

MUCH MARCLE NEIGHBOURHOOD PLAN 2017-2031

Much Marcle Neighbourhood Plan Examination,
A Report to Herefordshire Council

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

May 2018



EST. 2011

Contents

1, Summary

2, Introduction

3, Basic Conditions and Development Plan Status

4, Background Documents and the Much Marcle Neighbourhood Area

5, Public Consultation

6, The Neighbourhood Plan: Introductory Section

7, The Neighbourhood Plan: Policies

8, The Neighbourhood Plan: Other Matters

9, Referendum

1. Summary

- 1 Subject to the modifications recommended in this Report (in order to enable the Neighbourhood Plan to meet the basic conditions), I confirm that:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood 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 development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

- 2 Taking the above into account, I find that the Much Marcle Neighbourhood Plan meets the basic conditions¹ and I recommend to Herefordshire Council that, subject to modifications, it proceeds to Referendum.

¹ It is confirmed in Chapter 3 of this Report that the Much Marcle Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

2. Introduction

The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the Much Marcle Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by the Much Marcle Neighbourhood Plan Working Group on behalf of Much Marcle Parish Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. Were a Referendum to be held and were more than 50% of votes to be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by Herefordshire Council. The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Much Marcle Neighbourhood Area.
- 5 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.” (Paragraph 183, National Planning Policy Framework)
- 6 As confirmed in Paragraph 1.2 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Much Marcle Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan. The Neighbourhood Plan relates only to the designated Much Marcle Neighbourhood Area and there is no other neighbourhood plan in place in the Much Marcle Neighbourhood Area.
- 7 All of the above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

Role of the Independent Examiner

- 8 I was appointed by Herefordshire Council, with the consent of the Qualifying Body, to conduct the examination of the Much Marcle Neighbourhood Plan and to provide this Report.
- 9 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 10 I am a chartered town planner and have more than five years' direct experience as an Independent Examiner of Neighbourhood Plans. I also have more than twenty five years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 11 As the Independent Examiner, I must make one of the following recommendations:
 - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - that the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 12 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Much Marcle Neighbourhood Area to which the Plan relates.
- 13 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

Neighbourhood Plan Period

- 14 A neighbourhood plan must specify the period during which it is to have effect.
- 15 The plan period is clearly set out on the front cover of the Neighbourhood Plan and is also specified in Paragraph 1.3 of the Basic Conditions Statement:

"The...Plan...covers the period from 2017 to 2031."
- 16 Taking the above into account, the Neighbourhood Plan meets the requirements in respect of specifying the period during which it is to have effect.

Public Hearing

- 17 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 18 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 19 Further to consideration of the information submitted, I confirmed to Herefordshire Council that I would not be holding a public hearing as part of the examination of the Much Marcle Neighbourhood Plan.

3. Basic Conditions and Development Plan Status

Basic Conditions

- 20 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*² following the Localism Act 2011. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood 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 development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.³
 - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁴
- 21 In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:
- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;

² Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

³ Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

⁴ The Convention rights has the same meaning as in the Human Rights Act 1998.

- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

- 22 Subject to the content of this Report, I am satisfied that these three points have been met.
- 23 In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

European Convention on Human Rights (ECHR) Obligations

- 24 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 25 In the above regard, I note that Information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Representations have been made to the Plan, some of which have resulted in changes and the Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses and shows the outcome of comments.

European Union (EU) Obligations

- 26 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal⁵. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.
- 27 In this regard, national advice states:
- "Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects."*
(Planning Practice Guidance⁶)
- 28 National advice then goes on to state⁷ that the draft plan:
- "...must be assessed (screened) at an early stage of the plan's preparation..."*
- 29 This process is often referred to as a screening opinion, report or determination. If the screening opinion identifies likely significant effects, then an environmental report must be prepared.

⁵ Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance.

⁶ Paragraph 027, *ibid*.

⁷ Planning Practice Guidance Reference ID: 11-028-20150209.

- 30 A screening opinion was carried out on the Neighbourhood Plan and this concluded that, due to the range of environmental designations around the Neighbourhood Area, there may be significant environmental effects and that consequently, a Strategic Environmental Assessment (SEA) would be required.
- 31 An environmental appraisal of the Plan was subsequently carried out in line with the Environmental Assessment of Plans and Programmes Regulations 2004. The Environmental Report prepared, further to scoping and the review and analysis of the Neighbourhood Plan, was consulted upon and the statutory consultees, Natural England, Historic England and the Environment Agency were consulted. The statutory consultees welcomed the process and put forward a number of comments, which were taken into account.
- 32 The Neighbourhood Plan allocates land for development and contains criteria-based policies. In relation to these, the Environmental Report states that:
- "These have been screened and highlighted potential mitigations measures to include within the policy criteria within stage B of the SEA assessment. On this basis, the delivery of the NDP should not exacerbate existing problems...or have an unacceptable adverse impact."*
- 33 A Habitats Regulations Assessment is required if the implementation of the Neighbourhood Plan may lead to likely significant effects on European sites.
- 34 The Neighbourhood Area falls within the catchment for the Wye Valley and Forest of Dean Bat Sites Special Area of Conservation (SAC) and consequently, a Habitats Regulations Assessment was carried out and this concluded that:
- "...the Much Marcle NDP will not have a likely significant effect on the Wye Valley and Forest of Dean Bat sites SAC..."*
- 35 Both the Environmental Report and the Habitats Regulations Assessment were updated and revised, to ensure that any alterations to the Neighbourhood Plan as it emerged, were taken into account.

