

Bodenham Neighbourhood Development Plan 2011– 2031

Basic Conditions Statement

September 2017

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Introduction

- 1.1 This Basic Conditions Statement (“the Statement”) sets out how, in producing the Bodenham Neighbourhood Development Plan (“the Neighbourhood Plan”), Bodenham Parish Council (the “Parish Council”) has complied with the basic conditions and legal requirements set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by sections 38A and B of the Planning and Compulsory Purchase Act 2004.
- 1.2 The Statement has been prepared by Bodenham Parish Council to accompany its Regulation 16 draft Neighbourhood Plan under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (“the Regulations”).

2 Legal Requirements

The legal requirements for preparing a Neighbourhood Plan are set out below:

2.1 The Neighbourhood Plan is submitted by a qualifying body

The Neighbourhood Plan is submitted by a qualifying body. The Parish Council is a qualifying body as defined by section 61G (2) of the 1990 Act (inserted by paragraph 2 of Schedule 9 to the Localism Act 2011 (c.20)).

2.2 Designated Area

Bodenham Parish was designated as a Designated Area by Herefordshire Council on 22 April 2013 (see Appendix 1 for the Herefordshire Council designation letter and Appendix 2 for a map of the Designated Area). The Neighbourhood Plan relates to the Designated Area only and there are no other neighbourhood development plans in place within the Designated Area.

2.3 Plan Period

The Neighbourhood Plan covers the plan period 2011 to 2031 so that it aligns with the adopted Herefordshire Core Strategy 2011 – 2031.

2.4 The Neighbourhood Plan sets out policies relating to the use and development of land

The Neighbourhood Plan contains policies for the use and development of land within the Designated Area which are for use in determining planning applications. It has been prepared in accordance with the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the Regulations.

2.5 Excluded Policies

The Neighbourhood Plan does not contain policies relating to excluded development in accordance with the Localism Act 2011.

3 Basic Conditions

- 3.1 The Neighbourhood Plan must comply with the basic conditions set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004.

3.2 A Neighbourhood Plan will be considered to have met the Basic Conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood development plan;
- it has special regard to the desirability of preserving any Listed Building or its setting or any features of Special Architectural or Historic Interest;
- it has special regard to the desirability of preserving or enhancing the character or appearance of any Conservation Area;
- the making of the neighbourhood development plan contributes to the achievement of sustainable development;
- the making of the Neighbourhood Development Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the Neighbourhood Development Plan does not breach, and is otherwise compatible with, EU obligations; and
- prescribed conditions are met in relation to the Neighbourhood Development Plan and prescribed matters have been complied with in connection with the proposal for the Neighbourhood Development Plan.

3.3 This Statement explains how the Neighbourhood Plan complies with each of these basic conditions.

4. Conformity with National Planning Policy

4.1 The Neighbourhood Plan has been prepared with regard to national policies as set out in the National Planning Policy Framework (NPPF) of April 2012. It is also mindful of the National Planning Practice Guidance (NPPG) published by the Government in April 2014 in respect of formulating neighbourhood plans.

4.2 Paragraphs 183 – 185 of the NPPF describe how Neighbourhood Planning can be used to give communities “direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.” It continues to state that “Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them”.

4.3 Paragraphs 14 -16 of the NPPF set out the presumption in favour of sustainable development which is at the heart of national policy. For Neighbourhood Planning this means that neighbourhoods should plan positively to support local development.

