HCS which suggests that development should be totally precluded even should it be judged to have a significant effect on a European site. Habitats Regulations procedures would apply including consideration to the effectiveness of any mitigation measures by Appropriate Assessment. Natural England would be a consultee but any evidence should be submitted to the LPA in the first instance. Having regard to national policy I recommend wording which is closer to that used in HCS Policy LD2. However, I recognise that this may mean that a further Habitats Regulations Assessment of the plan will be required. If there is evidence to justify specifying a 100 m. zone then that will need to be brought forward as part of that process.

4.80 There is a detailed reference in section 1 of the policy to the Sequential and Exceptions tests in the NPPF, even including the ISBN number. Such references result in in-built obsolescence to the plan because the Government has signalled that the NPPF is to be revised shortly. Also, this 'test' only relates to flood risk and has nothing to do with the protection of biodiversity or water quality. It should, therefore, be deleted from this section.

4.81 It is rather confusing to refer to undertaking the Sequential and Exceptions tests as exceptions to the policy. National policy is stated clearly within paragraphs 102-104 of the NPPF and there would need to be specific local justification for departing from it. That would not appear to be the intention, rather, given the incidence of flooding from the River Wye, it is important that any proposals for development should have been demonstrated as satisfying the tests. In part these can be put into words but I accept that it is an economical way to express policy by referring to the tests in this way. However, the plan would be clearer if parts 2 and 3 of the policy were to be combined. Also, it is overly-prescriptive and unnecessary to say that development 'must' comply with

⁴⁴ In particular NPPF para. 118. See also ODPM Circular 06/2005 which is still extant.

any other policy either in the WNP or the HCS. HCS Policies SD3 and SD4 apply in any event. The neighbourhood plan need not be a comprehensive guide to all policy applying to the plan area and there is a risk that slight variations in wording might result in uncertainty for decision-makers in interpreting the development plan taken as a whole.

4.82 As mentioned in paragraph 2.02 it is a statutory restriction on neighbourhood plans that they should not include provisions relating to 'excluded development' which includes waste disposal. Requiring any development proposals in Flood Zone 1 to be in accordance with the Waste Core Strategy could be construed as making such provision⁴⁵.

Recommendation 10

Delete the whole of the introductory paragraph to policy WE01 and place the text within an explanatory (non-policy) part of the plan to justify the policy approach. Include any required specific references to current Government policy in the text, including an explanation of the sequential and exceptions tests.

Remove the initial two sentences of part 1 of the policy and place them in the explanatory text. Delete all from 'New developments should not be permitted ...' to, and including, '... ISBN: 978-1-4098-3413-7'. Modify part 1 to read: 'Development will not be permitted which would be likely to have a significant environmental effect on the River Wye SAC unless evidence has been provided that any adverse effects can be avoided ... or Authority;'

Delete part 4 of the policy and replace parts 2 and 3 by the following text: 'New built development should not be permitted in either flood risk zone 2 or 3 unless, consistent with sustainability objectives, it is established that it is not possible for the development to be located in a zone with a lower probability of flooding and, if appropriate, the exception test has been passed. All development in flood risk areas should be capable of being made safe without increasing flood risk elsewhere.'

Include any cross-references to relevant HCS policies, such as SD3 and SD4, in the explanatory text.

⁴⁵ This is the reference in Policy WE01 although the currently adopted plan is the Minerals and Waste Local Plan.

4.83 *Policy WE02 – Landscape Design Principles.* It is well understood how valued is the rural character of the area in its quite special landscape setting. It is within the vision statement and Environmental Objective 3 in particular. The policy is a detailed one and quite prescriptive in parts without any clear justification for a number of the provisions. However, for the most part it is clearly expressed and the degree to which specific provisions might reasonably be applied to any particular proposal is something which will be capable of professional judgement by a decision-maker.

4.84 In the first bullet point there is reference to buildings of statutory and non-statutory heritage value. The former are listed in Appendix 6 but, as the CPRE have commented, there is no list of non-statutory heritage assets. Without such a list the policy cannot be fully implemented. That is something the WGPC will need to bear in mind.

