

EXAMINATION OF THE YARPOLE GROUP NEIGHBOURHOOD DEVELOPMENT PLAN 2011 to 2031

Examiner's comments and questions

I have completed my initial appraisal of the submitted Yarpole Group Neighbourhood Development Plan ('the YGNDP') and I have read the written representations made in response to the Regulation 16 consultation. From this appraisal I have identified a number of matters upon which I require further information or clarification and to this end I pose a number of questions to which I require responses by the Yarpole Group Parish Council (YGPC) as the 'Qualifying Body' for the preparation of this plan.

In this note I set out the background considerations leading to my questions by the use of *italic script*. Where appropriate I indicate the representation which has given rise to a particular comment and question. I raise an issue only where I consider it possible that I may need to recommend that the plan be modified in order that it fully satisfies the basic conditions.

The italicised comments in this document give an indication of my preliminary views on the listed topics. The questions are then posed in such a way as to provide the YGPC with an opportunity to respond either to the questions themselves or to my preliminary view(s) should that be considered appropriate. My final conclusions and recommendations will be given in my formal report to the Herefordshire Council at the end of the examination. It is important that the examination is undertaken in an open and fair manner and any important documents will be made available on the Herefordshire Council website for this plan.

The legislation provides that, as a general rule, the examination is to take the form of the consideration of written representations but an examiner must cause a hearing to be held should it be considered necessary to ensure adequate examination of an issue. At present this seems unlikely but I will confirm the position following receipt of the YGPC written responses to the questions which follow.

John R Mattocks, BSc DipTP MRTPI

Examiner

21 November 2017

General Comments

The Yarpole Group NDP is a well written and clear document which is logically organised. The policies are clearly distinguished within lime green boxes followed by text setting out background considerations and evidential justification for each policy. The concluding section on delivering the plan is helpful and an appendix sets out supplementary design criteria as guidance. The overall impression is one of a professionally prepared document.

Nevertheless, I have identified some elements within the plan which will require revision and I think it only right that I should give notice of these so that they do not come as a surprise when my report is delivered.

Main Issue 1. Housing delivery and distribution between villages

The delivery of housing over the plan period is an issue of particular significance given the emphasis on this matter in Central Government policy and guidance. As is recognised in the plan, ensuring a range of housing to meet local needs, including affordable housing, is not only a requirement of the adopted Herefordshire Core Strategy but is also a factor in assessing the contribution made by the plan to sustainable development. Linked to this are questions over the distribution of housing between the villages within the plan area.

Q1. The Core Planning Principles set out in paragraph 17 of the National Planning Policy Framework (NPPF) include a requirement that plans should be kept up-to-date. Therefore, as far as possible, plans should take account of the latest available data at least at the point they are submitted for examination and, if possible, up to the point when they are 'made' (adopted). The figures on housing provision given in Table 1 on page 15 of the plan are 2016 based and they take no account of commitments. I have been provided by Herefordshire Council with the following update as at 1 April 2017:-

<i>Parish/Group parish</i>	<i>Number of new houses to 2031</i>	<i>Completions 2011-2017</i>	<i>Commitments 2011-2017</i>	<i>Remaining</i>
<i>Yarpole</i>	<i>48</i>	<i>8</i>	<i>17</i>	<i>23</i>

The figure for commitments represents planning permissions granted for housing which were valid at the base date. The figure of 17 includes the 5 with outline permission off Croft Crescent (YGNP Policy YG9) and a permission granted for 9 dwellings at Brook House Farm (Policy YG10). The other three are for individual dwellings or conversions. Since April 2017 permission has been granted for a further 16 dwellings: 6 in Yarpole allowed on appeal in May with a 7th dwelling off the same access road permitted by HC in July. In August 2017 full permission was given for the erection of 9 dwellings at Lower House Farm, part of the site allocated in NP Policy YG10.

Is it accepted the plan will need to be updated to reflect the position as at 1 April 2017 as well as the more recent permissions granted? If so, would the YGPC please provide revised text, paragraphs 3.10-3.13.

The Examiner may wish to consider the following as replacement paragraphs:

- 3.11 The target for new housing within the Group Parish indicated for the period 2011 to 2031 by Herefordshire Council is 48 dwellings. Herefordshire Council advised that at April 2017 some 8 new dwellings had been constructed since 2011 and a further 17 had received planning permission but as yet were not completed. Between April and November 2017, a further 20 dwellings resulted from the grant of planning permission, of which all were within or adjacent to Yarpole village. A modest estimate of the allowance for dwellings that are likely to come forward outside of the village within the remainder of the Group Parish and based upon past trends suggest at least a further 8 dwellings would result. These would come forward through rural building conversions, agricultural dwellings and other acceptable forms of housing development in the countryside. Accordingly, it is anticipated that the minimum outstanding level of proportional growth of 3 dwellings will be met and most probably exceeded during the outstanding plan period – see Table 1.
- 3.12 Housing provision associated with the three villages will continue to be met through a combination of individual or small plots within a settlement boundary together with the three site allocations, one in Bircher and two in Yarpole. The site allocations will enable a mixture of house types, sizes and tenures as is necessary to be brought forward. Except for the 2014 local housing needs report by Herefordshire Council, the need for affordable housing is currently unquantified. Should any future requirement be identified the most appropriate way to provide this would be through Herefordshire Local Plan Core Strategy policy H2 which enables exceptions to be made where there is a proven need for such housing. Such schemes have proved successful in nearby villages. A group within the Parish is investigating the establishment of a Community Land Trust to meet any future needs that might be identified.
- 3.13 The approach to accommodating housing within each village together with supporting infrastructure is identified in the following three sections. However, the summary of how these will meet and exceed the required level of proportionate growth is set out in Table 1 below. It should however be recognised that these figures represent the expected minimum potential number for the relevant sites and plots in order to indicate that the required target can be met. A modest figure for developable sites is used in all instances. Since the production of the draft plan the two proposed housing sites in Yarpole were granted planning permission although they have yet to commence development. It is possible that proposals may be reviewed and consequently the policies set out for them remain relevant.