4.4 Table 1 sets out how each Neighbourhood Plan policy conforms to the NPPF policies.

Table 1: Conformity of Neighbourhood Plan policies with the NPPF policies

<i>Policy Number</i>	<i>Policy Title</i>	<i>NPPF Policy Section</i>	<i>Comment on conformity where relevant</i>
BNDP 1	Delivering New Housing	14, 47, 48, 50, 54, 55, 58, 60, 61, 64	Complies and adds local detail
BNDP 2	Settlement Boundaries	14, 56,58	Complies and adds local detail
BNDP 3	Mix, Type and Tenure of New Housing Development	54	Complies and adds local detail
BNDP 4	Flood Risk and Drainage	100,101, 102	Complies and adds local detail
BNDP 5	Employment	28	Complies and adds local detail
BNDP 6	Large Scale Economic Activities	28, 109	Complies and adds local detail
BNDP 7	Local Community Facilities	69,70	Complies and adds local detail
BNDP 8	Protecting Landscape and Important Public Views	109, 110,113	Complies and adds local detail
BNDP 9	Landscape Design Principles	109, 110,113	Complies and adds local detail
BNDP 10	Protection and Enhancement of the Built Environment	126, 132	Complies and adds local detail
BNDP 11	Tranquillity and Light Pollution (Dark Skies)	109, 110	Complies and adds local detail
BNDP 12	Open Spaces	76,77	Complies and adds local detail
BNDP 13	Renewable Energy	97, 98	Complies and adds local detail

5. Have Special Regard to the Desirability of Preserving any Listed Building or its Setting or any Features of Special Architectural or Historic Interest

5.1 The Submission Neighbourhood Plan has special regard to the desirability of preserving features of architectural or historic interest within the Parish through Policy BNDP 10.

6. Have Special Regard to the Desirability of Preserving or Enhancing Character or Appearance of any Conservation Area

6.1 The Submission Neighbourhood Plan has paid special regard to the desirability of preserving and enhancing the character of the Bodenham Conservation Area through Policy BNDP 10.

7. Contribution to Achieving Sustainable Development

7.1 Paragraph 14 of the NPPF states that:

*“At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking.”*

7.2 Paragraph 16 states that:

“The application of the presumption will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should:

- develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;*
- plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan; and*
- identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with their neighbourhood plan to proceed.”*

7.3 The Bodenham Parish Neighbourhood Plan has taken a holistic approach to sustainable development which has involved working to address all three social, economic and environmental roles of planning as prescribed by the NPPF from the outset of the plan making process.

7.4 The strategic objectives of the Neighbourhood Plan seek to ensure the sustainable development of Bodenham Parish for the Plan period in line with the NPPF and the Herefordshire Local Plan – Core Strategy Local Plan.

7.5 Table 2 below assesses the Neighbourhood Plan policies in terms of the economic, social and environmental aspects of sustainability. It shows that the Plan’s policies are balanced across the three aspects and all policies include positive elements.

Table 2: Assessment of Sustainability of Neighbourhood Plan Policies

<i>Policy Number</i>	<i>Policy Title</i>	<i>Economic factors</i>	<i>Social factors</i>	<i>Environmental factors</i>	<i>Comments</i>
BNDP 1	Delivering New Housing	*	**	*	Seeks to balance sustainable development
BNDP 2	Settlement Boundaries	*	*	**	Adds local detail

<i>Policy Number</i>	<i>Policy Title</i>	<i>Economic factors</i>	<i>Social factors</i>	<i>Environmental factors</i>	<i>Comments</i>
BNDP 3	Mix, Type and Tenure of New Housing Development	*	**	*	Seeks to balance sustainable development
BNDP 4	Flood Risk and Drainage	*	*	**	Adds local detail
BNDP 5	Employment	**	*	*	Adds local detail
BNDP 6	Large Scale Economic Activities	*	*	**	Adds local detail
BNDP 7	Local Community Facilities	*	**	*	No reduction in existing facilities
BNDP 8	Protecting Landscape and Important Public Views	*	*	**	Adds local detail and seeks to maintain and enhance the Natural Environment
BNDP 9	Landscape Design Principles	*	*	**	Adds local detail and seeks to maintain and enhance the Natural Environment
BNDP 10	Protection and Enhancement of the Built Environment	*	*	**	Adds local detail and seeks to maintain and enhance the Built Environment
BNDP 11	Tranquillity and Light Pollution (Dark Skies)	*	*	**	Adds local detail and seeks to maintain and enhance the Natural Environment

<i>Policy Number</i>	<i>Policy Title</i>	<i>Economic factors</i>	<i>Social factors</i>	<i>Environmental factors</i>	<i>Comments</i>
BNDP 12	Open Spaces	*	**	**	Adds local detail and seeks to enhance the natural environment for all to enjoy
BNDP 13	Renewable Energy	*	**	**	Adds local detail

8. General conformity with the strategic Policies of the Herefordshire Local Plan – Core Strategy Plan

8.1 The Neighbourhood Plan has been written to support the strategic development aims of the Herefordshire Local Plan – Core Strategy, including delivery of housing and economic development, and to plan positively taking into account the local issues of Bodenham Parish.

