

Bodenham NDP Independent Examination

Delegated Decision Statement

17 May 2018

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Bodenham Neighbourhood Area
Parish Council	Bodenham Parish Council
Submission	23 November to 11 January 2018
Examination Date	January 2018
Inspector Report Received	8 May 2018

1 Introduction

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

2 Background

- 2.1 The Neighbourhood Area of Bodenham was designated on 22 April 2013. The Neighbourhood Area follows the Bodenham parish boundary. The Bodenham Neighbourhood Development Plan has been prepared by Bodenham Parish Council. Work on the production of the plan has been undertaken by members of the local community through a Neighbourhood Plan Steering Group since April 2013.

- 2.2 The Plan was submitted to Herefordshire Council on 10 November 2017, and the consultation under Regulation 16 took place between the 23 November to 11 January 2018, where the Plan was publicised and representations invited.
- 2.3 In January 2018, Richard High was appointed by Herefordshire Council, with the consent of the Parish Council, to undertake the examination of the Bodenham NDP and to prepare a report of the independent examination.
- 2.4 The Examiner's report concludes that subject to making a number of modifications recommended by the examiner, the plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.
- 2.5 Having considered each of the recommendations made within the examiner's report and the reasons for them, Herefordshire Council (in accordance with the 1990 Act Schedule 4B paragraph 12) has decided to make the modifications to the draft plan referred to in Section 3 below to ensure that the draft plan meets the basic conditions set out in legislation.

3 Recommendations by the examiner

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

Policy	Modification recommended	Justification
Modification 1 Policy BNDP2	In the last line of the first paragraph of Policy BNDP2 delete; 'these are' and insert 'they' In criterion 1.1 insert 'are' before 'located' In criterion 1.4 delete 'do not adversely affect any' and insert 'any adverse effect on and add after '..Annex C' 'is clearly outweighed by the benefits of the proposal in terms of sustainable development'	To correct grammatical issues + To ensure the approach conforms to the NPPF.
Modification 2 Policy BNDP 3	Modify the first part 1 of Policy BNDP3 to read: 'Proposals for new housing development will be required to demonstrate that the dwelling mix, type and tenure reflect local housing need, and incorporate...' Modify criterion 2.2 to read: 'They are subject to a condition or planning obligation which will require that they meet the needs of local people or having a local connection who meet at least one of the following criteria: <ul style="list-style-type: none"> • Currently living in the locality (retain footnote) and has done for a continuous period of at least 3 years • Works in the locality and has done so for at least 3 years • Has moved away but has strong 	To define local housing requirement and local occupancy conditions. To include a commitment to review the plan.

	<p>established and continuous links with the locality by reason of birth or long term immediate family connections</p> <ul style="list-style-type: none"> Has an essential need through age, disability or other special circumstances to live close to those who have lived in the locality for at least 3 years' <p>In criteria 2.4 insert a comma after design</p> <p>Modify criterion 4 to read: 'The delivery of housing will be monitored during the plan period. If monitoring clearly demonstrated that local needs are not being met or there is clear evidence that there is a need for additional housing to meet the strategic needs of the area, the Plan will be reviewed.'</p> <p>Move the heading 'Local Occupancy' and paragraph 5.7 to follow paragraph 5.6 before the policy and modify 5.7 to read; 'In order to ensure that the provision of affordable housing on exception sites meets the requirements of local people, it will be necessary for such developments to be subject to a condition or section 106 agreement which will require that properties are let in accordance with the requirements of part 2.2 of the policy'</p>	
Modification 3 Policy BNDP4	<p>Change the heading of Policy BNDP4 to Foul Drainage.</p> <p>Delete parts 1.1 and 1.2 of Policy BNDP4, attach part 1.3 to the first line of Part 1 and delete the number 1.3</p>	To make the policy more specific
Modification 4 Policy BNDP 5	<p>In 1.3 insert 'unacceptable' before 'adverse'</p> <p>Delete criterion 1.5</p> <p>Insert a new criteria 2.6; ' Outside the settlement boundaries new buildings for employment use will only be permitted where they cannot be accommodated within the settlement boundary of Bodenham or Bodenham Moor or have a clear need to be located in the countryside and in all cases they should not be prominent in the landscape and of a high quality of design which respects their rural setting'</p>	<p>To remove criterion where no evidence exists and not consistent with the NPPF.</p> <p>To ensure consistency with the Core Strategy</p>
Modification 5 Policy BNDP6	<p>Modify the first part to read: 'proposals for large scale economic activities, including new intensive livestock units (cattle, chicken and pigs) and the</p>	To ensure that the policy is expressed in more positive terms in accordance with RA6 and the NPPF.

