

Habitats Regulations Assessment

Addendum Report for:
**Middleton on the Hill and Leysters Group
Neighbourhood Area**

January 2018



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1 Introduction

- 1.1 To ensure that the requirements of the Habitats Directive and Regulations are met, it is necessary to consider the proposed amendments through the HRA process to the Middleton on the Hill and Leysters Group NDP. The NDP has now been through an Independent Examinations by John Mattocks and within his report he has recommended a number of minor modifications to ensure that the plan meets the Basic Conditions.
- 1.2 Herefordshire Council have accepted these modifications to the plan. The NDP has therefore been updated to reflect the modifications suggested. These modifications are minor in nature and have now been assessed as part of the HRA and full results can be viewed in Appendix 3.
- 1.3 The purpose of this further HRA Addendum Report is to detail the findings of the screening of proposed changes to policies and consider if they significantly affect the conclusions of the earlier HRA Reports (July 2016 and Mat 2017).

2 Screening of proposed modifications to the NDP

- 2.1 Regulation 102 of the Habitats Regulations 2010 requires that a Screening Assessment be undertaken, in order to identify the 'likely significant effects' of a NDP. Accordingly, a screening matrix was prepared and this determined the extent to which any of the policies and site allocations in the Middleton on the Hill and Leysters Group NDP would be likely to have a significant effect on the River Wye SAC.
- 2.2 The findings of the screening matrix can be found in Appendices 1 and 2 of that report.
- 2.3 The screening matrix took the approach of screening each policy, objective and site allocation individually, which is consistent with current guidance. The results from the HRA reports of the Herefordshire Local Plan (Core Strategy) were also taken into consideration.
- 2.4 None of the Middleton on the Hill and Leysters Group NDP objectives and policies (July 2016 and May 2017) were concluded to be likely to have a significant effect on the European site. This conclusion is based on assumptions and information contained within the Middleton on the Hill and Leysters Group NDP, the Herefordshire Local Plan (Core Strategy) and the HRA for the Local Plan (Core Strategy).
- 2.5 In many cases this is because the policies themselves would not result in development, i.e. they related instead to criteria for development. In several cases the policies also included measures to help support the natural environment including biodiversity, and therefore no significant effect conclusion could be reached. These policies have the potential to mitigate some of the possible adverse effects arising from other policies and site allocations.
- 2.6 It was also concluded that the Middleton on the Hill and Leysters Group NDP will unlikely have any in-combination effect with any plans from neighbouring parishes.
- 2.7 Therefore it was concluded that the **Middleton on the Hill and Leysters Group NDP will not have a likely significant effect on the River Wye SAC.**
- 2.8 The majority of the proposed amendments to the draft NDP have been minor wording changes and have not needed to be rescreened. Policies M10, ML14 and ML15 have been rescreened due to the changes post reg 14 consultation.

3 Summary of main findings – modifications to the NDP

- 3.1 The Submission NDP incorporates suggestions made by consultees during the Regulation 14 Draft Plan consultation, by adding clarity and emphasis throughout the document. There have been some additions to the criteria in some of the policies which are strengthening up the protection of the area, promoting sustainable transport measures and utilising existing development in order to reduce unnecessary development.
- 3.2 As part of the consultation comments Natural England responded to the HRA report and agreed with the conclusion that the Middleton on the Hill and Leysters Neighbourhood Development Plan (NDP) is unlikely to have significant effect on the River Wye SAC. This conclusion is reached on the basis that the NDP is in line with the Herefordshire Local Plan and the NDP can rely on the policies within to ensure no likely significant effect. Additionally, point 4.1 of the HRA highlights that the River Lugg is within the group parish, however calculations confirm that the River Lugg is ~4.2km away from the nearest parish boundary of Middleton on the Hill and Leysters.
- 3.3 Three policies have been amended for the Submission NDP following the Regulation 14 Draft Plan consultation.
- 3.4 The revised NDP policies are unlikely to result in significant effects on the European sites, a conclusion of which is based on assumptions and information contained within the Middleton on the Hill and Leysters Group NDP, the proposed Main Modifications to the Herefordshire Local Plan (Core Strategy) and the latest version of the HRA for the Local Plan (Core Strategy), updated in April 2015 in light of the modifications. This is published on the Council's website.

