

# **BURGHILL NEIGHBOURHOOD PLAN**

## **Submission Draft Version**

**A report to Herefordshire Council  
into the examination of the  
Burghill Neighbourhood Plan  
by Independent Examiner, Rosemary Kidd**

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## Contents:

	<b>Page</b>
1 Summary	3
2 Introduction	4
3 The Neighbourhood Plan - as a Whole	17
The Neighbourhood Plan - Policies	18
4 Referendum	35
5 Background Documents	36
6 Summary of Recommendation	37

## 1.0 Summary

- 1.1 The Burghill Neighbourhood Plan has been prepared to set out the community's wishes for this parish so that it can be a pleasant place for people of all ages to live with amenities that allow it to be a thriving and distinct community. The parish contains the village of Burghill and the communities of Redstone and Manor Fields, Tillington, Tillington Common, Portway, Elton's Marsh and St Mary's Park and surrounding countryside.
- 1.2 The Plan sets out policies that support and complement those in the Core Strategy. I have made a number of recommendations in this report in order to make the wording of the policies and their application clearer including improvements to the mapping of sites referred to in policies to ensure that the Plan meets the Basic Conditions. Section 6 of the report sets out a schedule of the recommended modifications.
- 1.3 The main recommendations concern:
  - The deletion of two proposed site allocations at Tillington, four local green spaces and Policies B2, B7 and B12;
  - Clarification of the wording of policies and the supporting text;
  - Revisions to the Design Guidance in Appendix 3; and
  - Improvements to the mapping of policies.
- 1.4 Subject to the recommended modifications being made to the Neighbourhood Plan, I am able to confirm that I am satisfied that the Burghill Neighbourhood Plan satisfies the Basic Conditions and that the Plan should proceed to referendum.

## 2.0 Introduction

### Background Context

- 2.1 This report sets out the findings of the examination into the Burghill Neighbourhood Plan (referred to as the BNDP throughout this report).
- 2.2 Burghill parish lies about four miles to the north west of Hereford within the boundary of Herefordshire Council. The parish lies mainly to the west of the A4110. It is a rural parish with the historic village of Burghill at its core containing a conservation area and several listed buildings. There are also several smaller communities including Redstone and Manor Fields, Tillington, Tillington Common, Portway, Elton's Marsh and St Mary's Park and surrounding countryside. At 2011 there were 1579 people living in Burghill in 684 households.

### Appointment of the Independent Examiner

- 2.3 I was appointed as an independent examiner to conduct the examination on the Burghill Neighbourhood Plan by Herefordshire Council with the consent of Burghill Parish Council in August 2018. I do not have any interest in any land that may be affected by the BNDP nor do I have any professional commissions in the area currently and I possess appropriate qualifications and experience. I am a Member of the Royal Town Planning Institute with over 30 years' experience in local authorities preparing Local Plans and associated policies. My appointment was facilitated through the Neighbourhood Planning Independent Examiner Referral Service.

### Role of the Independent Examiner

- 2.4 As an independent Examiner, I am required to determine, under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether the legislative requirements are met:
- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body as defined in Section 61F of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004;
  - The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004;
  - The Neighbourhood Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provisions relating to 'excluded development', and must not relate to more than one Neighbourhood Area); and

- The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of the Planning and Compulsory Purchase Act 2004 Section 38A.

2.5 An Independent Examiner must consider whether a neighbourhood plan meets the “Basic Conditions”. The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The Basic Conditions are:

1. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
2. the making of the neighbourhood plan contributes to the achievement of sustainable development;
3. 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);
4. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
5. prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan. The following prescribed condition relates to neighbourhood plans:
  - Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further Basic Condition in addition to those set out in the primary legislation. That the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended)).

2.6 Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements;
- That the plan should proceed to referendum if modified; or
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

2.7 If recommending that the Neighbourhood Plan is submitted to referendum my report must also recommend whether the area for the referendum should

extend beyond the neighbourhood area to which the Neighbourhood Plan relates, and if to be extended, the nature of that extension.

- 2.8 The role of an Independent Examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans. It is not within my role to comment on how the plan could be improved but rather to focus on whether the submitted Neighbourhood Plan meets the Basic Conditions and Convention rights, and the other statutory requirements.
- 2.9 It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings. I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the Basic Conditions and the other requirements.

### **The Examination Process**

- 2.10 The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or so that a person has a fair chance to put a case.
- 2.11 I have sought clarification on a number of factual matters from the qualifying body and/or the local planning authority in writing. I am satisfied that the responses received have enabled me to come to a conclusion on these matters without the need for a hearing.
- 2.12 I had before me background evidence to the plan which has assisted me in understanding the background to the matters raised in the Neighbourhood Plan. I have considered the documents set out in Section 5 of this report in addition to the Submission draft of the Burghill Neighbourhood Plan 2011 – 2031 dated April 2018.
- 2.13 I have considered the Basic Conditions Statement and the Consultation Statement as well as the screening report for the Habitats Regulation Assessment and the Strategic Environmental Assessment Environmental Report. In my assessment of each policy I have commented on how the policy has had regard to national policies and advice and whether the policy is in general conformity with relevant strategic policies, as appropriate.
- 2.14 I have undertaken an unaccompanied visit to the Plan area and viewed the sites referred to under the policies in the plan.