- 36 National guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations” (Planning Practice Guidance⁸).

- 37 In undertaking the work that it has, Herefordshire Council has considered the Neighbourhood Plan's compatibility with EU regulations in detail and has no concerns in this regard.
- 38 Given all of the above, I am satisfied that the Neighbourhood Plan meets the basic conditions in respect of European obligations.

⁸ Planning Practice Guidance Reference ID: 11-031-20150209.

4. Background Documents and the Much Marcle Neighbourhood Area

Background Documents

39 In undertaking this examination, I have considered various information in addition to the Much Marcle Neighbourhood Plan. This has included (but is not limited to) the following main documents and information:

- National Planning Policy Framework (referred to in this Report as “the Framework”) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- The Herefordshire Local Plan Core Strategy (2015)
- Basic Conditions Statement
- Consultation Statement
- SEA Scoping Report
- Environmental and Habitats Regulations Assessment Reports

Also:

- Representations received

40 In addition, I spent an unaccompanied day visiting the Much Marcle Neighbourhood Area.

Much Marcle Neighbourhood Area

41 The boundary of Much Marcle Neighbourhood Area is shown page 2 of the Neighbourhood Plan. The Neighbourhood Area boundary is the same as that of the Much Marcle Parish boundary. For clarity and precision, I recommend:

- **Change title of Map on page 2 to “Much Marcle *Neighbourhood Area*”**

42 Herefordshire Council formally designated the Much Marcle Neighbourhood Area on 11th September 2013. This satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

5. Public Consultation

Introduction

- 43 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 44 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Much Marcle Neighbourhood Plan Consultation

- 45 A Consultation Statement was submitted to Herefordshire Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*⁹.
- 46 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Much Marcle Neighbourhood Area, having regard to Paragraph 183 of the National Planning Policy Framework.
- 47 Much Marcle Parish Council established a Neighbourhood Plan Working Group to produce the Much Marcle Neighbourhood Plan and the first "*Start Up*" public meeting took place in July 2013.
- 48 A Residents' Questionnaire, distributed to more than 500 local residents, followed in November 2014 and two public Progress and Update meetings were held in March 2015. Nearly 200 questionnaire responses were received. Also during March 2015, twelve businesses responded to a Local Business Questionnaire.

⁹Neighbourhood Planning (General) Regulations 2012.

- 49 A Redundant Buildings Survey, carried out during June 2015, involved property-owners being approached to ascertain their willingness to bring buildings forward for new housing.
- 50 A Vision and Objectives Consultation meeting was held in April 2016 and local resident consultations, involving public meetings for Rushall and Old Pike, were held in January and March 2017, respectively. Further consultation involved a questionnaire for Kynaston Landowners as well as targeted consultation with the owners of "*garden plots*" behind Monks Meadow.
- 51 The pre-submission draft plan was consulted on between November 2016 and January 2017. This was supported by a public meeting held in December 2016, as well as through publicity, including the distribution of leaflets.
- 52 The Consultation Report confirms that the Working Group engaged with Herefordshire Council and that meetings were held with Herefordshire Council officers at key stages during the process. Such a positive approach enabled plan-makers to benefit from the significant experience and skills of Herefordshire Council officers, familiar with the neighbourhood planning process.
- 53 Comments received were considered and the submission version of the Neighbourhood Plan was subsequently produced.
- 54 The Consultation Report provides evidence to show that public consultation was central to the overall plan-making process, that matters raised were taken into account and that the reporting process was transparent. In addition, consultation was well-publicised. As well as meetings and the distribution of questionnaires and other material, information was readily available on the Parish Council and community websites.
- 55 Taking all of the above into account, I am satisfied that the consultation process was robust.

6. The Neighbourhood Plan – Introductory Section

56 Part of the Introduction is set out as though it comprises a planning policy, which it does not. I recommend:

- **Page 1, last sentence of first column, change to “*The Plan seeks to focus new development within Settlement...*”**
- **Top of second column, change to “*The Plan sets out Settlement Boundaries for Much...*”**
- **Third paragraph of second column, change to “...at its core, which the Plan seeks to conserve.”**
- **Fourth paragraph, change to “*The Plan is supportive of appropriate, sustainable development in the countryside.*”**

57 I refer to the basic conditions above. It is a legal requirement that these are met. Given this, it is important that they are correctly referred to and I recommend:

- **Page 4, first para, change to “...must have regard to national policy and advice, as set out in the National Planning...”**
- **Second para, change to “...the Plan must also be in general conformity with...”**

58 For precision, I recommend:

- **Page 4, last para, first column, change to “...change. As such, the Plan forms part of the development plan for Herefordshire and its policies must be taken into account when Herefordshire Council determines planning applications within the Much Marcle Neighbourhood Area.”**
- **First para, second column, delete “, which need to be taken into account in developing and delivering the Plan”**
- **Last para, second column, delete “therefore”**

