

Middleton on the Hill and Leysters NDP Independent Examination

Delegated Decision Statement

10 January 2018

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Middleton on the Hill and Leysters Group Neighbourhood Area
Parish Council	Middleton on the Hill and Leysters Group Parish Council
Submission	31 May 2017
Examination Date	October 2017
Inspector Report Received	21 December 2017

1 Introduction

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

2 Background

- 2.1 The Neighbourhood Area of Middleton on the Hill and Leysters was designated on 11 March 2014. The Neighbourhood Area follows the Middleton on the Hill and Leysters Group parish boundary. The Middleton on the Hill and Leysters Neighbourhood Development Plan has been prepared by Middleton on the Hill and Leysters Group Parish Council. Work on the

production of the plan has been undertaken by members of the local community through a Neighbourhood Plan Steering Group since March 2014.

- 2.2 The Plan was submitted to Herefordshire Council on 31 May 2017, and the consultation under Regulation 16 took place between 7 June to 19 July 2017, where the Plan was publicised and representations invited.
- 2.3 In October 2017, John Mattocks BSc DipTP MRTPI FRGS was appointed by Herefordshire Council, with the consent of the Parish Council, to undertake the examination of the Middleton on the Hill and Leysters NDP and to prepare a report of the independent examination.
- 2.4 The Examiner's report concludes that subject to making the modifications recommended by the examiner, the plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.
- 2.5 Having considered each of the recommendations made within the examiner's report and the reasons for them, Herefordshire Council (in accordance with the 1990 Act Schedule 4B paragraph 12) has decided to make the modifications to the draft plan referred to in Section 3 below to ensure that the draft plan meets the basic conditions set out in legislation.

3 Recommendations by the examiner

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

Policy	Modification recommended	Justification
Modification 1 Section 2	Update section 2 in the plan to include the later stages of the plan preparation	To ensure the plan is up to date.
Modification 2 Policy ML1	Insert the word: "Where relevant' before 'development proposals' at the start of the second sentence in Policy ML1 Delete the words 'for the wellbeing of the whole community' from the third listed priority Delete the whole of the final paragraph	To ensure the policy is feasible and clear
Modification 3 Policy ML2	Delete the second sentence in the first paragraph of policy ML2 In the second paragraph of Policy ML2, first line, delete the words 'in the first instance' On the third line under point 3 in policy ML2 and in paragraph 4.1.5 delete the word 'in particular, but not exclusively, Policy RA3' At the end of paragraph 4.1.4 delete all after 'distinct, sensitive setting' and substitute 'Policy ML5 provides that development there should be restricted to infill within the settlement boundary'	To ensure that the policy is clear and any contradictions are removed.

	Delete the last sentence in paragraph 4.1.6	
Modification 4 p18	Add Policy RA1 – Rural Housing distribution to the list of relevant Herefordshire Core Strategy policies on page 18 of the MLNDP.	To ensure all relevant policies are included
Modification 5 Policy ML3	<p>Make corrections as updates to policy ML3 as follows:</p> <p>Point 1 to read 'Around 13 dwellings constructed.... Between April 2011 and March 2017'</p> <p>Point 2 to read '9 new dwellings...'</p> <p>At the end of point 4, add 'include on rural exception sites'</p> <p>Make corrections to supporting text following policy ML3 as follow:</p> <p>In the last line of paragraph 4.2.4, substitute '10' for '12'</p> <p>At the end of paragraph 4.2.6, substitute '55.6%' for '90%'</p> <p>In paragraph 4.2.7, line 4, for 'Policy RA3' substitute 'policies RA3 and H2'</p>	To update the currently housing position
Modification 6 Policy ML4	<p>In Policy ML4, under site 8, delete the second sentence, 'The development should also include the provision of a car parking areas of ten spaces to serve the parish hall.'</p> <p>Also delete all of the third sentence in paragraph 4.2.17 of the plan text after the word 'settlement'.</p> <p>Amend the housing allocation shown on the Leysters policies map to exclude the proposed car parking area.</p> <p>Delete site 17 from the policy and as an allocation site on the Leysters policy map.</p> <p>Amend the reference to the site in the supporting text, paragraph 4.2.17, to indicate that it may become available as a rural exception site, subject to Policy ML10.</p>	<p>To ensure that the policy only concerns the housing element as the car parking and housing site should not be linked.</p> <p>To delete site where deliverability is uncertain</p>
Modification 7 Policy ML6	<p>Delete the last paragraph in Policy ML6 dealing with the removal of permitted development rights and substitute the following revised paragraph:</p> <p>'Permitted development rights for extensions, boundary treatments or surfacing may be removed exceptionally within particularly sensitive locations such as those listed in part 8 of Policy ML1'.</p>	To ensure that the areas related to the policy are listed