Table 1: Summary of Proposals to Meet and Exceed the Housing Target (At November 2017)

Housing Target 2011 to 2031:- 48		
Completions 2011- 2017:- 8		
Outstanding planning permissions November 2017 (not covered below):- 10		
Remainder to be provided through this plan:- 30		
		Number of dwellings- on available sites Immediate term
1	Bircher	
	a) Site allocations (Policy YG3)	5
	b) Small site/conversion (YG4)	8
2	Lucton (Policy YG6)	0
3	Yarpole	
	a) Small sites (Policy YG8)	10
	b) Allocation, Croft Crescent (YG9) (PP granted)	5
	c) Allocation, Brook House Farm and adjacent land (YG10)(PP granted)	18
	Dwellings resulting from this Neighbourhood Plan	46
4	Rural windfall based on past trends.	8
	Total	54

Note for Examiner

[NB Appendix 1 provides information about recent grants of planning permission](#)

Q2. *Related to the above, there is no point in allocating a site in a plan once full planning permission is granted because it is no longer possible for plan policy to influence the form of development. On that basis, is it accepted that Policy YG10 now serves no useful purpose and should be deleted as policy? If the YGPC consider that there should continue to be a reference to this site in the plan text would they please provide an appropriate wording.*

Herefordshire Council has advised elsewhere that such sites can remain as allocations in that until development commences, and even subsequently, landowners can change their proposals through seeking new planning permissions or variations, and therefore the policies may remain relevant. This is relevant in at least one case in Yarpole as it was the landowners that received planning permission and the sites may be passed on to developers

Q3. a. What criteria have been used to determine where the settlement boundary lines should be drawn? Were alternatives considered? b. In view of the permissions granted, would the YGPC consider it appropriate that the settlement boundary for Yarpole village should be amended to include the sites granted permission recently which abut the boundary as shown on the submission policies map?

The Settlement boundaries were based upon existing boundaries where there may have been any proposed in the recent past (Herefordshire UDP; Leominster Local plan), the general built-up area where there has not been one, recent developments, site allocations, and those small sites (normally 4 houses or less – see Planning Practice Guidance) that were considered available and suitable. It would be appropriate to include such sites where they have been granted planning permission provided it is clear that they fall within or adjacent to the built-up area of the village. An exception is a combined site granted under codes P161522/F and P171745/F. The first of these was granted on appeal and there are significant concerns about flooding on parts of the site. The second is a single plot extension to the first permitted site

Q4. *Policy YG9 relates to a site for which outline planning permission has already been granted. The policy seeks to set criteria for consideration when application is made for reserved matters. However, Herefordshire Council DM section have confirmed that it is only the reserved matter of 'scale' which equates to the factors mentioned in the policy. Therefore, it is only the size of the dwellings proposed which requires further approval. No conditions have been imposed which would provide control over dwelling type or tenure. The policy cannot, therefore, be implemented in its entirety.*

For greater precision and clarity as to size, does the term 'small or medium sized' mean 3 bedroomed or smaller as Table 2 might suggest? What does the last sentence of the policy mean in practice? Is it that a higher proportion of, say, one bedroomed homes would be acceptable if they came within the categories stated?

The term 'starter home' has a specific meaning in Government policy and without control over tenure it is difficult to see how this part of the policy might be implemented. For a development of 5 open market dwellings the proportions in Table 2 would suggest that 3 be three-bedroomed dwellings and 1 be two-bedroomed. If that was to be the case, 4 out of 5 dwellings would represent a development of 'predominantly' small or medium size dwellings. Consequently, the fifth dwelling might be of any size. Is that what is intended?

NB There is reference in paragraph 6.11, second sentence, to a Design and Access Statement. That was submitted with the outline application and there is no further requirement for such a statement.

In many instances landowners seek planning permission and sell on to a developer. Herefordshire Council has advised elsewhere that such sites can remain as allocations in that until development commences, and even subsequently, developers can change their proposals through seeking new planning permissions or variations, and therefore the policies may remain relevant.

The clarity in terms of house sizes is provided by specific reference to the Local Housing Market Study and Table 2.

The last sentence of the policy correlates with Table 2 and also paragraph 3.14. Should a developer seek to provide homes for young people or the elderly or starter homes then variation from the proportions set out by Herefordshire Council might be appropriate. The Parish Council is aware of the Government's definition of starter homes in relation to grant aid to housing associations and is watching the provision in the nearby village of Kingsland with interest. However, it is understood there is no specific definition of starter homes in the Planning Acts and what they might be can therefore be a matter for negotiation between the relevant parties. It is unfortunate that Herefordshire Council is not seeking to address the proportional requirements in terms of house size within the sites at Yarpole but should any of the sites be sold on they may seek to achieve a better balance.

In relation to the 5 dwelling scenario, this might be the case but if a developer indicated s/he wished to provide two extra two-bed properties at low cost then the policy allows for this.

With regard to para 6.11 – previous comments about new applications/variations apply.

Q5. Settlement strategy. a. Lucton. The three main villages in the YNP area, *Bircher, Lucton and Yarpole, are all listed in Figure 4.14 of the Herefordshire Core Strategy (HCS), without distinction, as settlements which are to be the 'main focus of proportionate housing development' in accordance with HCS Policy RA2. However, it is stated in HCS paragraph 4.8.21: In parishes which have more than one settlement listed ... the relevant Neighbourhood Development Plan will have appropriate flexibility to apportion the minimum housing requirement between the settlements concerned. The distribution by dwelling numbers is shown in Table 1 with no provision in Lucton with policy provisions in YG2(b) and YG6 and justification for the approach in paragraph 5.2.* In view of the representation made by CR Planning Solutions on behalf of A&M Garden Machinery does the YGPC have anything to add to the response given to the Regulation 14 representation?