59 The inclusion of the whole of Herefordshire Local Plan Core Strategy (referred to in this Report as the Local Plan Core Strategy) Policy H2 on page 5 of the Neighbourhood Plan is confusing and unnecessary, not least as the Neighbourhood Plan seeks to provide a settlement boundary for Kynaston taking into account a different Local Plan Core Strategy Policy. I recommend:

- **From end of Page 5 to top of page 6, delete “where: 1) a proposal...identified in Policy RA2.”**

60 The paragraph underneath the heading “*Agriculture, Forestry and Rural Enterprises*” is written as though it comprises a Policy, which it does not. I recommend:

- **Delete heading “Agriculture, Forestry and Rural Enterprises” and the related paragraph below it**

7. The Neighbourhood Plan – Neighbourhood Plan Policies

Sustainable Development

Policy SD1 – Sustainable Development

- 61 It is a requirement that the Neighbourhood Plan contributes to the achievement of sustainable development and Policy SD1 seeks to achieve this.
- 62 However, as set out, the Policy places a requirement on all of development – no matter what its shape, nature, form or scale – to demonstrate that it meets a wide range of criteria. This sets out an onerous requirement without providing any justification to establish why it would be necessary for all forms of development to meet all of the criteria set out.
- 63 In respect of the information requirements for planning applications, the National Planning Policy Framework (the Framework) is explicit:
- “Local planning authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals and reviewed on a frequent basis. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.”*
(Paragraph 193, the Framework)
- 64 Development requiring planning permission varies significantly. As set out, Policy SD1 would require a proposal for say, a new shop front, or for an ATM machine, or for replacement windows within a Conservation Area, to demonstrate, amongst other things *“best practice in urban drainage”* and to *“promote the production and consumption of renewable sources of heat and electricity,”* regardless of relevance.
- 65 There is no evidence to demonstrate that such a requirement has regard to Paragraph 193 of the Framework.

66 Further to the above, Policy SD1 sets out a requirement for development to “*comply with*” the Parish Design Statement. This requirement is in direct conflict with earlier information set out in the Neighbourhood Plan, which recognises that, whilst guidance such as that contained in the Parish Design Statement may comprise a material consideration, it does not have formal development plan status.

67 The phrase “*sustainable building design*,” included in Policy SD1, is not defined. The Policy relates to a wide variety of things other than the design of buildings and seeks to reflect the supporting text, which recognises the importance of sustainable development. This part of the Policy appears imprecise, contrary to national planning advice¹⁰ which requires that:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

68 The first two paragraphs of supporting text following Policy SD1 read as though they comprise a Policy, which they do not. This is a matter addressed in the recommendations below.

69 Taking the above into account, I recommend:

- **Policy SD1, change to “All development proposals within the Neighbourhood Area should seek to achieve sustainable development. Where relevant, necessary and relevant to the proposal, the location, scale, density, design, form, construction and operation of development should take into account:**
 - a) the guidance in the Parish Design Statement;**
 - b) the site and...microclimates;**
 - c) the reduction of fossil fuels and the use of low and/or zero carbon energy infrastructure/renewable sources of energy;**
 - d) the efficient use, re-use and/or recycling of natural resources;**
 - e) the use of sustainable urban drainage solutions;**
 - f) steering development away from land liable to flooding, or development that would increase flood risk elsewhere.”**

¹⁰ Planning Policy Guidance, Paragraph: 042 Reference ID: 41-042-20140306.

- **Delete the first two paras of supporting text on page 15 (“All new development...enhanced.”)**

Policy SD2 – Renewable Energy

70 Paragraph 93 of the Framework establishes a requirement for:

“...a positive strategy to promote energy from renewable and low carbon sources...to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts;”

71 In general terms, Policy SD2 seeks to promote renewable energy and has regard to national policy.

72 However, as set out, Policy SD2 is vague. It refers to supporting renewable energy development *“in appropriate scale and locations”* without defining what might be appropriate, or where. Consequently, this part of the Policy is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework, which states that:

“Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.”

73 Further to the above, the Introduction to the Neighbourhood Plan, set out on Page 4, states that:

“The Plan policies are to be considered as a whole.”

74 Consequently, there is no need for each Policy in the Neighbourhood Plan to refer to other Policies. This helps to prevent the use of unnecessary and cumbersome cross-references, which can result in Policies appearing unclear.

75 Taking all of the above into account, I recommend:

- **Policy SD2, change to “...energy resources will be supported where they respect local character and residential amenity.” (Delete rest of Policy)**