	Include an additional paragraph in the supporting text to justify this policy approach.	
Modification 8 Para 4.2.24	Delete the last three sentence in paragraph 4.2.24 from 'Extensions' to 'generations'	To ensure consistency within the plan.
Modification 9 Policy ML8	<p>In policy ML8 replace the second sentenced in the introductory paragraph by the following:-</p> <p>'Where it is practicable and feasible to do so, development proposals should contain a co-ordinated package of design measures which include the following.'</p> <p>Delete point 7</p> <p>Include a reference in the supporting text to the fact that an assessment of the adequacy of any parking within new housing will be judged against the provisions of Policy MT1 in the Herefordshire Core Strategy.</p> <p>Delete the final sentence in paragraph 4.2.26 and substitute the following :-</p> <p>Part 6 of the policy takes account of bullet point 6 in paragraph 17 of the NPPF (Core Planning Principles) in putting forward measures to support the transition to a low carbon future in a changing climate.</p>	To ensure clarity and that the policy can be delivered.
Modification 10 Policy ML9	Delete the first sentence in the second paragraph of Policy ML9	Remove unreasonable burdens where no viability assessment has been undertaken.
Modification 11 Policy ML10	<p>Modify policy ML10 as follow:</p> <p>In the introduction paragraph, delete the words 'as well as individual self-build low-cost housing'</p> <p>Delete point 1</p> <p>In point 2 add 'and subject to the provisions below';</p> <p>In point 3, replace 'ten homes or more' by 'more than ten homes' and in the last line delete 'and for discounted sales'</p> <p>At the beginning of the second main paragraph replace 'All..' by 'On rural exception sites..' and 'Section 106 Agreements' by 'Section 106 obligation'</p> <p>Delete all after 'local connections' at the end of line 2 and include the current local connection criteria in the explanatory text.</p>	To ensure that the policy is clear in terminology and consistent with national policy

	<p>At the end of the third main paragraph, referring to the 'cascade' arrangements, delete reference to the Worcestershire parishes.</p> <p>Replace the final paragraph of the policy by the following:-</p> <p>'On rural exception sites, a subordinate element of low-cost housing for sale may be permitted where it is demonstrated, under the terms of Herefordshire Core Strategy policy H2, that such housing would be necessary to subsidise affordable housing provision on the site, ensure viability and achieve the successful delivery of whole development.</p> <p>Any low-cost housing will be permitted only subject to a section 106 obligation which provides for any future sale of the dwelling(s) to be a percentage below the market value of the property at the time, set at a level estimated to be affordable for those with a local connection, or otherwise in accordance with the cascade arrangements described above.</p> <p>Include within the supporting text an explanation of the criteria methodology for calculating the percentage below market value to be specified for any future sale of a dwelling permitted as low-cost housing in accordance with Policy ML10.</p>	
Modification 12 Policy ML12	<p>Amend the first sentence in Policy ML12 to read:-</p> <p>'Where planning permission is required, development proposals for the provision of high speed broadband infrastructure to serve the parish should not adversely</p>	To ensure clarity
Modification 13 Policy ML13	<p>Insert 'not including wind turbines' between 'proposals' and 'that' in line 1 of policy ML13 and delete the words 'also' in the second line of the policy.</p>	To reflect government policy on wind turbines
Modification 14 Policy ML14	<p>Delete Policy ML14 and the associated text with the contents to be integrated with plan appendix 1, the transport action plan.</p>	To ensure that community priorities with regards to transport are separated from the land use planning policy
Modification 15 Policy ML15	<p>Amend the first criterion under Policy ML15 to read as follow:</p> <p>'The traffic generated can be accommodated safely on the road network and access arrangements for new development is designed to ensure there will be no harm to highway safety and that full account has been taken of the need to protect the safety of cyclists and</p>	<p>To ensure the traffic generation is covered given the deletion of policy ML14.</p> <p>Ensure that the policy is only related to land use issues.</p>