The site did not come forward during the 'Call for Sites' yet was evaluated when the representation was received at the Regulation 14 stage. Lucton is the

smallest of the three settlements and the least sustainable. The Parish Council has long argued that Lucton was wrongly identified as a village in the Core Strategy, whereas in previous strategy documents it was correctly identified as a hamlet. The proposed site is disproportionate in relation to the hamlet which is a Conservation Area (10 dwellings would represent a 25% increase in the size of the hamlet). Even though outside the Conservation Area, Heritage England advise that the setting of heritage assets should be considered. The character and appearance of the hamlet is based upon its heritage components. In addition to being disproportionate, it is considered the development of this site does not conserve or enhance the setting of the Conservation Area.

b. Cock Gate. *A representation from the Development Management section of Herefordshire Council expresses concern about the identification of settlement boundary around Cock Gate, as a detached part of Yarpole village citing highway safety concerns. Road safety is also mentioned in another representation. In the plan, Cock Gate is mentioned in paragraphs 6.6 and 6.9.* a. What, exactly, is the justification for drawing a settlement boundary at Cock Gate? b. How will this, as stated in paragraph 6.9, 'contribute towards the aim of drawing together the village's component parts' when it is also stated that the green gap between Cock Gate and the main part of Yarpole village is 'important to the village's open character'. c. As there is no explicit policy to protect the gap between Cock Gate and Yarpole might the plan increase the pressure for ribbon development along Green Lane? d. How would development at Cock Gate 'contribute to sustainable development'? e. What assessment has been made of the road safety implications of allowing additional access to the B4362? f. What is the justification for including the open (green) field (site 17) to the east of Mortimer House within the settlement boundary? g. *The last sentence in paragraph 6.9 reads as policy.* What would be the 'appropriate agreements' and what is the relevance of Policy YG8(f)? Is that an error, should it be part g)?

a) There are many villages within Herefordshire where Herefordshire Council/predecessor authorities have drawn settlement/development boundaries around various parts and have similar highway conditions – see Bridstow, Goodrich. Cockgate is considered part of Yarpole village and in that regard contains its village hall. It previously contained the village school. In social terms it has always been considered part of the village community. Given the increased emphasis on defining settlement boundaries provided by the Core Strategy the need to reflect what has historically been a feature of the community can now be legitimised.

b) It is understood that the NPPF's requirements for designating Local Green Space would not afford this gap between the two parts of the village that consideration. The defining of separate development boundaries will ensure its protection and retain its character. In drafting the NDP the Steering Group was conscious of the situation that arose at Hope Under Dinmore which is similar. A reduced speed limit might enable Green Lane to become more of a Shared

Space in order to promote the ability to walk more safely from one part of the village to the other, especially to the village hall.

c) The defining of separate development boundaries was to avoid ribbon development between the two parts of the village. The examples of Bridstow and Goodrich are again relevant.

d) Cockgate contains the village hall and is more sustainable in this regard than Bircher or Lucton.

e) Herefordshire Council was consulted at Regulation 14 stage and did not raise this issue then. Of the 4 individual/small sites submitted at Cockgate, none are proposed as allocations but will be subject to Herefordshire Council's policies in relation to highway safety (see para 8.1). Of the 4 sites indicated as contributing towards the required level of proportional housing growth, two would have accesses onto lanes and not the B4362 (estimated 3 dwellings in total). Of the two sites (again 3 dwellings in total) requiring access onto the B4362, it is considered both have the opportunity to share an existing access point without affecting residential amenity. However, it is also recognised that there may be uncertainty about achieving a suitable access which is why the assessed provision exceeds that required, and this is particularly the case now given the planning permissions granted at November 2017.

f) The submitted site is considered potentially suitable with a proposed access to the site through an existing drive from the public highway via two gates.

g) The reference to YG8(f) is an error and thought to be a hangover from an earlier draft. The most appropriate location for an access to this site will be adjacent to the village hall car park. Consequently, to achieve this, some form of rationalisation of will be required to the car park at the village hall. The Examiner is correct in that the reference should therefore be to YG8(g) and as this would involve a third party, some form of agreement to ensure both can work together would be necessary. It may not be a planning agreement so is not set out as a policy.

Main Issue 2. Lack of explicit provision of affordable housing. *In YGNP paragraph 3.2 it is stated that the vision means there is sufficient housing to meet the needs of local people, including affordable homes. Also, the objectives for housing provision as set out in paragraph 3.3 of the plan indicate that new housing should contribute to a sustainable and balanced community, with bullet points to provide a mix of properties in terms of size, tenure and price and to satisfy locally identified needs for all life stages including affordable homes. Yet, the only explicit reference in the plan is in paragraph 3.12 where it is stated that 'the need for affordable housing is currently unquantified' and places reliance on the identification of 'exception sites' under HCS Policy H2 with mention of the establishment of a Community Land Trust.*

A local housing needs report produced by Herefordshire Council identified a need for affordable housing for 5 households in the three years from 2014. Also, the

GL Hearn Local Housing Market Assessment (LHMA) 2012 Update, from which the statistics in Table 2 are drawn¹ also indicates that of the 731 dwellings needed within the rural parts of the Leominster HMA 183 should be affordable, which is 25%. It is that evidence on which HCS policy RA1 requirement for 14% growth is based and from which the figure for the provision of 48 dwellings in the YGNP area 2011-31 is derived. It might, therefore, be expected that if 50 dwellings are to be provided through plan policy², some 12 or 13 of them should be within the affordable housing categories.

Q6. a. Should the text in paragraph 3.12 be amended and expanded to refer to the need for affordable housing identified in the 2014 local housing needs study³ and the GL Hearn evidence informing the HCS? b. Any affordable housing provision on exception sites would be over and above the numbers of dwellings envisaged in Table 1 of the plan, is that level of development likely to be acceptable to the local community? c. Has the Community Land Trust mentioned in paragraph 3.12 been established? Has any work been done to identify and discuss with landowners any possible exception sites for development in accordance with HCS Policy H2? d. What assurances, if any, can be given that this might result in the identification of deliverable sites to meet the currently identified (LHMA) need for affordable housing?

As indicated in the introduction to Main Issue 1, recent permissions, including those granted on appeal and at Brook House/Lower House Farms, have all been without any requirement for affordable housing nor can there be any requirement at Croft Close. The only other allocation, at Bircher, is indicated as suitable for only 5 dwellings and other developments within settlement boundaries will only yield small numbers of dwellings, all well below the threshold of 11 for affordable housing on open market sites under HCS Policy H1.

a and b) HCA has advised that up-to-date information would be needed to support any scheme for affordable housing. It is also understood that the approach includes intermediate forms of affordable housing. The local community is concerned that evidence from other nearby communities where affordable housing has been provided has not attracted local families but relocation from outside of the County. Stonewater Housing Association, that provides social rented housing within North Herefordshire, has advised it will not undertake any scheme of less than 20 houses. The affordable housing information in the Housing Market Study is at a larger scale than the parish level and local knowledge suggests that the most appropriate way to provide for much of the local need within the Group Parish is through self-build and shared ownership provision.