Housing

- 76 The Framework seeks to boost significantly the supply of housing and to deliver a wide choice of high quality homes. The Herefordshire Local Plan Core Strategy 2015 (referred to in this Report as the “Core Strategy”) sets out a requirement for the delivery of at least 5,300 new dwellings in Rural Settlements, during the period 2011-2031. This provision contributes to the Herefordshire-wide requirement for the delivery of a minimum of 16,500 homes over the same period.
- 77 Much Marcle is identified in the Core Strategy as a Rural Settlement within the Ross-on-Wye Housing Market Area (Housing Market Area). Core Strategy Policy RA1 (“*Rural housing distribution*”) establishes an indicative housing growth target of 14% for the Ross-on-Wye HMA over the plan period, equating to growth comprising approximately 1,150 new dwellings.
- 78 The Neighbourhood Plan has taken the indicative housing growth target for the Ross-on-Wye HMA and applied it to the Much Marcle Neighbourhood Area. In this way, the Neighbourhood Plan’s growth target of a minimum of 41 dwellings to 2031 is in general conformity with the Core Strategy.
- 79 The Housing Chapter of the Neighbourhood Plan identifies that 18 dwellings have been built/committed since 2011, leaving a requirement for at least 23 dwellings. The Policies of the Neighbourhood Plan allocate land for 24 dwellings. A Table on page 17 of the Neighbourhood Plan suggest that a further ten dwellings will come forward as windfall development, through the conversion of existing buildings. In support of this windfall estimate, a survey has identified 19 existing redundant or disused buildings suitable for conversion and re-use as housing.
- 80 Taking the above into account, the Neighbourhood Plan seeks to provide for more than 41 new dwellings up to 2031. Consequently, the Neighbourhood Plan has regard to Paragraph 184 of the Framework. It does not promote less development than set out in the Core Strategy or undermine its strategic policies.

- 81 There is no requirement for a neighbourhood plan to allocate land for the development of housing, although the Much Marcle Neighbourhood Plan does so. In this case, taking the contents and recommendations of this Report into account, I find that it does so in a manner that meets the basic conditions. Whilst I note that land, not allocated in the Neighbourhood Plan, has been promoted through representations to the document, there is no requirement for it to be allocated in the Neighbourhood Plan.
- 82 In the above regard, I am also mindful that Herefordshire Council has confirmed that:

"...the plan is considered to meet the general conformity requirements of the Core Strategy. This has been confirmed by the Strategic Planning team."

Policy HO1 – Housing Sites

- 83 Policy HO1 is a general housing Policy, supportive of residential development subject to various criteria. Whilst, in general terms, the Policy has regard to the national policy aim of delivering a mix of high quality housing, as set out, the Policy appears long and imprecise.
- 84 All of the Policies of the development plan should be read together. This avoids the need for cumbersome cross-references, or the need to repeat the content of other Policies elsewhere in the document. In addition, a Neighbourhood Plan Policy should not be reliant upon the provisions of another Policy in another document, over which it has no control. These are matters addressed in the recommendations below.
- 85 No definition is provided of what the *"best and full use"* of brownfield land might be, who would judge this, or on what basis. Consequently, this part of Policy HO1 does not have regard to Paragraph 154 of the Framework, which states that:
- "Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan."*
- 86 Similarly, no indication is provided of the difference between a *"sustainable conversion"* and a *"conversion"* and this part of the Policy is therefore imprecise and open to wide interpretation.

- 87 Paragraph 55 of the Framework sets out clear provisions in respect of the types of housing that may be suitable in the countryside. Criterion c) of Policy HO1 fails to have regard to this. It introduces a new provision, in respect of rural workers, without providing any substantive information or justification for such a significant departure from national policy.
- 88 Criterion d) of the Policy does not allow for a balanced consideration of impacts on amenity – whereby any harm can be considered against any benefits, such that, as set out, it may prevent sustainable development from coming forward; and no indication is provided of how a development might “*complement adjacent properties*”, who would be the judge of this, or on what basis.
- 89 Whilst the BREEAM Home Quality Mark can indicate high quality, sustainable construction, the Neighbourhood Plan has no statutory powers to impose it as a requirement and this is also a matter addressed in the recommendations below. In this regard, I note that the setting of additional technical requirements by Local Planning Authorities, exceeding the minimum standards required by Building Regulations, must be based on evidence to determine whether there is a need for such standards. No such evidence supports Policy HO1.
- 90 In any case, this part of the Policy reflects its confusing structure and conflicts with other Policies in the Neighbourhood Plan. As worded, a new dwelling would be supported anywhere in the Neighbourhood Area so long as it achieved BREEAM Home Quality Mark standards.
- 91 The final two criteria of Policy HO1 are vague and ambiguous. They refer to “*appropriate provision...range.*” No detail is provided in respect of what would be appropriate in what circumstance. This part of the Policy is imprecise.
- 92 I also note that the title of Policy HO1 does not reflect its content and this is a matter addressed below.
- 93 The Table on page 17 stands in isolation. It relates directly to the supporting text in the second column of page 17. It would be helpful if it followed on from the second paragraph of this column, as recommended below.