4.85 It is stated at the start of the policy that it applies to all development proposals although the WGPC have agreed that minor householder development might be excluded. I have considered the practicality of including such provision in policy but it would then require a definition of what is meant by 'minor'. Householder development can include quite sizeable extensions which could have a significant visual impact. On balance I consider that it is only the second bullet point requiring detailed landscape impact analysis which should include a qualification. The most flexible way to do that is to include the words 'where appropriate' providing discretion for the decision-maker in the particular circumstances of a planning application.

4.86 As the sixth bullet point refers to the 'planting of local species' it is obviously referring to plant species and my question 36 was seeking clarification as to whether it means trees or bushes or all plants. It can be left to the discretion of the decision-maker.

4.87 It is the penultimate (ninth) bullet point in this policy which is the most problematic. I saw for myself when I visited the area how important orchards are and the way in which they contribute to the character. It is Herefordshire after all! The wording of the first part of the policy can only be interpreted as meaning that planning permission for development will be refused unless the criteria are met. There is no other way to 'resist' it. But in their response to my question 37 the WGPC have 'hit the nail on the head'. There is no practical way to prevent the grubbing out of orchards unless they are judged to be so

important that they warrant the making of a Tree Preservation Order which would need to be justified on the basis of the visual contribution to character rather than biodiversity. Reluctantly, I conclude that this provision is not capable of implementation and so does not meet the basic conditions. I recommend deletion for that reason. Although it is land-use related it is in the nature of a community aspiration that orchards should not be lost to development or, if they are, that they be replaced. A statement to that effect could be included elsewhere in the plan as a signal to developers but it must be clearly distinguishable from policy⁴⁶. In addition, orchards are included in the list to be protected and enhanced under Policy WE03.

4.88 I have also pointed out that if a site was being developed any planning condition(s) relating to the provision of a landscaping scheme could only apply to land within the ownership and control of the applicant. It would be possible for the LPA to refuse permission if adequate landscaping was not a feasible proposition but requiring an area at least equivalent to that being lost to be replanted could act as a significant constraint on development especially for the larger sites proposed in the plan. That is contrary to Government policy and so does not meet the basic conditions. There should be no difficulty in requiring a landscape scheme to include 'an equivalent range of varietal fruit species'.

Recommendation 11

In policy WE02:-

Re-word the second bullet point to commence 'Where appropriate, taking account of the nature and scale of the proposed development, a detailed landscape impact analysis should be provided as part of the planning application to demonstrate how ...'

In the penultimate (ninth) bullet point delete the whole of the first sentence – 'Development ...wildlife habitat.' – and the words at the end of the second sentence – 'of at least the equivalent size to that which has been lost.'

Clearly distinguish from policy any deleted text which represents a community aspiration.

⁴⁶ PPG, reference ID: 41-004-20140306

4.89 *Policy WE03. Protecting Local Green Spaces etc.* Similar considerations apply to Policy WE02 in so far as this policy relates to 'all new development'. A qualification of 'where appropriate' would provide similar flexibility in application.

4.90 The introductory part of the policy refers to the Herefordshire Green Infrastructure Strategy. That is mentioned in HCS paragraph 5.3.21 with details of the factors which contribute to green infrastructure given in paragraph 5.3.22 under Policy LD3. Archaeological, historical and cultural features mentioned in the first bullet point of WNP Policy WE03 have nothing to do with green infrastructure and are covered by HCS Policy LD4. Including them under a heading of green infrastructure somewhat clouds the policy intent and requires different treatment because the word 'enhance' does not appear in HCS Policy LD3 and it is too strict a requirement, without specific justification, to apply it for green infrastructure. Even in HCS Policy LD4 the word 'enhance' is qualified by 'where possible'. A restructuring is needed to ensure clarity in application of this bullet point.

4.91 The main issue with regard to this policy is the manner in which the protection of 'green spaces, views and vistas valued by local residents' is mentioned in the last part of this policy along with the designation of a Local Green Space at Bredwardine. As Herefordshire Council and the CPRE have stated it would be useful to know where the green spaces views and vistas are. I go further to state that without such indication there is nothing in the plan to protect these areas in their own right apart from the proposed Local Green Space in Bredwardine as discussed below. However, in general terms, a degree of protection when development is proposed is achieved by the second bullet point in Policy WE02 and the first bullet point in this policy WE03. Policy WE01 deals with biodiversity, water quality and flood risk not landscape protection. As written the final part of Policy WE03 is not a policy statement but a factual statement cross-referencing to other policies which is more appropriate within the supporting text.