¹ Tables 61 and 62

² Although that figure may require updating in the light of recent permissions

³ For Croft and Yarpole, Herefordshire Council Strategic Intelligence Team, June 2014

c) Not yet.

d) North Herefordshire was refused 'rural status' under the Housing Act and hence can only seek elements of affordable housing on sites of 11+ dwellings. It was hoped that Herefordshire Council would consider the site at Brook House/Lower House Farm as one site in order to gain some affordable housing, which was one of the purposes of allocating this as one site. However, this did not prove to be the case. No other sites of sufficient size that were suitable came forward in the call for sites. (NB Two larger sites were submitted but had significant access constraints and were assessed as not suitable).

Q7. a. Without specific provision for affordable housing would the provisions of HCS Policy RA2 for development in rural villages be satisfied? b. Without such provision can the plan be held to contribute to sustainable development? c. Have any alternative options been considered, including the identification of one or more sites large enough to ensure affordable housing provision under HCS Policy H1?

I am aware that this situation has arisen largely as the result of recent decisions. As the LHMA identifies affordable housing needs across the whole of the rural parts of the Leominster HMA rather than for specific villages I will be asking the Herefordshire Council to provide information about provision in other neighbourhood plan areas within the HMA.

a) As the Examiner indicates the affordable housing requirements fall across the whole of the housing market area and it does not appear to have been a matter that the Core Strategy Inspector asked to be addressed on an individual parish/settlement basis.

b) A range of factors affect sustainability, including the ability to promote sustainable modes of transport. This is clearly not possible within a rural area such as North Herefordshire. Hence there are degrees of sustainability and arguably the absence of specific proposals for affordable housing in every village/parish is not critical. The opportunity to provide affordable housing through policy H2 is available on exception sites. Just because provision under Core Strategy policy H2 cannot count towards proportional growth does not mean it will not contribute towards sustainable development.

Other issues of compliance with basic conditions.

Some of the policies in the plan do not relate to land-use planning but to other aspects of council activity. Section 38A(2) of The Town and Country Planning Act 1990 (as amended by the Localism Act 2011) defines a "neighbourhood development plan" as a plan which sets out policies (however expressed) in relation to the development and use of land Furthermore, it is stated in paragraph 183 of the National Planning Policy Framework (NPPF) that neighbourhood planning can be used: to set planning policies through neighbourhood plans to determine decisions on

planning applications. *However, in the Planning Practice Guidance (PPG), it is also recognised that: neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land.⁴ It goes on to state that: Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non land use matters should be clearly identifiable. For example, set out in a companion document or annex.*

What this means in practice is that the policies in the statutory part of a neighbourhood development plan should deal only with those matters which come within the purview of the Local Planning Authority in making decisions on planning applications. Traffic speeds, pedestrian safety and traffic management measures fall within the responsibility of the Local Highway Authority. It is absolutely understandable that such issues are a major concern for the local community and that the Parish Council might well wish to promote road safety measures but, if they are included in a neighbourhood plan, they have to be treated in a different way from policies concerned with the development and use of land. This also applies to works on highway land, such as speed bumps, which do not require planning permission. The only matters which may be covered in a planning policy are those which are directly related to a development proposal and necessary for that development to take place. In other words they need to meet the tests for planning conditions and/or planning obligations as set out in paragraph 204 of the NPPF. These considerations apply to YGNP Policy YG11 and the accompanying text.

Q8. Would the YGPC please re-consider the wording of Policy YG11 and indicate whether it might be possible to relate it to the development and use of land. Otherwise, how would the PC wish their concerns about highway safety to be referenced in the plan?

Policy YG11 reflects Herefordshire Core Strategy policy SS4 – viz (part)

'Herefordshire Council will work with the Highways Agency, Network Rail, bus and train operators, developers and local communities to bring forward improvements to the local and strategic transport network to reduce congestion, improve air quality and road safety and offer greater transport choices, including the provision of the following major schemes:

- *ESG Link Road (safeguarded route) and Transport Hub;*
- *Hereford Relief Road;*
- *Leominster Relief Road;*
- *Connect 2 Cycleway in Hereford;*
- *Park and Choose schemes; and*
- *other schemes identified in the Local Transport Plan and Infrastructure Delivery Plan.'*

⁴ Ref. ID. 41-004-20140306

This has been approved by the Inspector to the Public Examination into the Plan. There is no apparent difference between this policy approach/statement and that which is in the NDP.

Allied to the above, Policy YG16 is headed 'Use of Community Infrastructure Levy' but is more widely drawn. The introduction of a CIL charging regime in Herefordshire has been paused but, nevertheless, the scope for achieving contributions through s106 is limited. Not only that any Community Infrastructure Levy would be applied in accordance with a statutory charging schedule which is outside the influence of a neighbourhood plan. The PC might well wish to include an indication within the plan text of their aspirations for spending CIL funds should they materialise but that is not a direct land-use policy matter.

Q9. In view of the above, how would the YGPC wish their priorities for spending possible CIL receipts to be dealt with in the plan?

It is understood this issue has now been raised in relation to a number of other NDPs in North Herefordshire where the following policy has been approved and adopted:

Developer Contributions and future Community Infrastructure Levy (CIL)

Where appropriate new development within the Group Parish should contribute towards necessary infrastructure in order to address the demands that such development places on the area and to support the social dimension of sustainable development. Contributions should be made through Section 106 Agreements, CIL or other agreements that may be available at the time during the period of the Plan.

Hence it is suggested that the title be changed with other minor changes. The following could be added to the supporting statement:

'The Group Parish Council will maintain a list of supporting and enabling actions that might benefit from contributions made through developer contributions. This list will be reviewed from time to time in order to support growth within the community.'

I now raise a number of more detailed questions on certain aspects of the policies in the plan.