	<p>conversion of existing livestock enterprises to intensive husbandry techniques, will only be supported where they provide detailed evidence to demonstrate that any adverse impact on the following areas can be adequately mitigated;</p> <p>1.1 the highway network in terms of an adverse access, highway, safety, congestion and the suitability of the ability of the network to accommodate the type of traffic generated;</p> <p>1.2 the landscape and historic environment of the area</p> <p>1.3 the ecology and biodiversity of the area</p> <p>1.4 flood risk and drainage and</p> <p>1.5 the living conditions in neighbouring properties in terms of noise, disturbance, dust, lighting, smell or overbearing visual impact.</p>	To ensure that there is a clear framework for decision makers
Modification 6 Policy BNDP7	<p>Delete the first sentence of Policy BNDP7</p> <p>Modify part 3 to read: 'Where the legal requirements are met, developer contribution will be sought towards meeting identified community needs, including...' and after 'pedestrian safety'</p> <p>Add 'if the Community Infrastructure Levy is introduced, income received by the Parish Council will be used to meet these needs.'</p>	<p>Remove unnecessary text</p> <p>To clarify the potential role of CIL and development obligations.</p>
Modification 7 Policy BNDP 8	<p>Modify the second sentence of part 2 to read: 'Where development would affect the landscape setting of the two main settlements it will only be permitted where a detailed landscape assessment demonstrates that the impact will not be severe'</p> <p>Modify part 3 to read: 'Proposals which can demonstrate that they have taken into account any impact on the views defined in the map and table at Annex 1, and are designed to ensure that any impact on them will not seriously detract from the main features of them, will be permitted'</p> <p>Revise the map in Appendix 1 to show the location and scope of the significant view more clearly, by using a narrower view cone instead of the existing symbol and delete view 7 from the map and table in Appendix 1.</p>	<p>To ensure the policy has flexibility</p> <p>To ensure that the plan is precise and clear in terms of the views being defined.</p>
Modification 8 Policy BNDP9	<p>Delete section 1.1.2</p> <p>Modify section 1.1.3 to read:</p>	To ensure the policy is in line with the NPPF.

	<p>'not break the skyline in distant views unless they make a demonstrably positive contribution to the landscape'</p> <p>Delete section 1.2</p>	
<p>Modification 9</p> <p>Policy BNDP10</p>	<p>Delete parts 1.1, 1.2 and 1.3</p> <p>Modify part 1.4 to read: 'Take account of the significance of the local features of historical interest identified in Table 4 and the Map in Appendix 7 of Annex 1 and retain them where possible unless their loss is clearly necessary for the development and the benefits of the development would clearly outweigh the harm resulting from their loss'</p> <p>Modify part 1.5 to read: 'demonstrate where appropriate and possible how they meet the standards of Building for Life 12'</p> <p>In part 1.7 delete 'merge seamlessly with the existing landscape' and insert 'respect and where possible enhance the existing built environment'</p>	<p>To ensure consistency with the NPPF.</p> <p>To clarify the status of non-designated heritage assets.</p> <p>To provide clarity with regard to Building for Life requirements</p> <p>To ensure correct reference regarding the built environment</p>
<p>Modification 10</p> <p>Policy BNDP11</p>	<p>In part 1 insert 'unacceptable' before 'nuisance'</p> <p>In part 2 delete 'there is no light spillage beyond the boundary of the property' and replace it with 'light spillage beyond the boundary of the property is kept to a minimum'</p>	<p>To ensure the policy reflect those elements under the control of planning.</p>
<p>Modification 11</p> <p>Policy BNDP 12</p>	<p>In part 1 delete 'or other local assets' and after 'Annex C' insert 'and show on the Maps at Appendix 1 and Appendix 2 to Annex C'</p> <p>Delete part 2</p> <p>In Annex C and the maps at Appendix 1 and Appendix 2 to Annex C delete; 1 – the car park and tennis courts adjacent to Bodenham parish hall, together with the field parcel to the east not lying within the settlement boundary 4 – the field lying east of the C1125 and bounded to the north by Chapel Lane known as Shuker's Field 7 – Lady Close Orchards and Bodenham Lake</p> <p>Also in Annex C change the reference in the 'category' column for 'public open space' to 'Local Green Space'</p>	<p>To add clarity</p> <p>To remove open spaces which are not considered to meet the requirements of the NPPF.</p> <p>1 – Considered that the car park and village hall does not demonstrate a special undeveloped green space. Protection is afforded under other policies.</p> <p>4 – no public access and it not considered to have distinctive qualities for the designation. This area will benefit from countryside policies.</p> <p>7 – site benefits from protection in several ways but is considered extensive</p>

		and not appropriate for the designation of local green space.
Modification 12 Policy BNDP 13	Delete part 1 of Policy BNDP13	To ensure conformity with SD2 and the NPPF and no clear justification has been provided for the negative position.

4 Post Adoption SEA and HRA

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

5 Decision

5.1 The Neighbourhood Planning (General) Regulations 2012 requires the local planning authority to outline what action to take in response to the recommendations that the examiner made in the report under paragraph 10 of Schedule 4A to the 1990 act (as applied by Section 38A of the 2004 Act) in relation to a neighbourhood development plan.

5.2 Herefordshire Council have considered each of the recommendation made in the examiner's report and the reasons for them and have decided to accept the modification to the draft plan. The draft plan will be altered in line with Table 1 above in line with paragraph 12 (6) of Schedule 4B to the 1990 Act.

5.3 Following the modifications made, the Bodenham Neighbourhood Development Plan will meet the basic conditions:

- Having regard to national policies and advice contained in guidance issues by the Secretary of State, it is appropriate to make the plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the Herefordshire Local Plan – Core Strategy
- The making of the neighbourhood plan does not breach and is otherwise compatible with EU obligations and
- The making of the neighbourhood plan is not likely to have a significant effect on a European site either alone or in combination with other plans and projects.

5.4 It is recommended that the Bodenham Neighbourhood Plan progresses to referendum. Consideration has been given as to whether the area should be extended beyond that of the neighbourhood area. Herefordshire Council concur with Examiner's conclusion that nothing has been suggested which would require an extension of the area beyond that designated on 22 April 2013.



Signed Richard Gabb

Dated 17.5.2018

Richard Gabb
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