4.92 I now turn to the treatment of the Local Green Space (LGS) in the plan. The WGPC have agreed that this is best dealt with as part of Policy WE03 rather than as a criterion in policy WH01. This would include the detailed description of the area covered by the intended LGS and the policy intention to protect it from development. That is what designation as an LGS would achieve because it would carry with it the national policy for such areas as set out in paragraph 78

of the NPPF, which is 'consistent with policy for Green Belts'. That is very important because it means, in practice, that planning permission should not be granted for anything which is regarded as being 'inappropriate' unless there are very special circumstances. It is a very strict test but Government policy does not go so far as to exclude development completely as might be suggested by the wording in WNP Policy WH01 for the LGS.

4.93 It is for that reason that it is stated at the start of paragraph 77 of the NPPF that 'Local Green Space designation will not be appropriate for most green areas or open space.' And that the designation should only be used when the circumstances listed in the three bullet points in paragraph 77 apply. There is also some further guidance on the matter in the PPG. It is not a designation to be treated lightly and there must be evidence to show in what way(s) any proposal for LGS in a plan meets the paragraph 77 criteria.

4.94 There is nothing in the plan to explain why, or in what way, it is considered that the area shown on the Policies Map in Bredwardine as an LGS meets any of the requirements for designation set in Government policy. Indeed, it is a facet of this plan that the evidential basis for the policies within it is extremely sparse or non-existent. This is case in point. It is in paragraph 5.4 that I might have expected to see something to justify the natural environment policies putting objectives 4 and 5 into effect, but the statements thereunder simply put forward policy in slightly different words from that used in the coloured policy boxes.

4.95 In the light of the above I might have recommended that the Local Green Space be deleted because adequate regard had not been had for Government policy and because of the lack of any proportionate and robust evidence. However, I decided to provide an opportunity to the WGPC in response to my question 41 to bring forward evidence to support the designation in the terms expressed in paragraph 77 of the NPPF. I also looked at the area myself on my visit. It is a relatively large area but it is split by the lane leading to the church. It is a fine tract of land and I agree that the views of the river and bridge from the path leading down from the church have a special quality. The WGPC have supplied much more background information in their response on the importance of the area to the local community and also some historical associations. Taking these into account I accept that the area does meet the NPPF criteria and may be included in the plan as a Local Green Space. However, the last section in

policy WE03 incorporating what is in Policy WH01 in the submitted plan requires revision to make the policy context clear. A concise statement is also required under paragraph 5.4 of the text setting out the factors mentioned in NPPF paragraph 77 which justify the designation.

4.96 In view of the revised emphasis of this policy the heading is not, actually, correct. It is about Green Infrastructure, Heritage Assets and Local Green Space. I recommend amendment to the heading as the correction of an error.

Recommendation 12

Revise the policy heading for Policy WE03 to 'Protecting Green Infrastructure, Heritage Assets and Local Green Space'

Amend the introductory section of Policy WE03 to read: 'Where appropriate, development proposals should demonstrate that ...'

In the second bullet point, delete the words 'enhancing' and 'and archaeological, historical and cultural features'

After the bullet points insert: 'Archaeological, historical and cultural features will be protected and, where possible, enhanced.'

Delete the final paragraph in the policy and substitute:

'The area of land comprising the orchard opposite the Red Lion in Bredwardine, the orchard bordered by Church Lane, the River Wye and the road running from the Red Lion to Bredwardine Bridge is shown on the Bredwardine Policies Map, Plan Appendix 5, as a Local Green Space. In this area inappropriate development will not be permitted except in very special circumstances.'

Include additional text in paragraph 5.4 of the plan to justify the designation of the area as a Local Green Space in the terms of paragraph 77 in the NPPF.

4.97 *Policy WE04 – Renewable Energy* The WGPC have clarified that the policy is intended to 'encourage' renewable energy development generally within the plan area subject to the criteria in policies WHD01 and WHD02 except in the areas to which policies WE01 and WE03 apply. For the purpose of development management decision-making encouragement is achieved by the grant of planning permission.