Q10. Policy YG1. *It is not entirely clear how this policy is supposed to be used for the purposes of decision-making. The text in paragraph 3.6 correctly summarises the statutory position on the status of the development plan, which includes the neighbourhood plan. There is no need to cross-reference to HCS policies.* a. How is it intended that policy YG1 should be used for the purpose of guiding decisions on planning decisions? b. Is the policy intended as a 'catch

all' for situations where there is no specific NP policy covering a development proposal? If so, what does the last paragraph add to the plan? c. Might the reference to benefits in the last sentence be clarified to state that these can only be sought where they meet the tests for planning obligations in paragraph 204 of the NPPF?

NB Working from home does not require planning permission unless the nature of the business is such that a material change of use is involved.

a) This policy sets out the strategy for sustainable development and is similar to Core Strategy SS1. It sets out criteria that should be used where there may not be relevant policies or out-of-date policies just like Core Strategy Policy SS1 but includes those factors that the community consider most relevant. It should be used in the same way as Core Strategy Policy SS1 with which it is complementary.

b) It is both a 'catch all policy' setting the framework for the NDP and also for exceptions as explained above. The last paragraph reflects the exceptions element as per SS1. It explains to the community that exceptions may be required and that should this occur then some sustainable development principles may still apply.

c) The necessity for this is not understood. There are a range of policies in the Core Strategy that seek enhancements and other benefits and reference is not made to the NPPF for these.

Q11. Policy YG2. Part c). *The words 'where it will support the retention and possible expansion of facilities and services' appear to be a justification for the strategy to accommodate the majority of development in Yarpole, rather than policy. Should these words be moved to the supporting text? (The wording is also rather presumptive, would 'where it would assist in supporting ...' be more appropriate?). Part d). Why say 'not exclusively Policy RA3'? Why is it necessary to say this at all? *It does not add anything to the plan.**

Part c) The policy indicates support for the possible expansion of facilities and services at Yarpole. It is not a simply a justification for the policy. It is a reference that promotes sustainability in the largest settlement within the Group Parish.

Part d) there are a range of policies that cover development of housing, employment, infrastructure etc in the Core Strategy. Policy RA3 is the most relevant to the community as a whole, covering the range of housing exceptions. Advising the community that there are opportunities for development outside of the three settlements is important so that it can see an appropriately integrated approach has been considered.

Q12. Policy YG3. Part e). *This provision not only cross-references to general policy YG14 but uses different words which may cause difficulty in plan implementation. The same comment applies to Policies YG6(a) and YG8(a) as well as to Policy YG4(c).* Is there a justification for the repeat of policy

provisions? Is not policy YG14 adequate to apply to all proposals for development in conservation areas?

The requirement that development 'shall not adversely affect' the character or appearance of a conservation area is not aligned with the approach advocated in Government policy⁵ to assessing development proposals in conservation areas. Policy YG14 is in line with the statutory requirement⁶ that special attention should be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

The advice is helpful and it is accepted that there is no need to refer to Policy YG14 in the four policies.

However, with regard to policies YG3, YG6 and YG8, we would ask that the following statement be included in the supporting text so that it is clear to readers that there are conservation areas for the villages and the requirement to preserve or enhance needs to be considered:

'There is a Conservation Area defined for (Bircher – Lucton – Yarpole – as the case may be) and Policy YG14 will be relevant to proposals that may affect its character or appearance, including those that may affect its setting.'

With regard to policy YG4, criterion c) might be amended by deleting '

'Development shall preserve or preferably enhance the character and appearance of Bircher Conservation Area and, in particular,'

Q13. Policy YG4, Bircher. *There are several references in the plan to a possible need for highways improvements at the junction of Leys Lane with the B4362. In Policy YG3(h) it is stated that contributions 'may' be required for improvements to the junction. References in the text, paragraphs 4.3 and 4.4, to the difficulties at the junction are vague. It is not at all clear how any requirement to improve the junction would meet the tests for planning obligations in paragraph 204 of the NPPF. It is unlikely to be possible to pool s106 contributions. Also, it might well be held unreasonable to require any part of the site allocated under Policy YG4 to be made available for highway improvement works unless those works were directly related to, and necessary for, the proposed development of that site. It cannot be required by policy 'for other development along that lane'.*

The junction is poor and the policy is drafted in such a way as to provide for an improvement should it 'be necessary' to accommodate the development. Herefordshire Council as Highway Authority would determine this in the light of any planning application. It is felt the possibility that this might be the case should be provided for and identified so that the landowner/developer is aware that this is a potential issue. It is accepted that the level of other development proposed along Leys Lane through this NDP will be small although the potential for others to contribute should not be ruled out

⁵ NPPF, paragraphs 131-4

⁶ S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Q13 a. What exactly is the position with regard to permitting further development within the settlement boundary along the eastern side of Leys Lane? Has the Highway Authority indicated that improvements would be required before any development might take place? If not, is there any indication as to how much development might take place (in terms of dwelling plots) before this factor would result in a refusal of permission in the absence of such improvements?

Development resulting from the NDP is expected to amount to some 7 dwellings – 5 associated with the allocated site and 2 more on the east side adjacent to Beechcroft. Herefordshire Council's Transportation made no comment upon the policy when it was consulted at the Regulation 14 Stage (See Representation S.5 in the Schedule of Representations).

b. Is it possible for the proposed development at Bircher under Policy YG4 to take place without any improvements to the junction with the B4362? If so, how can land be required to be set aside for such improvements as indicated in Policy YG4(e)?

The improvement may not be critical in that vehicles can exit Leys Lane to the left reasonably easily and then turn right along Green Lane through Yarpole to go westwards. However, it would be a benefit to achieve an improvement that might enhance the attractiveness of the site, among others. It would be for HC to determine whether it is necessary which is why the policy is phrased in that way.

c. The Policies Map shows a single, relatively large, area of land as allocated but the 'call for sites' map shows two smaller parcels (numbered 19 and 27) with capacities of 2 dwellings on each site. When was a decision taken to combine the sites and what is the basis for the assumption (in para. 4.4) that the site might accommodate 5 dwellings? In view of the steeply sloping nature of the site, what is the degree of confidence that 5 dwellings would be compatible with the conservation area?