4 Summary of main findings - following examination

- 4.1 The final NDP incorporates the modifications that the examiner has recommended within the Examiner's Report. These changes are to ensure that the plan meets the Basic Condition. Full details of the modifications can be seen in Appendix 2 of this Addendum.
- 4.2 No new policies have been introduced into the final NDP following the examination; there have been some minor word changes, none of the modifications significantly alter the direction or stance of the submission policies which were previously assessed.
- 4.3 The final NDP policies are therefore unlikely to result in significant effects on the European site, a conclusion of which is based on assumptions and information contained within the Middleton on the Hill and Leysters NDP, the Herefordshire Local Plan (Core Strategy) and the HRA for the Local Plan (Core Strategy).

5 Conclusion

- 5.1 With reference to section 3 above, the modifications to the NDP are not considered to affect the findings of the previous HRA report.
- 5.2 Therefore the earlier conclusion that the **Middleton on the Hill and Leysters Group NDP will not have a likely significant effect on the River Wye SAC** remains valid.

6 Next steps

- 6.1 This addendum Report will be published with the final Middleton on the Hill and Leysters NDP and the earlier HRA Report and its Addendum

Appendix 1

Consultation date: 7 June to 19 July 2017

Consultation title: Middleton on the Hill and Leysters Neighbourhood Plan Regulation 16

*N.B. This consultation feedback is **only** for comments received on the HRA of the draft Neighbourhood Development Plan*

Consultee	Summary of Comments	Response to Comments
Natural England	Comments received but none specifically to the HRA	Noted
Heritage England	Comments received but none specifically to the HRA	Noted
Environment Agency	No comments received	
Natural Resources Wales	No comments received	

Appendix 2

NDP objectives, options and policies significantly changed following Draft Plan Consultation	HRA Screening of significant changes (policies) following examination				
	Likely activities (operations) to result as a consequence of the significant change to the objective, option or policy	Likely effect if changed objective, option or policy is implemented. Could it have LSE on any European Site?	European Sites potentially affected	Potential mitigation measures to be considered	If recommendations are implemented, would it be possible that the changes would result in no likely significant effect?
Policy ML1	Encourages sustainable development and communities Proportional growth in line with Policy RA2 of the Local Plan (Core Strategy).	No likely significant effect on the River Wye (including River Lugg) SAC.	River Wye (including the River Lugg) SAC	N/A	No. The policy would itself not lead to development; instead it relates to criteria for encouraging sustainable development and sustainable communities.
Policy ML2	Proportionate growth on specific sites identified on a proposals map. Housing development within settlement boundaries Small increase in vehicle traffic	No likely significant effect on the River Wye (including River Lugg) SAC.	River Wye (including the River Lugg) SAC	This policy will help to mitigate the potential effects of any future development by encouraging sustainable design methods including reducing the carbon footprint of any development and protecting the identity and character of the	No. This policy remains within the requirements set out in the Core Strategy RA2 policy and therefore is not over and above the proposed. Although it is acknowledged that there will be an increase in the demand for water abstraction and sewage treatment the Core Strategy has

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				area.	identified that there is sufficient headroom and capacity for the additional houses over the plan period.
Policy ML3	<p>Promotion of proportionate growth in accordance with RA2 for a minimum of 30 dwellings within the parish. Development will be in a defined settlement boundary area as well as windfall.</p> <p>Housing Development</p> <p>Increased in vehicle traffic</p> <p>Small increase in water abstraction</p>	No likely significant effect on the River Wye (including River Lugg) SAC.	River Wye (including the River Lugg) SAC	<p>This policy will help to mitigate the potential effects of any future development by encouraging sustainable construction methods and protecting the existing landscape.</p> <p>Improved water efficiency measures, metering and addressing leakages in the supply may help to mitigate any additional pressures on the water supply as a result of new development.</p>	No. This policy remains within the requirements set out in the Core Strategy RA2 policy and therefore is not over and above the proposed. Although it is acknowledged that there will be an increase in the demand for water abstraction and sewage treatment the Core Strategy has identified that there is sufficient headroom and capacity for the additional houses over the plan period.
Policy ML4	<p>Small scale proportionate growth on specific sites identified on a proposals map.</p> <p>Allocated housing on 4 sites within Leysters</p>	Due to scale and location of potential schemes it is unlikely to have a significant effect on the River Wye (including River Lugg) SAC.	River Wye (including the River Lugg) SAC	<p>This policy should help to mitigate potential adverse effects of future development on designated areas by ensuring that development happens in sustainable non flood risk locations.</p> <p>Improved water</p>	No. This policy remains within the requirements set out in the Core Strategy RA2 policy and therefore is not over and above the proposed. Although it is acknowledged that there will be an increase in the demand for water abstraction