- 94 The plans on pages 22, 23 and 24, referred to on page 17 of the Neighbourhood Plan, are of such a poor quality that they are inappropriate for inclusion in a statutory planning document. Site boundaries and text are largely illegible. Also, the Plan on page 19 contains land use information. A housing allocation, for example, is not a "*constraint to development*." These are matters addressed in the recommendations below.
- 95 It is not clear why the supporting text on pages 17 and 18 refers to sites not contained in the Neighbourhood Plan. This detracts from the clarity and precision of the document and I recommend deletion, below.
- 96 Taking all of the above into account, I recommend:
- **Change title of Policy HO1 to: "*Delivery of High Quality Housing*"**
 - **Change Policy HO1 to "*Development proposals...will be supported on brownfield land, allocated housing sites, housing infill sites and/or where it results in the conversion and re-use of a redundant building. All new housing should respect local character and residential amenity.*" (Delete rest of Policy)**
 - **Delete last sentence of supporting text on page 17 and the rest of the paragraph at the top of page 18, up until and including "*...through consultation.*" The inclusion of this is unnecessary and has been overtaken by events. I also note that it is the purpose of Examination to consider the Neighbourhood Plan against the basic conditions.**
 - **Move Table on page 17 to below the second paragraph of the second column on page 17. Change text at the end of the second paragraph to "*...shown in the Table below.*"**

- **Replace the plans on pages 22, 23 and 24 of the Neighbourhood Plan with legible plans. All relevant boundaries and text should be clearly visible, allowing no scope for confusion. This may require several plans, rather than one. It is essential that the information provided can be seen, clearly. In relation to any site allocations referred to in Policies, the plans should show precise site boundaries and ensure that each site is clearly referenced.**
- **Change title of the plan on page 19 to “Much Marcle – *Land Uses*”**

Policy HO2 – Housing Infill

- 97 In supporting the development of infill sites for housing, the Neighbourhood Plan presents a positive framework for the delivery of housing and contributes to the achievement of sustainable development.
- 98 However, as set out, Policy HO2 fails to provide for a balanced approach to decision making, whereby the possible harm arising from a development might be weighed against its benefits. I also note that amenity should relate to that of occupiers rather than to that of inanimate objects. This is a matter addressed in the recommendations below, as is the absence of any detailed information in respect of how a development might “*complement*” adjacent properties.
- 99 Other than a vague reference in the supporting text, no substantive information is provided in respect of what the “*inappropriate development of residential gardens*” would comprise, nor of what might comprise “*appropriate*” development in this regard. This part of the Policy is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 100 As with Policy HO1, the Policy requires the achievement of non-statutory standards. This approach does not have regard to national policy and nor is it in general conformity with the Core Strategy. The Policy also repeats a vague and ambiguous provision from Policy HO1, in respect of “*appropriate provisions.*”
- 101 I recommend:
- **Policy HO2, change to “Development proposals...will be supported, subject to their respecting local character and residential amenity.” (delete rest of Policy)**
 - **Supporting text, page 18, penultimate para, change to “However, it is important that all new infill development proposals demonstrate that they will respect the amenity of neighbouring occupiers.”**
 - **Delete last para of supporting text on page 18**

Policy HO3 – Householder Extensions

- 102 Core Strategy Policy SD1 (*"Sustainable design and energy efficiency"*) promotes good design and the creation of safe, sustainable environments.
- 103 In addition, good design is recognised by the Framework as comprising:

"a key aspect of sustainable development...indivisible from good planning."
(Paragraph 56)
- 104 National policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework) and Paragraph 58 of the Framework goes on to require development to:

"...respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation..."
- 105 Rather than provide a positive framework for good design, Policy HO3 seeks to impose restrictions on all forms of residential development, including household extensions, notwithstanding that many forms of household extensions do not require planning permission but comprise permitted development.
- 106 As set out, Policy HO3 would resist any extension that resulted in an increase in the size of the existing dwelling (without any indication, in the case of where a dwelling might have already been substantially extended, of whether this would be the size of the original dwelling or not) of more than 30%. In the absence of substantive supporting information, this percentage appears as an arbitrary figure that would be applied regardless of the specific circumstances relating to the development proposal. Consequently, the *"blanket approach"* proposed could provide support for development that may significantly harm its surroundings, or could prevent development that might be sustainable from coming forward.
- 107 Taking the above into account, Policy HO3 does not contribute to the achievement of sustainable development.
- 108 Like previous Policies, Policy HO3 does not provide for the balanced consideration of planning proposals, seeks to impose additional technical standards without an evidence-based rationale and includes an ambiguous reference to *"appropriate"* requirements.

109 I recommend:

- **Delete Policy HO3**
- **Delete supporting text on page 20**

Policy HO4 – Allocated sites within Settlement Boundaries

- 110 Policy HO4 refers to sites being identified on pages 22 and 23. As noted above, the plans provided on these pages are inadequate and it is recommended earlier in this Report that they are replaced with clear, legible plans.
- 111 As also established earlier in this Report, there is no requirement for Policy cross-references and it is not the role of the Neighbourhood Plan to set out Policies reliant on other Policies in other documents.
- 112 Notwithstanding the above and the recommendations below, Policy HO4 has regard to the Framework's aim of delivering high quality homes and contributes to the achievement of sustainable development.
- 113 I recommend:
- **Policy HO4, change the first para to *"The following sites, identified on the plans on pages 23 and 24, are allocated for housing:"***
 - **Footnote to Policy HO4, delete "(as per Policy NE2)" which does not relate directly to the Footnote**