4.98 As I have indicated elsewhere, statements within a policy that it is subject to another plan policy is not necessary and can make the intention behind a policy less clear. However, policies WHD01 and 02 together apply in most circumstances and the criteria within those policies might easily be applicable in the consideration of proposals for renewable energy development. Rather than repeat all of the criteria in those policies a cross-reference to them would be an economical way of achieving that aim. However, it needs to be clarified that it is the criteria which apply. Where appropriate the policies themselves will apply in any event.

4.99 For the plan to be clear the term 'historical buildings' in the first bullet point requires definition. The WGPC have also accepted that an amendment is required to recognise that solar panels may be permitted on the roofs of historic buildings if no harm would be caused to the heritage asset. An appropriate balance has to be struck.

4.100 The meaning of the second bullet point is not clear. It is ambiguous. That is because policies WE01 and WE03 are only applicable in the restricted areas to which they apply, that is within 100 m. of the River Wye SAC or in flood risk areas (WE01) or within the LGS (WE03). To say that solar panel farms will only be permitted subject to those policies means only within those restricted areas which, as the WGPC have clarified, is not the intention. If accepted, Recommendation 12 above would mean that wind turbines and solar panel farms would be permitted within the LGS only in very special circumstances. Policy WE01 provides strict safeguards for any development within the areas to which that policy applies. Cross-referencing those two policies in particular when Policy WE02 also applies adds to the ambiguity. All of those policies would be applied any way. For all of these reasons I consider that specific reference to solar panel farms adds nothing to the plan and should be deleted to avoid the ambiguity. The general 'encouragement' given in the introduction to the policy would then apply subject to all relevant policies in the development plan, taken as a whole.

4.101 Similar considerations arise in the third bullet point. It is further complicated by the fact that the first two lines are not policy but background information and there is no definition of what is meant by a 'small' wind turbine. All such material should be included within the supporting text, not policy. I have drawn attention to the last part of HCS Policy SD2 which, in line with Government policy, is that wind turbines should only be permitted if a site (my

emphasis) has been identified in a plan with community support. The only distinction is for 'microgeneration' which is permitted development⁴⁷. Therefore, a generally worded policy of encouragement, even for small wind turbines, does not have regard to national policy and should be deleted. Including a statement in policy repeating and cross-referencing to HCS Policy SD2 would achieve nothing but could be included as a factual statement within the plan text, for information.

Recommendation 13

Modify the introductory section of Policy WE04 by deleting the words 'where they are in compliance with WHD01 or WHD02 above.' and substituting 'subject to the relevant criteria in Policy WHD01 or Policy WHD02.

In the first bullet point, delete the words 'Solar panels are not permitted on roofs of historical buildings. However, ground based solar panels will ...' and substitute 'Solar panels are permitted on roofs of historical buildings if an assessment proves that there will be no harm to building. Ground based solar panels will also ...' Include a definition of the term 'historical buildings' in the supporting text.

Delete the second and third bullet points from the policy but include supporting text to clarify the position with regard to solar panel farms and small wind turbines, including a definition of the term, and providing a cross-reference to the policy in HCS Policy SD2 that a site for a wind turbine may be permitted if it has community support.

4.102 *Policy WE05 – Sewerage and wastewater treatment.* As Herefordshire Council have stated, the heading to this policy is actually a policy and is word for word the same as in the first paragraph. I note that the policy was introduced in response to a representation made by Welsh Water (DCWW) on the draft Regulation 14 plan. It does, however, contain statements and background material which needs to be separated out from policy. Also, it would normally be expected that a plan would not promote development which would result in either the public sewerage network or the wastewater treatment works becoming overloaded. This is especially important given the proximity to the River Wye SAC as stated in HCS Policy SD4. Any possible phasing or delaying of

⁴⁷ GPDO 2015, Schedule 2, Part 14 Classes H and I.

development should be a decision taken as part of the plan-making process not through development management. Taking this into account, and in the interests of clarity, I recommend a simplified policy with all of the background information moved to the supporting text including the note at the foot of page 36.