The need to combine the sites was determined because of the proximity to the junction. It was considered that a new direct access onto the B4362 should be avoided at this location and that one access onto Leys Lane would be appropriate given the proximity to the junction. Hence the landowners would need to work together. Such an approach would also enable an integrated design approach that would ensure the more sensitive approach to preserving or enhancing the Conservation Area. The interrelationship of frontages and roofs will be important in this regard. There is no reason to believe a reasonable design could not be forthcoming to comply with conservation area requirements.

Q14. Local Green Space policies, YG5, YG7 and YG12.

Although there is justification given in the plan text for keeping these areas free from development it is only in paragraph 4.5 (Policy YG5) that there is reference to the criteria in paragraph 77 of the NPPF. Local Green Space is a very specific

designation which is not to be applied to most open spaces. It is not sufficient, in itself, to state only that the areas have been protected in old (now superseded) development plans. NB. Herefordshire UDP Policy HBA9 was 'saved' but has now been superseded by Core Strategy Policies as listed in Appendix 1 to the HCS.

Q14a. What is the specific justification for the identification of Local Green Spaces in Lucton (YG7) and Yarpole (YG12) assessed against the criteria in paragraph 77 of the NPPF?

Lucton – the area has both potential biodiversity (orchard) and archaeological (adjacent earthworks) meet the richness of wildlife and historic significance provisions of NPPF para 77. The following addition is suggested in the light of the comment:

'The land between the settlement boundary and Orchard Bungalow identified on Lucton Village Map is designated as Local Green Space in order to protect its biodiversity and heritage value and for the contribution it makes to the character, appearance and setting of Lucton Conservation Area.'

Yarpole – The village cemetery is of significant community interest because of its tranquillity. The area in front of Vicarage Farm contributes towards the appearance of the Conservation Area and setting of a number of Listed Buildings and as such adds to the character and appearance of the village, which may fall under the description of 'beauty' of the overall setting. The following additions are suggested in the light of the comment:

i) The area comprising the village cemetery which contributes especially to the tranquillity of the village.

ii) The area in front of Vicarage Farm which contributes especially to the character and appearance of the village through protecting an important setting.

Q14b. In view of the fact that the Vicarage Farm land in Yarpole is within a conservation area and the setting of listed buildings what is the 'added benefit' of designations as LGS? See NPPG Ref. ID 37-011-20140306

The designation gives an added emphasis and reflects that this is special to the community and has been so for some considerable time. It contributes to the village's 'local distinctiveness' as well as contributing to the character or appearance of the Conservation Area.

The wording of these three policies is similar, that is 'No development shall be permitted in this area that will adversely affect the contribution it makes to the village's environment.' However, paragraph 78 of the NPPF states clearly that the policy for managing development within a Local Green Space should be consistent with policy for Green Belts. That policy does not preclude all development but only 'inappropriate' development and even then allows for very special circumstances.

Q14c. For these policies to have had regard to national policy, and hence meet a basic condition, is it accepted that development which would adversely affect the contribution of the LGS to the village environment might be termed 'inappropriate' and that such inappropriate development would only be permitted 'in very special circumstances'?

Noted. In order to reflect this advice and given the suggestions to define the qualities each space makes within the respective policies it is suggested that the final sentence of each policy be redrafted to read:

'... contribution these special qualities make to the village's environment.'

This should not restrict development that retains the qualities of the areas concerned.

Q14d. In paragraph 6.6 and in other places there is reference to 'green gaps' and 'green wedges', some of which are identified as LGS others not. This is confusing. Can this differing terminology be clarified?

Add reference to a footnote at end of first sentence of paragraph 6.6 and then a footnote at the bottom of page to read:

'Approach based upon Historic England's advocacy of Rapid Townscape Assessments.'

Add before final sentence in paragraph 6.6. *'The green gap and pinch point contribute to the character of the village by dividing it into its three settlement character areas which might influence the approach to determine how the settlement should develop. In addition, given the absence of any Conservation Area Appraisal, this broad characterisation is also useful to defining some of the qualities that need to be preserved. The characterisation is presented at Diagram 1.'*

Q15. Paragraph 6.2. Reference to planning agreement. Would the YGPC please confirm that the planning agreement mentioned in this paragraph (repeated in 6.14) is the s106 planning obligation dated 12 November 1993 which is available on the Parish Council website? *If so, it appears that the Parish Council (as distinct from the Church Council) is not a party to the agreement.* In the circumstances, what is the status of the 'green land' mentioned in paragraphs 2.1 and 2.2 in Part 2 of the Schedule to the agreement? Is there any obligation on the landowner to offer the land to the parish council for community use as suggested in the YNP text?

The agreement referred to is that on the PC website. It is correct that the PC is not party to the agreement. The Parish Council has the right of 1st refusal should the landowners wish to sell the land. The current landowner has confirmed their intention to gift this land to the Parish Council in the near future. Otherwise it should remain in its existing state. If it is given to the PC, then it is the PC that would determine what future use it might make of it subject to the broad terms within the agreement. Although discussions have been held with the landowner it is felt that sorting out what might happen in order to define its future within

the YDP would probably lead to significant delays in its progress. Consequently there are only brief references made to the agreement as it was also felt that questions might be raised about its availability for development.

Q16. Policy YG8, line 4. What is the definition of a 'small development'? Does it matter what size it is if it can be regarded as 'infilling'? Should the term 'infilling' be defined? *A long-standing definition of the term 'infilling' is that it represents the filling of a small gap within an otherwise developed frontage.*

This is a useful suggestion for the definition and might usefully be included although the Steering Group is aware that there is reference to avoiding 'garden grabbing' in the NPPF.

Q17. Paragraph 6.6. *See Q5 b. with reference to the 'green gap' between the main part of Yarpole village and Cock Gate. The part of this paragraph dealing with the 'green wedge' at Vicarage Farm overlaps with paragraph 6.18 related to policy YG12. Would the plan be clarified by bringing together parts of para. 6.6 with para. 6.18? See also Q14d. above.*

Possibly although might this not reduce the continuity of the plan? Perhaps a cross reference in paragraph 6.18 to paragraph 6.6 would avoid such a loss.