8.2 Table 3 below sets out how each policy is in general conformity with the Herefordshire Local Plan – Core Strategy.

Table 3: Conformity of Neighbourhood Plan policies with the Herefordshire Local Plan- Core Strategy policies

<i>Policy Number</i>	<i>Policy Title</i>	<i>Relevant Herefordshire Local Plan- Core Strategy policies</i>	<i>Comment on conformity where relevant</i>
BNDP 1	Delivering New Housing	RA1, RA2	Complies and adds local detail
BNDP 2	Settlement Boundaries	RA2, RA3, H2, RA4,RA5	Complies and adds local detail
BNDP 3	Mix, Type and Tenure of New Housing Development	H1	Complies and adds local detail
BNDP 4	Flood Risk and Drainage	SD3	Complies and adds local detail
BNDP 5	Employment	RA3, RA4, RA5, RA6, E1, E3	Complies and adds local detail

<i>Policy Number</i>	<i>Policy Title</i>	<i>Relevant Herefordshire Local Plan- Core Strategy policies</i>	<i>Comment on conformity where relevant</i>
BNDP 6	Large Scale Economic Activities	RA3, RA4, RA5, RA6, E1, E3	Complies and adds local detail
BNDP 7	Local Community Facilities	SC1	Complies and adds local detail
BNDP 8	Protecting Landscape and Important Public Views	LD1, LD2	Complies and adds local detail
BNDP 9	Landscape Design Principles	LD1, LD2	Complies and adds local detail
BNDP 10	Protection and Enhancement of the Built Environment	LD4	Complies and adds local detail
BNDP 11	Tranquillity and Light Pollution (Dark Skies)	LD1, LD2	Complies and adds local detail
BNDP 12	Open Spaces	LD3	Complies and adds local detail
BNDP 13	Renewable Energy	SD1, SD2	Complies and adds local detail

9. Compatibility with EU Obligations and Legislation

9.1 A Neighbourhood Plan must be in compliance with European Union obligations, as incorporated into UK law, in order to be legally compliant. There are four directives that may be of particular relevance to neighbourhood planning:

9.2 **Directive 2001/42/EC** on the assessment of the effects of certain plans and programmes on the environment (often referred to as the *Strategic Environmental Assessment (SEA) Directive*).

9.3 The Herefordshire Council have assisted the Parish Council with the SEA process. The environmental appraisal of the Bodenham Parish NDP has been undertaken in line with the Environmental Assessment of Plan and Programmes Regulations 2004. Stage A of the SEA process involved Scoping and Stage B provided a review and analysis of the NDP. Stage C involved preparing an Environmental Report and Stage D comprises a formal consultation on both this and the Plan.

9.4 The assessment of the Draft Regulation 14 NDP, carried out in June 2016, concluded that the Plan was viewed as being in conformity with the planning policy contained in the National Planning Policy Framework and strategic policies set within the Herefordshire

Local Plan (Core Strategy) and no changes to the NDP were recommended as a result of the SEA.