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				efficiency measures, metering and addressing leakages in the supply may help to mitigate any additional pressures on the water supply as a result of new development.	and sewage treatment the Core Strategy has identified that there is sufficient headroom and capacity for the additional houses over the plan period.
Policy ML6	Small scale proportionate growth within the countryside in accordance to policy RA3 and RA4.	Due to scale and location of potential schemes it is unlikely to have a significant effect on the River Wye (including River Lugg) SAC.	River Wye (including the River Lugg) SAC	The measures set out in the Core Strategy policies and also the NDP policies should help to avoid adverse impacts upon the European site.	This policy remains within the requirements set out in the Core Strategy RA3 and RA4 policy and therefore is not over and above the proposed.
Policy ML8	Promotion of high quality design development. Promotion of sustainable design Promotion of minimising waste	No likely significant effect on the River Wye (including River Lugg) SAC.	N/A	This policy should help to mitigate the potential impacts of other NDP policies in relation to inappropriate design.	No. This policy will not lead to new development; rather it aims to ensure development is of a high standard and fitting with the existing townscape.
Policy ML9	Promote a range and various types, sizes and tenures of houses	N/A	N/A	N/A	No. This policy will not lead to new development
Policy ML10	Promotion of affordable housing to meet the needs of	No likely significant effect on the River Wye SAC.	N/A	This policy should help to mitigate the potential impacts of	No. This policy will support affordable housing

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	people within Middleton on the Hill and Leysters.			other NDP policies in relation to increased traffic due to reducing the extent to which people need to travel for work.	
Policy ML12	Increase in home working Broadband and communications improvement Reduced vehicle traffic	No likely significant effect on the River Wye (including River Lugg) SAC.	N/A	This policy should help to mitigate the potential impacts of other NDP policies in relation to increased traffic due to reducing the extent to which people need to travel for work.	No. This policy will also ensure communications infrastructure is strengthened for community use. Faster broadband speeds and better mobile reception may provide work from home opportunities, thereby reducing the need to travel.
Policy ML13	Support renewable energy schemes that are in keeping with MOTH character and landscape.	No likely significant effect on the River Wye (including River Lugg) SAC.	N/A	The measures set out in other policies within the NDP will mitigate against any potential adverse impact.	No. The scale and extent of potential development is unlikely to have a significant impact on the SAC. There are sufficient policy safeguards within the NDP and Core Strategy to help avoid or mitigate any likely significant effects on the SAC.
Policy ML15	Promotion of traffic calming measures and road safety	No likely significant effect on the River Wye (including River Lugg)	N/A	This policy should help to mitigate the potential impacts of	No. This policy will not lead to development.

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	Support safe access and off street parking Link footway and cycleway	SAC.		other NDP policies in relation to increased traffic,	
Policy ML16	Increase in home working Small work premises Small scale business production Retaining existing employment sites Support employment growth and infrastructure development	No likely significant effect on the River Wye (including River Lugg) SAC.	N/A	Good practice construction techniques include noise suppression measures; hours of operation may help to mitigate potential adverse effects during construction.	No. The scale and extent of potential development is unlikely to have a significant impact on the SAC. There are sufficient policy safeguards within the NDP and Core Strategy to help avoid or mitigate any likely significant effects on the SAC.
Policy ML18	Support development for agricultural and forestry enterprises. Increase of vehicular movement and demand for water abstraction and treatment. Physical damage of disturbance on a localised scale.	No likely significant effect on the River Wye (including River Lugg) SAC.	N/A	Improved water efficiency measures, metering and addressing leakages in the supply may help to mitigate any additional pressures on the water supply as a result of new development.	No, this policy aims to protect existing employment sites. There are sufficient policy safeguards within the NDP and Core Strategy to help avoid or mitigate any likely significant effects on the River Wye SAC.