4.103 HCS Policies SD3 and SD4 are detailed policies which provide a firm context for the consideration of development proposals in the area especially any which might compromise water quality and affect the River Wye SAC. To a degree this is covered by WNP Policy WE01. However, for those areas where mains drainage is not available, including the smaller villages of Blakemere and Tyberton, any development would need to be served by what are called non-mains alternatives for which detailed alternatives are included in HCS Policy SD4. Rather than repeat that wording a cross-reference would, exceptionally, be appropriate as in the second bullet point of the WNP policy as submitted.

Recommendation 14

Modify Policy WE05 to read:-

Public sewerage and wastewater treatment

Development at Bredwardine, Moccas and Preston-on-Wye should minimise any effect on the capacity of the public sewerage network and/or wastewater treatment works serving those villages. If a development proposal would result in the existing capacity being exceeded financial contributions will be sought for any improvements necessary to facilitate such development.

Elsewhere, any new housing growth will be required to utilise ... (as in the second bullet point of the submitted WNP policy)

Remove all other explanatory and background text from the policy box and place it within the supporting text for this policy, including the Note at the foot of page 36.

4.104 *Policy WF01 – Retention of Existing Recreational Facilities.* In response to my question 45 the WGPC have acknowledged that the policy as framed does not reflect national policy as stated in paragraph 74 of the NPPF and suggest the addition of words to take account of situations where a facility is no longer required or is to be replaced by a facility of at least equivalent value. I agree

that to be necessary to meet the basic conditions. For the avoidance of doubt I recommend the wording used in the NPPF.

Recommendation 15

Add the following words to the end of Policy WF01: 'except where an assessment has been made which demonstrates that the land is surplus to requirements or that the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.'

4.105 *Policies WF02 and WF03.* Both of these policies refer to developments being encouraged. The WGPC response to my question 'how' is that it will be through the active involvement of the Parish Council. That I do not doubt, but such activities fall outside the scope of a statutory development plan.

Nevertheless, they do provide a steer for the LPA to be aware that any planning application in which such forms of development is proposed might expect to be receive approval provided all other plan policies are satisfied. My recommendation No. 1 applies to the cross-references.

4.106 *New Policy WF04 – General Policy Applicable to all Developments.* This policy has been suggested by the WGPC in response to my comments and question 4 on the matter. It has been suggested to avoid undue duplication of criteria in a number of policies in the plan to make it clearer and more easily interpreted for the purpose of determining planning applications. The plan will then meet guidance on such matters in the PPG.

4.107 I queried the meaning of 'adequate' in relation to parking provision. Without any indication of what might be regarded as adequate the plan-user, and for that matter a developer or decision-maker will not have any indication of what is expected for a development proposals to be likely to receive planning permission. The WGPC now make reference to Herefordshire Council's Design Guide for New Developments, July 2006, but that is no more than a guide and is not a document which forms part of the development plan. It is not a planning document. It is a general rule that planning policy should not require compliance with standards which have been set elsewhere and have not been subject to scrutiny through an independent examination process. However, I note that HCS Policy MT1(6) requires regard to be had to the Highways document and the Local Transport Plan. That form of words is acceptable and I adopt it in my recommendation below for the new policy.

Recommendation 16

Insert a new Policy WF04 in section 6 of the plan as follows:

General Policy Applicable to All Developments

Ensure that traffic generated by any proposal can be accommodated safely within the local road network which in many cases is single track, and does not result in the need to widen roads along their entire length or the removal of hedgerows, except where additional passing points are needed to manage increases in traffic volumes, demonstrate that landscape, environmental and amenity impacts are acceptable, and that access and parking standards are adequate having regard to the latest highways guidance produced by Herefordshire Council.

4.108 *Correction of errors, including updating and consequential amendments.*

In their consideration of the recommendations I have made for modifications to the plan, the LPA has the power to correct errors, amongst other things. This may include making amendments to the supporting text which flow from modifications to the plan policies and by way of updating.

4.109 There are no obvious textual errors in the plan. However, it will be necessary to ensure that it reflects the final stage in the process. For example some text, including section 2, will need to be updated with references to the draft plan removed. I am making a 'catch-all' recommendation to authorise amendments which will be necessary consequentially upon my recommendations for modifications to the policies in the plan.

Recommendation 17

Ensure that all procedural references in the plan are up-to-date and make any amendments to the supporting text in the plan which is required as a consequence of modifications to the policies made in response to the recommendations in this report.