	<p>pedestrians on adjacent roads and footways.</p> <p>Delete the last sentence in Policy ML15 and the last two sentences in paragraph 4.5.8 and integrate the text with the Transport Action Plan in Appendix 1.</p>	
<p>Modification 16</p> <p>Policy ML16</p>	<p>In Policy ML16, first part, insert the word 'or' between each of the five priorities and delete the final paragraph referring to large-scale employment.</p>	<p>To ensure conformity with the NPPF</p>
<p>Modification 17</p> <p>Policy ML18</p>	<p>At the start of Policy ML18 delete the words 'new development' and substitute 'where planning permission is required', and in criterion 4, line 2, delete the words 'or the loss of rural ambience'</p>	<p>To ensure that the policy is clear and unambiguous</p>
<p>Modification 18</p> <p>Policy ML19</p>	<p>Delete the introductory section to Policy ML19 and replace it by the following: 'Proposals for the development of key services and facilities, including: (as currently listed 1 to 4) will be approved provided that (criteria a to c). Delete the words 'All such proposals should ensure:'</p> <p>Add the following:-</p> <p>Land is allocated for a car park for 10 cars to serve the village hall, as shown on the Leysters policy maps.</p> <p>Delete the last sentence in paragraph 4.7.3</p> <p>Delete the last sentence in policy ML19 (within box on p43) and integrate the details of the intended funding of community facilities with the text in paragraph 4.7.4</p>	<p>To ensure that the housing and car parking are distinct and this is made clear on the policies map</p>
<p>Modification 19</p> <p>Policy ML20</p>	<p>In the first criterion of Policy ML20, first line, replace the word 'locality' by 'parish' and, in line 3, replace 'ML18' by 'ML19'.</p> <p>Move the text in paragraph 4.7.7, 4.7.8 and 4.7.11 to follow 4.7.12 under a clear heading 'Assets of Community Value' to make clear it is of the nature of a community aspiration to make us of the separate statutory provisions to protect community facilities.</p>	<p>To correct drafting error</p> <p>To clearly identify community aspirations</p>
<p>Modification 20</p> <p>Policy ML21</p>	<p>In lines 1 and 2 of Policy ML21 delete the words 'to meet the needs of those living /working within their developments'</p>	<p>To ensure policy is feasible</p>
<p>Modification 21</p> <p>p47</p>	<p>In section 5, heading on page47, insert the word 'Delivery' after 'implementation' and in column 2 of Table 1 insert 'and delivery' between 'Implementation' and 'lead'</p>	<p>For clarification</p>
<p>Modification 22</p>	<p>Make the following additions to the definitions included in the Glossary to the plan page 50-56;</p>	<p>To ensure all terms are covered within the</p>

Glossary	<p>Amenity – the benefit and living conditions enjoyed by residential occupiers which may be affected by development on adjacent land, including loss of privacy through overlooking, effect on daylight or sunlight, noise or smell'</p> <p>Infill – development of vacant plots between existing buildings'</p>	Glossary
<p>Modification 23</p> <p>Glossary</p>	<p>Make the following corrections to errors within the Glossary:</p> <p>Conservation Areas – Delete 'Town and Country Planning Act 1990' and replace with 'Planning (Listed Building and Conservation Areas) Act 1990</p> <p>Exceptions sites – Split out from under 'Evidence Base' with emboldened heading.</p> <p>Perpetuity /Planning Obligations /Previously Developed Land – Split these out from under 'Permitted Development Rights' with individual emboldened headings.</p> <p>S106 agreements – Add 'and obligations' and state 'a developer may also offer a unilateral undertaking as a potential obligation should it not be possible to reach agreement with the Local Planning Authority.</p>	To ensure Glossary terms are accurate

4 Post Adoption SEA and HRA

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

5 Decision

- 5.1 The Neighbourhood Planning (General) Regulations 2012 requires the local planning authority to outline what action to take in response to the recommendations that the examiner made in the report under paragraph 10 of Schedule 4A to the 1990 act (as applied by Section 38A of the 2004 Act) in relation to a neighbourhood development plan.
- 5.2 Herefordshire Council have considered each of the recommendations made in the examiner's report and the reasons for them and have decided to accept the modifications to the draft plan. The draft plan will be altered in line with Table 1 above in line with paragraph 12 (6) of Schedule 4B to the 1990 Act.
- 5.3 Following the modifications made, the Middleton on the Hill and Leysters Neighbourhood Development Plan will meet the basic conditions:
- Having regard to national policies and advice contained in guidance issues by the Secretary of State, it is appropriate to make the plan
 - The making of the neighbourhood plan contributes to the achievement of sustainable development
 - The making of the neighbourhood plan is in general conformity with the strategic policies contained in the Herefordshire Local Plan – Core Strategy
 - The making of the neighbourhood plan does not breach and is otherwise compatible with EU obligations and
 - The making of the neighbourhood plan is not likely to have a significant effect on a European site either alone or in combination with other plans and projects.
- 5.4 It is recommended that the Middleton on the Hill and Leysters Neighbourhood Plan progresses to referendum. Consideration has been given as to whether the area should be extended beyond that of the neighbourhood area. Herefordshire Council concur with Examiner's conclusion that nothing has been suggested which would require an extension of the area beyond that designated on 11 March 2014.

Signed 

Dated: 10 January 2018

Richard Gabb
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