Policy HO5 – Exception Sites outside Much Marcle Settlement Boundary

- 114 Core Strategy Policy H2 (*“Rural exception sites”*) supports residential development on land which would not normally be released for housing, where proposals can meet local needs for affordable housing in perpetuity. The Policy also requires any such land to offer reasonable access to services and facilities and provides some scope for cross-subsidy, such that some market housing may be permitted to ensure viability and delivery.
- 115 Policy HO5 is labelled as an *“Exception Sites”* Policy and refers to *“rural exception sites.”* As a rural exception site would, by its very nature, allow for exceptional development on land that would not normally be released for housing, these references in Policy HO5 appear confusing and imprecise.
- 116 Policy HO5 seeks to allocate land for housing that would be within the scope of the Core Strategy's approach to rural exception housing – ie, helping to meet affordable housing requirements in perpetuity and in very general terms and in this way, it is in general conformity with the Core Strategy. However, there is no substantive evidence to demonstrate that each of the *“allocations”* could be delivered as affordable housing to meet identified local needs in perpetuity. As recognised by the provisions of Core Strategy Policy H2, rural exceptions housing may require the provision of some market housing to ensure its delivery.
- 117 Unlike Core Strategy Policy H2, Policy HO5 allocates land for single or just two dwellings. No supporting evidence is provided to demonstrate that the sites can be developed for affordable housing in perpetuity. In the absence of evidence, I find that there is some uncertainty in respect of the viability and deliverability of Policy HO5, having regard to Paragraph 173 of the Framework:

“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”

- 118 However, I am also mindful that the Policy goes some way towards contributing to sustainable growth. I take this and all of the above into account in making the recommendations below.
- 119 In addition to the above, during my site visit, I observed that the site identified at Rye Meadows lies a long way down what appeared to comprise a private road, in a relatively isolated and difficult to access location. It did not appear to me to provide reasonable access to services and facilities and in the absence of any substantive evidence to the contrary, I find that the allocation of this site would not meet the basic conditions.
- 120 I note earlier in this Report that the plan(s) relating to land allocation policies must show clearly identifiable boundaries and references.
- 121 The supporting text underneath Policy HO5 does not relate directly to the Policy.
- 122 Taking all of the above into account, I recommend:
- **Policy HO5, change title to *“Housing Sites Outside the Much Marcle Settlement Boundary”***
 - **Policy HO5, change to *“Development that will assist in meeting a proven local need for affordable housing in perpetuity will be supported at each of the sites listed below and shown on the plan on page 22 (approximate number of dwellings shown in brackets):”***
 - **Policy HO5, delete “Rye Meadows” site**
 - **Footnote to Policy HO5, delete “(as per Policy NE2)” which does not relate directly to the Footnote**
 - **Delete para of supporting text below Policy HO5 on page 21,**

- 123 Subject to the above recommendations, Policy HO5 becomes a supportive Policy, rather than a land allocation Policy.
- 124 Effectively, the Neighbourhood Plan would not be allocating land for 24 dwellings, but for 16 dwellings (as per Policy HO4). In the absence of substantive information, there would be a significant element of uncertainty in respect of the delivery of 8 dwellings in rural locations outside settlement boundaries in accordance with Policy HO5. However, I note that, even if none of the sites in Policy HO5 were to come forward as "*windfalls*" (and I am not suggesting that this will, or will not be the case), the Policies of the Neighbourhood Plan would still provide for in excess of the Neighbourhood Area's relevant housing requirement.
- 125 In addition to the above, other Policies in the Neighbourhood Plan would provide opportunities for the sustainable development of new housing in addition to allocations and estimated windfalls.

Policy HO6

126 The supporting text in the Housing Chapter clearly identifies the aspiration for ten dwellings to come forward as “*windfall*” housing during the plan period, in the form of conversions of redundant or disused buildings. Such an approach has regard to Paragraphs 17 and 55 of the Framework, which encourage the effective use of previously developed land and support the re-use of redundant buildings, respectively.

127 However, as set out, Policy HO6 is not a land use planning Policy, but simply a statement confirming that a survey has been carried out. This is addressed in the recommendations below.

128 As noted earlier, the plan on page 24 is inappropriate.

129 I recommend:

- **Policy HO6, change to “*The conversion and re-use for housing of the redundant or disused buildings identified on the plan on page 24 will be supported, subject to such development respecting local character and residential amenity.*”**
- **Replace the plan on page 24 with a plan or plans clearly identifying the location of each building**

Employment

Policy EM1

130 Paragraph 28 of the Framework supports the creation of a prosperous rural economy and in so doing, it supports:

"...the sustainable growth and expansion of all types of business and enterprise in rural areas..."

131 Core Policy RA6 ("*Rural Economy*") promotes the diversification and strengthening of the rural economy.

132 To some degree, Policy EM1 seeks to support the rural economy, having regard to national policy and in general conformity with the Core Strategy. However, as set out, the Policy is dependent upon other Policies, which it lists. As such, Policy EM1 simply comprises a reference to other Policies.

133 Notwithstanding that Policies should be taken together, as noted earlier, no evidence is provided to demonstrate that it would be viable, deliverable or even possible for all of the proposals referred to, to "*comply*" with the list of Policies set out. Consequently, I cannot conclude that Policy EM1 has regard to Paragraph 173 of the Framework, referred to earlier in this Report.