Annex A

Recommendation 2 - Modification No. 1

Replacement Policies WH01 and WH02

Policy WH01 – New Housing Development

Permission will be granted over the period 1 April 2017 until 31 March 2031 for the development of around 33 dwellings. These will include single developments for more than 10 dwellings in each of the villages of Bredwardine and Preston-on-Wye with the remainder on smaller sites mainly in Moccas.

All new housing development should reflect the size, role and function of the village in which it is situated on land which is contiguous with the existing village centre; that is on a site which immediately adjoins the centre as shown on the Policies Maps or is within or abuts a group of existing buildings which are contiguous with the centre. However, where land on the opposite side of a road from the centre is a green space (no houses having been built in that location) no housing development will be allowed in that area.

In addition, proposals for new housing should reflect the character of the village and surrounding environment and relate directly to the existing built form in the immediate vicinity. Also, in so far as it is reasonably practicable and viable, any development for three or more houses should be laid out in the form of an organic cluster built off a new access lane avoiding the use of a cul-de-sac, with pedestrian links/ pathways to the rest of the village.

Policy WH02 – Ensuring and appropriate range of tenures, types and size of houses

Open market housing should include a mix of predominantly two and three bedroomed properties.

Housing developments of more than 10 dwellings in Bredwardine and Preston-on-Wye should include an element of affordable housing in accordance with Policy H1 in the Herefordshire Core Strategy. These houses should be integrated with open market housing across a site and should be designed so as to be visually indistinguishable from such housing.

Policies Map for Preston on Wye.

Delete the red circle denoting a village centre around the parish church by Preston Court.

Section 5 - Formal conclusion and overall recommendations including consideration of the referendum area

Formal Conclusion

5.01 I conclude that the draft plan, subject to the modifications recommended in this report, meets the basic conditions as set out in Schedule 4B to the Town and Country Act 1990 (as amended), does not breach and is otherwise compatible with EU obligations and is compatible with Convention Rights. Modifications also need to be made by way of the correction of errors to ensure that the plan is up-to-date.

Overall Recommendation A.

I recommend that the modifications specified in section 4 of this report be made to the draft Wyese Neighbourhood Plan and that the draft plan as modified be submitted to a referendum.

The referendum area

5.02 As I have recommended that the draft plan as modified be submitted to a referendum I am also required under s10(5)(a) of Schedule 4B to the Town and Country Planning Act 1990 to recommend whether the area for the referendum should extend beyond the neighbourhood area.

5.03 There have been no representations seeking an extension of the referendum area. The fact that the neighbourhood area covers a grouping of parishes with a single council suggests a strong commonality within the group. The area is also well constrained physically to the north and south. No cross-boundary issues have been identified. Consequently, I find there to be no justification for extending the referendum area beyond the designated neighbourhood area.

Overall Recommendation B.

The area for the referendum should not extend beyond the neighbourhood area to which the plan relates.

Signed:

John R Mattocks

JOHN R MATTOCKS BSc DipTP MRTPI FRGS

1 September 2017

APPENDIX 1.

Abbreviations used in this report:

'the Act'	The Town and Country Planning Act 1990, as amended
CPRE	Campaign to Protect Rural England
DM	Development Management
GPDO	The Town and Country Planning (General Permitted Development) (England) Order, 2015
HC	Herefordshire Council
HCS	Herefordshire Local Plan – Core Strategy (CS)
HMA	Housing Market Area
EU	European Union
LGS	Local Green Space
LPA	Local Planning Authority
NP	Neighbourhood Plan (generic term)
NPPF	The National Planning Policy Framework ('the Framework')
PPG	(national) Planning Practice Guidance
SAC	Special Area of Conservation
SCI	Statement of Community Involvement
SEA	Strategic Environmental Assessment
SPD	Supplementary Planning Document
SuDS	Sustainable urban Drainage System(s)
WNP	Wyeseide Neighbourhood Plan ('the Plan')
WGPC	Wyeseide Group Parish Council ('the PC')
YFC	Young Farmers' Club
'the 2012 Regulations'	The Neighbourhood Plans (General) Regulations 2012 (any reference to a Regulation number is to these Regulations)