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	Non-physical disturbance such as noise.				
Policy ML19	Support and upkeep of existing local community facilities. Promote new development of community facilities. Increase in vehicular movements.	No likely significant effect on the River Wye (including River Lugg) SAC.	N/A	Improved water efficiency measures, metering and addressing leakages in the supply may help to mitigate any additional pressures on the water supply as a result of new development.	No, although this policy could result in the development of new community facilities or the loss of existing provision to new uses, which depending on location could have potential effect on the SAC. However, sufficient policy safeguards are in place within the Local Plan (Core Strategy) and with the inclusion of additional wording in the NDP policy to avoid or mitigate any likely significant effects on the River Wye.
Policy ML20	Facilities and where possible enhance them. Support and upkeep of existing local community facilities.	No likely significant effect on the River Wye (including River Lugg) SAC.	n/a	n/a	No. This policy will not lead to new development; rather it specifically aims to protect community facilities.
Policy ML21	Safeguard of Local	No likely significant effect on the River Wye	n/a	None. This policy acts as a mitigation	No. This policy will not lead to new

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	Green spaces. Increase in recreation activities use. Increase in outdoor activities.	(including River Lugg) SAC.		measure to ensure greenspace is safeguarded against inappropriate development.	development; rather it specifically aims to protect and promote open spaces.
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Appendix 3

Appendix 10: Modifications following examination – Middleton on the Hill and Leysters NDP

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’ Delete the last sentence in paragraph 4.1.6	To ensure that the policy is clear and any contradictions are removed.
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	Make corrections as updates to policy ML3 as follows: Point 1 to read ‘Around 13 dwellings constructed.... Between April 2011 and March 2017’ Point 2 to read ‘9 new dwellings...’ At the end of point 4, add ‘include on rural exception sites’ Make corrections to supporting text following policy ML3 as follow: In the last line of paragraph 4.2.4, substitute ‘10’ for ‘12’ At the end of paragraph 4.2.6, substitute ‘55.6%’ for ‘90%’	To update the currently housing position

	In paragraph 4.2.7, line 4, for 'Policy RA3' substitute 'policies RA3 and H2'	
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> <p>Include an additional paragraph in the supporting text to justify this policy approach.</p>	To ensure that the areas related to the policy are listed
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>	To ensure clarity and that the policy can be delivered.

	<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>	
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 MI10 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> <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>	To ensure that the policy is clear in terminology and consistent with national policy

	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.	
Modification 12 Policy ML12	Amend the first sentence in Policy ML12 to read:- 'Where planning permission is required, development proposals for the provision of high speed broadband infrastructure to serve the parish should not adversely	To ensure clarity
Modification 13 Policy ML13	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.	To reflect government policy on wind turbines
Modification 14 Policy ML14	Delete Policy ML14 and the associated text with the contents to be integrated with plan appendix 1, the transport action plan.	To ensure that community priorities with regards to transport are separated from the land use planning policy
Modification 15 Policy ML15	Amend the first criterion under Policy ML15 to read as follow: '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 pedestrians on adjacent roads and footways. 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.	To ensure the traffic generation is covered given the deletion of policy ML14. Ensure that the policy is only related to land use issues.
Modification 16 Policy ML16	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.	To ensure conformity with the NPPF
Modification 17 Policy ML18	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'	To ensure that the policy is clear and unambiguous
Modification 18 Policy ML19	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).	To ensure that the housing and car parking are distinct and this is made clear on the policies map

	<p>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>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>Glossary</p>	<p>Make the following additions to the definitions included in the Glossary to the plan page 50-56;</p> <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>	<p>To ensure all terms are covered within the Glossary</p>
<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</p>	<p>To ensure Glossary terms are accurate</p>

	<p>'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>	
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