134 Taking all of the above into account, I recommend:

- **Policy EM1, change to "*Development proposals for...will be supported where they respect local character and residential amenity*"**
- **Supporting text, last sentence on page 25, delete "*...and development proposals for these uses will be supported where they comply with other Plan policies as outlined above*"**

Policy EM2

- 135 Policy EM2, as set out, would prevent investment in the re-development of existing business premises, unless it could be demonstrated that the use of the premises was no longer viable.
- 136 Consequently, Policy EM2 could act as a barrier to sustainable business growth, for example, where a business-owner seeks to re-develop business premises to provide for growth, more modern operations, or simply improved premises. It would not contribute to the achievement of sustainable development and would fail to have regard to Chapter 3 of the Framework, which supports the development of a prosperous rural economy.
- 137 Part of the supporting text to Policy EM2 refers to preventing the loss of local businesses and services. Whilst this text is worded as though it were a Policy, which it is not, the aims set out have regard to Paragraph 28 of the Framework, which supports the growth and expansion of all kinds of rural business and promotes:

“...the retention and development of local services...”

- 138 Taking this and the above into account, I recommend:

- **Policy EM2, change to: *“Change of use requiring planning permission of existing shops, services, restaurants, cafes and pubs will not be supported unless it can be demonstrated, further to at least six months active marketing of the premises at market value, that the existing use is no longer viable.”***
- **Supporting text, delete everything after *“...crucial to the vitality of the area.”***

Built Environment, Heritage and Historical Assets

Policy BE1 – Listed Buildings

- 139 Chapter 12 of the Framework, “*Conserving and enhancing the historical environment,*” recognises heritage assets as irreplaceable and requires them to be conserved according to their significance.
- 140 Policy BE1 does not have regard to national policy. It simply supports the restoration, re-use and conversion of Listed Buildings, so long as development complies with four other Policies of the Neighbourhood Plan, one of which does not exist.
- 141 Consequently, Policy BE1 provides wide-ranging support for development, regardless of the significance of heritage assets. As such, the Policy runs the risk of significant harm to heritage assets, contrary to national policy and does not meet the basic conditions.
- 142 In making the recommendations below I am mindful that, together, national and local planning policy provide for the appropriate protection of heritage assets.
- 143 I recommend:
- **Delete Policy BE1**
 - **Supporting text, second column, page 27, change to “Herefordshire Council has a duty to protect heritage assets from inappropriate development and this is reflected in...assets.”**

Natural Environment

Policy NE1 – Landscape

- 144 Paragraph 58 of the Framework requires development to respond to local character and provide for appropriate landscaping. Policy NE1 seeks to protect the attractive landscape of the Neighbourhood Area and has regard to national policy.
- 145 As worded, the Policy uses the term “*will be expected to*” which does not provide clear land use planning policy. No indication is provided, for example, of what would happen if expectations were not met.
- 146 The Policy goes on to “*expect*” open views to surrounding countryside to be maintained. Whilst indicative directions of views are provided, no substantive detail is provided in respect of precisely what all open views to surrounding countryside comprise.
- 147 During my site visit, I observed that many properties have some kind of open view to countryside and in the absence of any detailed information it is not clear how all of these, for example, could be maintained whilst at the same time ensuring that the Neighbourhood Plan delivers sustainable growth. As set out, Policy NE1 may runs the risk of placing a barrier in the way of sustainable development coming forward.
- 148 The last sentence of supporting text in the first column on page 29 reads as though it comprises a Policy, which it does not.
- 149 Taking the above into account, I recommend:
- **Policy NE1, change to “*Development proposals should respect important landscape views, taking into account the list of views indicated below and on the plan on page 31.*”**
 - **Change last sentence of supporting text in first column on page 29 to “...streamlines) *are* important measures to maintain local landscape *character.*”**

Policy NE2 - Biodiversity

- 150 Core Strategy Policy LD2 ("*Biodiversity and Geodiversity*") seeks to ensure that development conserves, restores and enhances biodiversity and geodiversity assets.
- 151 Further to the above, Paragraph 109 of the Framework requires the planning system to contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible.
- 152 As set out earlier in this Report, it is also a statutory requirement that the Neighbourhood Plan is compatible with European obligations.
- 153 Unfortunately, in attempting to provide for biodiversity, Policy NE2 appears to cut across and confuse the correct application of national and local policy requirements and legal obligations as they relate to biodiversity. As worded, the Policy includes the use of potentially conflicting terminology in respect of statutory designations, for example "*offset residual unavoidable harm*" and suggests that it may be appropriate for development to mitigate, or even compensate for, harm to habitats protected by law.
- 154 In consideration of the supporting text, it is clear that plan-makers seek to support biodiversity and taking this and the above into account, I recommend:
- **Change Policy NE2 to "*Development should minimise impacts on biodiversity and provide net gains in biodiversity where possible.*"**
 - **Supporting text, delete all supporting text below Policy NE2 on page 32 after "...distinctive character of the area." The text to be deleted reads as though it comprises a Policy, which it does not**
 - **Replace plan on page 33 with a plan where all text and designated areas are clearly legible**

Policy CS1 – Community Facilities

155 Paragraph 28 of the Framework states that neighbourhood plans should:

“...promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.”