Q18. Paragraph 6.8. *There is an error in paragraph numbering. There is no 6.7. Much of this paragraph reads as policy. Should it be? Is it correct that this site now has planning permission for one dwelling? If so, should this be corrected?*

Grateful to the Examiner for pointing out the error in paragraph numbering. The paragraph concerned is an indication of the issues that should be addressed in assessing development against policies YG8 and YG14. The site does not comprise an allocation being below the 5+ threshold (see Planning Practice Guidance). The site does now have planning permission for one dwelling although development has yet to commence and hence the advice remains pertinent should the landowner seek a new planning permission in the light of the boundary at this point.

Q19. Paragraph 6.12, page 28, line 4. Why would conversion of the barns to dwellings require planning permission?

The conversion of barns may need planning permission if they do not meet the requirements of part 3 class Q of the Town and Country Planning (General Permitted Development) Order 2015. There is an extensive range of buildings that may potentially convert to more than 3 dwellings. Planning permission has now been granted for change of use of a number of the barns used for holiday accommodation (see Appendix 1 to this paper).

Q20. *Welsh Water have confirmed that works to increase the capacity of the Lucton and Yarpole Treatment works are programmed for 2018. In view of this, does Policy YG13 have any continued purpose? If so, would the YGPC please provide an updated wording for policy and text.*

There remain concerns that measures set out in the Nutrient Management Plan have still to be developed to the extent that the River Lugg Sub-Catchment may not meet the requirements of the Habitats Directive. Although the works may commence in 2018, the evidence base to the Nutrient Management Plan indicates that in theory Best Available Technology should be able to address the phosphate tripping requirements although there is an acknowledgement that it may be harder for this to be done for small WwTWs. Hence the measures/theory proposed may not work or be delayed. It is felt that a precautionary approach is still required as set out in this policy. As it stands if the policy is changed the references to it within the SEA may become negative.

Q21. Policy YG14. a. *The wording of the first paragraph is not entirely consistent with that of s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990: '... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.'* Is it accepted (as suggested by the HC) that the words 'where possible' are unnecessary? Also, should it be character or appearance rather than 'and'? *They are not the same thing and to require both to be achieved is a stricter test than national policy.*

The 'where appropriate enhance' reflects the provisions of NPPF paragraph 137 which asked LPAs to look for opportunities to enhance conservation areas. NPPF paragraph 7 under environmental role refers to 'protecting and enhancing the historic environment'. Section 71 of the relevant Act also refers to publishing proposals for the preservation and enhancement of conservation areas. It is difficult to believe that 'character' does not include appearance (as well as other elements). However, amending the 'and' to 'or' would appear to comply with the legislation.

b. In part 2, does 'will not be resisted' mean 'will be permitted'?

Yes

c. Part 4. *This criterion is inconsistent with the first part of the policy. To 'contribute positively' is more than 'preserve'. What is the justification for this criterion? What regard been had to paragraphs 133 and 134 of the NPPF which refer to 'significant harm' and 'less than significant harm' to designated assets?*

Accept this criticism yet given references in NPPF paragraphs 131 and 137, opportunities should be taken to take account of positive contributions to heritage and enhance significance. Would it be possible to add '**where opportunities arise**'.

Or

'Opportunities should be taken where possible for new to contribute positively to the respective conservation area'.

d. Part 5. In paragraph 7.7 it is stated that landscape proposals should be an integral part of proposals for 'all but minor works'. For clarity and feasibility, should that caveat form part of the policy?

Happy to agree.

Q22. Policy YG15. a. Bearing in mind that neighbourhood plan policy can only apply to land-use planning matters what are the 'regulatory requirements' mentioned in lines 4 and 5 of this policy?

Government has indicated that matters such as energy and water conservation will be dealt with through Building Regulations. This may be something that professionals are aware of but it is not something the community appreciates, especially as it was previously a matter that could have been covered through the Local Plan. The reference to it makes clear that the provisions in the policy are in addition to those covered in the Building Regulations.

b. Criterion d). The only reference to flood risk elsewhere in the plan is in paragraph 6.15 under Policy YG10. Is it likely that flooding might be an issue anywhere else? How would the plan-user know to which areas this would apply? Should there be reference to the blue areas shown on the Yarpole Policies Map? Also, does the PC acknowledge that flood risk assessments cannot be required for developments of under 1 hectare? Does the policy warrant qualification?

Comment welcome. Criteria d) might be amended to read:

'd) Where development falls within flood risk zones 2 or 3, or elsewhere comprises sites of 1 hectare or greater, proposals will need to be supported by an appropriate flood risk assessment, including taking into account climate change, to inform decisions upon planning applications;'

c. Criterion f). What is the intended means to implement this criterion? *As worded this criterion appears set requirements beyond those which would be directly related to the development and necessary for the grant of permission.*

Herefordshire Council has commented that measures should be provided to promote active travel. This might be achieved, for example by supporting a bus shelter, providing more direct links between footpaths or providing hard surfaces to public rights of way. There may also be locations where local knowledge is aware that surface water run-off is a problem that might affect a site or cause problems to other properties as a consequence of a development – and that while solving the effects of development might also make some extra provision, for example through any swale, that would help address a local issue. In this way a development might contribute positively to sustainability. It is considered to be planning 'positively' which we believe NDPs should try to do. It could do this through CIL (when it comes into operation) or unilateral undertaking.

Q23. Policy YG16. *Also see Q9. a. Herefordshire Council have made representation drawing attention to the fact that most developments will be too small to warrant s106 contributions. That is because the tests for the making of such obligations, as set out in paragraph 204 of the NPPF, must be met. In that context, what is meant by 'appropriate' and how is it envisaged that this policy might be implemented?* b. Is it accepted that the heading to the policy should be amended and the reference to CIL removed from the penultimate line?

That may be true at the moment in relation to the housing sites, especially given that Herefordshire Council has accepted that land under Policy YG10 has been accepted in two parts. However, there may be other developments that will come forward (not only housing), including as a consequence of Herefordshire Council not having a 5-year land supply. There may be CIL arrangements in due course and developers willing to make voluntary contributions through unilateral undertakings. It is accepted that the policy title might be changed to:

'Contributions to Community Services, Youth Provision and Recreation Facilities'

And the following might be added to paragraph 8.5

'Herefordshire Council intends to introduce a charging system for the Community Infrastructure Levy during the plan period. Currently it operates a system for related payments through Planning Obligations.'