- 9.5 In addition, Habitat Regulations Assessment (HRA) screening has also been carried out as the Parish falls within the hydrological catchment for the River Wye, which is a European site (Special Area of Conservation). The HRA assesses the potential effects of the NDP on the River Wye SAC. This is detailed in paragraphs 9.11-9.14 below.
- 9.6 Following the Draft Regulation 14 NDP and Environmental Report consultation, 12 policies were amended. These changes were necessitated by comments received during the consultation period rather than specifically as a result of the Environmental Report. Two new policies were added to the plan regarding larger economic activities and dark skies. Nine policies had amendments which were re-screened by Herefordshire Council in September 2017. Three policies had minor amendments which were not considered to be significant enough to re-screen.
- 9.7 This Environmental Report concluded that the objectives and policies contained in the Bodenham NDP are by and large in general conformity with the Local Plan (Core Strategy), which means that the cumulative effect of the plan will contribute to the achievement of the SEA objectives. None of the NDP policies were considered to be in direct conflict with or propose greater levels of growth and development than strategic policies contained in the Local Plan (Core Strategy), which themselves have undergone a full Sustainability Appraisal. Therefore, no changes to the NDP are recommended as a result of the SEA.
- 9.8 **Directive 2011/92/EU** on the assessment of the effects of certain public and private projects on the environment (often referred to as the Environmental Impact Assessment (EIA) Directive).
- 9.9 Environmental Impact Assessment is a procedure to be followed for certain types of proposed development. This is to ensure that decisions are made in full knowledge of any likely significant effects on the environment and that the public are given early and effective opportunities to participate in the decision making procedures. It may be of relevance to Neighbourhood Development Orders.
- 9.10 The Parish Council has considered this Directive but does not believe that any proposed development envisaged by the Neighbourhood Plan would be of a significant enough scale so as to merit an Environmental Impact Assessment.
- 9.11 **Directive 92/43/EEC** on the conservation of natural habitats and of wild fauna and flora and **Directive 2009/147/EC** on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively). These aim to protect and improve Europe's most important habitats and species. They may be of relevance to neighbourhood plans.
- 9.12 The requirement to undertake Habitats Regulation Assessment of development/ neighbourhood plans was confirmed by the amendments to the "Habitats Regulations" published for England and Wales in July 2007 and updated in 2013. Therefore, when preparing its neighbourhood plan, Bodenham Parish Council is required by law to carry out an assessment known as "Habitats Regulations Assessment" (HRA) as per Regulation 32 Schedule 2 of the Neighbourhood Planning Regulations. 2.2 Article 6(3) of the EU Habitats Directive provides that:

"Any plan or project not directly connected with or necessary to the management of the [European] site but likely to have a significant effect thereon, either individually or in

combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public."

9.13 The initial Screening Report (June 2016) revealed that the River Wye (including the River Lugg) SAC is located within the Bodenham neighbourhood area and therefore a full screening assessment would be required to the Draft Regulation 14 version of the NDP. The conclusion of this full screening was that the Bodenham Parish Neighbourhood Plan policies (June 2016) would not have a likely significant effect on the River Wye SAC subject to including an additional criteria within the NDP policies to safeguard the River Wye SAC from the potential impacts of future development.

9.14 Following the Regulation 14 consultation the Submission regulation 16 NDP was reassessed by Herefordshire Council in September 2017. The HRA concluded that the additional criteria added to a number of policies was not considered to affect the findings of the previous HRA report and strengthen the likelihood of there being no adverse impacts. Moreover, the Local Plan (Core Strategy) is now adopted and will provide further policy safeguards. Therefore, the earlier conclusion that the **Bodenham NDP will not have a likely significant effect on the River Wye SAC** remains valid.

9.15 **Other European directives**, such as the Waste Framework Directive (2008/98/EC), Air Quality Directive (2008/50/EC) or the Water Framework Directive (2000/60/EC). The Parish Council has considered these matters when drafting the neighbourhood plan, and does not consider that any of these are relevant at the time of writing the Plan.

9.16 In addition, the Neighbourhood Plan has regard to the fundamental rights and a freedom guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998.

10. Conclusions

10.1 The Neighbourhood Plan has been carefully drafted to comply both with the legal requirements and the basic conditions. This Statement has demonstrated that prescribed conditions have been met and prescribed matters have been complied with in connection with the proposal for the Neighbourhood Development Plan.

APPENDICES

1. Herefordshire Council Bodenham Parish Area Designation Letter
2. Map of Designated Area

Determination

Is the organisation making the area application the relevant body under section 61G (2) of the 1990 Act	Yes	
Is the neighbourhood area considered appropriate? Section 61G (4)	Yes	
Does the area overlap another designated area? Section 61G (7)		No
For joint area application, are all relevant bodies included? Section 61G (2)	N/A	
Were any comments received during the consultation period?	Yes from local resident	
Summary of comments received	Support the application	
Ward member comments	None	
Are any modifications required to this or any adjoining neighbourhood area? Section 61G (6)		No

Decision under Regulation 7 of the Neighbourhood Planning (General) Regulations 2012.

The application for the designation of Bodenham Neighbourhood area is

Approved



Andrew Ashcroft

Assistant Director of Economy, Environment and Cultural Services

Date: 22nd April 2013

Map of the Designated Area