156 Subject to the recommendation below in respect of the unnecessary, unsubstantiated and cumbersome reference to other Policies contained in the Neighbourhood Plan, taking into account previous comments in this Report, Policy CS1 supports the appropriate development of new or improved community facilities and has regard to national policy.

157 Part of the supporting text to Policy CS1 reads as though it comprises a Policy, which it does not.

158 I recommend:

- **Policy CS1, change to “...will be supported, subject to demonstrating that they respect local character and residential amenity.”**
- **Supporting text, below Policy CS1 on page 35, delete “However, new facilities...within this Plan.”**

Policy CS2 – Loss of Community Facilities

159 Paragraph 70 of the Framework states that planning policies should:

“...guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;”

160 Subject to the recommendation below in respect of clarity and precision, Policy CS2 has regard to national policy.

161 The supporting text below Policy CS2 reads as though it comprises Policy, which it does not.

162 I recommend:

- **Policy CS2, change to “*The change of use of community facilities to non-community uses will only...or where equivalent or better alternative provision exists or will be provided.*”**
- **Delete para of supporting text below Policy CS2 on page 35**

Policy CS3 – Local Green Space

163 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 76 of the Framework states that:

“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”

164 Consequently, Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land.

165 National policy establishes that:

“The Local Green Space designation will not be appropriate for most green areas or open space.” (Paragraph 77)

166 Thus, when identifying Local Green Space, plan-makers should demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

167 Policy CS3 seeks to designate four areas of Local Green Space. Evidence is provided to demonstrate that each area of Local Green Space meets the requirements set out within national policy. None of the sites comprise extensive tracts of land and there is no substantive evidence to demonstrate that the designation of the sites would not be consistent with the local planning of sustainable development.

168 However, as worded, Policy CS3 does not have regard to the Framework. It does not set out Local Green Space policy, but rather, makes general points in relation to some, unidentified, other forms of green space. It disregards the supporting text. This results in a confusing and imprecise Policy which fails to provide a decision maker with a clear indication of how to react to a development proposal.

169 I recommend:

- **Policy CS3, change to *“The sites in the Table below and identified on the plan on page 37 are designated as Local Green Space, where development is ruled out, other than in very special circumstances.”***
- **Supporting text, last para on page 36, delete everything after *“...public access.”* The text to be deleted is confusing and unclear as it introduces a new, unsubstantiated or evidenced concept in relation to *“the most important local green spaces.”***

Transport, Infrastructure and Public Access

Policy TI1 – Transport Infrastructure and Public Access

170 Policy TI1 sets out an onerous list of requirements for all forms of development. No evidence is provided to demonstrate that the requirements have regard to Paragraph 173 of the Framework, in respect of viability and deliverability. For example, it is not clear why a proposal for a household extension, an ATM cash machine or a new shop sign should be expected to demonstrate that traffic impacts can be managed to acceptable levels, to promote walking and cycling, and to meet the needs of people with disabilities and provide safe and efficient access for emergency services.

171 Further to the above, I note that Paragraph 32 of the Framework states that:

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

172 Policy TI1 does not have regard to national policy. I recommend:

- **Delete Policy TI1**
- **Delete para of supporting text below Policy TI1, which reads as though it is a Policy, which it is not**

Policy TI2 – Broadband and Mobile Reception

173 Policy TI2 requires all development *“to have the infrastructure necessary to provide the highest practicable broadband speed and mobile reception.”*

174 No information is provided to demonstrate that such an onerous requirement has regard to Paragraph 173 of the Framework, in respect of viability and deliverability. Also, no evidence is provided to demonstrate that the requirements of Policy TI2 have regard to Paragraph 193 of the Framework, which states that:

“Local planning authorities should only request information that is relevant, necessary and material to the application in question.”

175 I recommend:

- **Delete Policy TI2**
- **Delete Objective MM14, which would stand in isolation given the recommended changes**
- **Delete all supporting text below Policy TI2, which is not something that is addressed by the Neighbourhood Plan**

8. The Neighbourhood Plan: Other Matters

176 The Neighbourhood Plan cannot impose a monitoring requirement upon the Local Planning Authority. For clarity, I recommend:

- **Page 41, change last sentence to *“The Parish Council will undertake a formal review of the Neighbourhood Plan within 5 years of it being made.”***

177 The Glossary contains numerous interpretations of various planning related terms. In a number of cases, these interpretations appear subjective and in conflict with accepted legal definitions. As a consequence, the Glossary could result in unnecessary confusion and potential conflict.

178 I recommend:

- **Delete the Glossary**

179 The recommendations made in this Report will have a subsequent impact on Contents and page numbering.

180 I recommend:

- **Update the Contents and page numbering, taking into account the recommendations contained in this Report.**

9. Referendum

181 I recommend to Herefordshire Council that, subject to the modifications proposed, **the Much Marcle Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

182 I am required to consider whether the Referendum Area should be extended beyond the Much Marcle Neighbourhood Area.

183 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

184 Consequently, I recommend that the Plan should proceed to a Referendum based on the Much Marcle Neighbourhood Area approved by Herefordshire Council and confirmed by public notice on the 11th September 2013.

Nigel McGurk, May 2018
Erimax – Land, Planning and Communities



EST. 2011