In this way readers will be aware that CIL may not be operating but warns them that it might. There is no reason to remove reference in the policy. The policy does indicate that there may be different approaches during the plan-period. The absence of any reference may mean that should the Council not introduce such a system, the Group Parish may miss-out.

Q24. Appendix 2. Would the YGPC wish to provide an update of this table?

Appendix 2 is provided to show that there are small sites that are available and considered suitable. This was to provide certainty that the level of proportional housing growth could be delivered through the NDP. These sites were shown on the Regulation 14 draft plan maps for Bircher and Yarpole as well as listed in its appendix for this purpose. There may be other small sites that will come forward within the settlement boundaries which were not raised during the plan preparation. It is understood that other NDPs have presented these separately as part of the evidence base for their NDPs. The Regulation 14 draft plan remains available on Herefordshire Council's website and as such is part of its evidence base. They are no longer shown on the Policies maps which for the purposes of any adopted plan have been drafted by Herefordshire Council in order to present a consistent mapping approach. Hence Appendix 2 has served its purpose and on adoption is no longer required. It might therefore be deleted. Reference to appendix 2 might then also be deleted from the contents page and paragraph 4.3.

Appendix 1

PLANNING PERMISSIONS SINCE 2001 – YARPOLE GROUP

APPLICATION NO	LOCATION	TYPE	APPROVAL DATE	COMMENTS
P173608/F	<u>Brookhouse Farm Brook Lane</u> <u>Yarpole Leominster</u> <u>Herefordshire HR6 0BB</u>	3	16 November 2017	Holiday lets to residential
<u>P173607/F</u>	<u>Brookhouse Farm Brook Lane</u> <u>Yarpole Leominster</u> <u>Herefordshire HR6 0BB</u>	1	16 November 2017	Holiday lets to residential
P173609/F	<u>Brookhouse Farm Brook Lane</u> <u>Yarpole Leominster</u> <u>Herefordshire HR6 0BB</u>	1	16 November 2017	Holiday lets to residential
<u>P173181/F</u>	<u>Cockgate Farm Bircher</u> <u>Leominster Herefordshire HR6</u> <u>0BL</u>	1	6 October 2017	Conversion of office to dwelling
P172591/F	<u>Land at Homelea Bircher</u> <u>Leominster Herefordshire</u>	1	20 September 2017	Building conversion to dwelling
P171745/F	<u>Land at Yarpole Leominster</u> <u>Herefordshire</u>	1	17 July 2017	

P163320/F	<u>Land at Lower House Yarpole Leominster Herefordshire</u>	9	21 August 2017	Site proposed in NDP
From April 2017				
P162407/F	<u>Land adjacent Pinecroft House Green Lane Yarpole Leominster Herefordshire</u>	1	6 March 2017	
P162256/F	<u>Brook House Farm Brook Lane Yarpole Herefordshire</u>	9	8 March 2017	Site proposed in NDP1 conversion 8 new – extends beyond allocation
P161522/F	<u>Land at Yarpole Leominster Herefordshire HR6 0BA</u>	6	4 May 2017	Allowed on appeal
P160073/O	<u>Land off Croft Crescent Yarpole Leominster Herefordshire</u>	5	23 June 2016	Site proposed in NDP
P160075/F	<u>Land adjacent to Maunds House Yarpole Leominster Herefordshire</u>	1	10 August 2016	
P153521/PA4	<u>The Knoll Orleton Ludlow Herefordshire SY8 4JA</u>	1	29 January 2016	Conversion of rural building
From April 2011				
P141157/F	Land at Green Lane Cottage, Green Lane	4 x D	16 October 2014	Demolition of 1 construction of 5 – 4 net gain 3x3; 2x4 - finished
N122906/F	Church Cottage, Yarpole	1 x D	1 February 2013	Conversion of church to dwelling – (barn conversion - under construction)
N112566/F	Brook House Farm, Leys Lane, Bircher	1 x D	14 November 2011	Barn conversion (conversion of chapel to dwelling complete)
NW100665/F	Land at Tudor House, Green Lane	1 x D	30 September 2010	Not Started NB out of time hence not count – if comes forward again will be a windfall.
NC100608/F	Meadow Lea Luston	1 x D	11 May 2010	Agricultural dwelling from holiday let
NW080284/F	Manor Farm, Orleton	1 x D	31 March 2008	Agricultural dwelling

DCN073533/F	Bircher hall, Bircher	1 x S	10 December 2007	Sub-division to form 2 dwellings – Net gain 1
DCN072727/F	Old School House, Yarpole	1 x D	4 October 2007	C/u agriculture to residential
DCN072476/F	Brookhouse Farm, Yarpole	1 x D	12 September 2007	Barn conversion
DCN072206/F	St Anthony's Yarpole	4 x D	22 August 2007	
DCN042566/F	Barn at Brookhouse Farm	1x D	17 August 2004	Barn conversion
DCN033289/F	Barn at Church Farm	1 x D	17 February 2004	Convert barn from light industry to residential
DCN033065/F	Cockgate Farm, Bicher	1 x D	9 December 2003	Convert barn to residential and office
DCN031320/F	Brookhouse farm, Leys Lane			Convert barns to residential. No details so cannot see if duplicates any of the above applications
DCN022701/F	Site adjacent to Green Acres, Green Lane, Yarpole	1 x D	4 November 2002	
DCN021880/F	Land adjacent to Rowan, Yarpole	1 x D	5 November 2002	
LUCTON				
N101223/F	Lucton Hall Farm, Lucton	2 x S	6 August 2010	Barn conversion (looks like two remaining barns for application below)
DCN062614/F	Lucton Hall Farm, Lucton	1 x D 1 x T 2 x S	25 September 2006	Barn conversion
DCN032293/F	New House Farm, Lucton	4 x S	23 September 2003	Barn conversion
DCN023595/F	Sodgley Farm, Kingsland	1 x D	1 May 2003	Barn conversion
DCN013030/F	New House Farm, Lucton	2 x S	27 March 2002	Barn conversion

TYPE – DETACHED (D); SEMI-DETACHED (S); TERRACED (T); FLAT (F)