## **Legislative Requirements**

### **Qualifying Body**

- 2.15 The neighbourhood plan making process has been led by Burghill Parish Council which is a “qualifying body” under the Neighbourhood Planning

legislation which entitles them to lead the plan making process. The Plan was prepared by the Neighbourhood Plan Steering Group with support from Kirkwells, planning consultants.

- 2.16 I am satisfied that the requirements set out in the Localism Act (2011) and in Section 61F(1) and (2) of the Town and Country Planning Act (as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act) have been met.

### **The Plan Area**

- 2.17 The Neighbourhood Plan area is co-terminus with the parish of Burghill. The area was designated by Herefordshire Council on 11 September 2013 as a Neighbourhood Area. The Basic Conditions Statement confirms that there are no other neighbourhood plans relating to that area.
- 2.18 This satisfies the requirements of preparing a Neighbourhood Development Plan under section 61G (1) (2) and (3) of the Town and Country Planning Act 1990 (as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004) and regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012.

### **Plan Period**

- 2.19 A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Plan and the Basic Conditions Statement state that the lifespan of the Neighbourhood Plan is 2011 – 2031. Paragraph 2.3 of the Basic Conditions statement states that it is from the date it is made until 2031. This timescale mirrors that of the adopted Core Strategy. The commencement date of the Plan on the Plan's cover is some time before the plan was prepared and it is recommended that it should be revised to the date it is "made".

**Recommendation 1: Revise the date of the Plan period to 2018 – 2031.**

### **Excluded Development**

- 2.20 The Basic Conditions Statement confirms that the Plan does not include provision for any excluded development: county matters (mineral extraction and waste development), nationally significant infrastructure or any matters set out in Section 61K of the Town and Country Planning Act 1990.

### **Development and use of land**

- 2.21 The Neighbourhood Development Plan should only contain policies relating to development and use of land. Subject to the modifications proposed, the BNDP would be compliant with this requirement of Section 38B of the Planning and Compulsory Purchase Act 2004 as amended.
- 2.22 I am satisfied therefore that the Burghill Neighbourhood Plan satisfies all the legal requirements set out in paragraph 2.4 above.

## The Basic Conditions

### Basic Condition 1 – Has regard to National Policy

- 2.23 The first Basic Condition is for the neighbourhood plan “to have regard to national policies and advice contained in guidance issued by the Secretary of State”. The requirement to determine whether it is appropriate that the plan is made includes the words “having regard to”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans which requires plans to be “consistent with national policy”.
- 2.24 The Planning Practice Guidance assists in understanding “appropriate”. In answer to the question “What does having regard to national policy mean?” the Guidance states a neighbourhood plan “must not constrain the delivery of important national policy objectives.”
- 2.25 In considering the policies contained in the Plan, I have been mindful of the guidance in the Planning Practice Guide (PPG) that:
- “Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like.”*
- 2.26 In order to ensure that a neighbourhood plan can be an effective tool for the decision maker, the PPG advises 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.”*
- 2.27 The NPPF of 2012 is referred to in this examination. Paragraph 214 of Appendix 1 of the July 2018 NPPF states that the policies of the 2012 NPPF will apply for the purpose of examining plans where those plans are submitted on or before 24 January 2019. The footnote to this paragraph confirms that this applies to neighbourhood plans.
- 2.28 NPPF paragraph 183 states that parishes can use neighbourhood planning to set planning policies through neighbourhood plans to determine decisions on planning applications. The Planning Practice Guidance on Neighbourhood Plans states that neighbourhood plans should “*support the strategic development needs set out in the Local Plan*” and further states that “*the neighbourhood plan must address the development and use of land by setting*



*out planning policies to be used in determining planning applications because once the plan is made it will become part of the statutory development plan”.*

- 2.29 Paragraph 16 of the National Planning Policy Framework is clear that those producing neighbourhood plans should support the strategic development needs set out in local plans, including policies for housing and economic development. Qualifying bodies should plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. PPG guidance under Rural Housing states that *“all settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless they can be supported by robust evidence”.*
- 2.30 The Basic Conditions Statement describes the Plan objectives, reasoned justification and resulting policies and how they are aligned with national policy and guidance. It demonstrates that the Plan has regard to the elements set out in the NPPF relevant to the Plan Area and to delivering sustainable development.
- 2.31 I consider the extent to which the policies of the plan meet this Basic Condition No 1 in Section 3 below.

### **Basic Condition 2 - Contributes to sustainable development**

- 2.32 A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole constitutes the Government’s view of what sustainable development means in practice for planning. The NPPF explains that there are three dimensions to sustainable development: economic, social and environmental.
- 2.33 There is no legal requirement for a formal Sustainability Appraisal to be carried out in respect of neighbourhood plans. However good practice suggests that where neighbourhood plans are allocating land for development an appraisal should be carried out.
- 2.34 Table 2 of the Basic Conditions Statement considers how the BNDP contributes to the delivery of sustainable development with regards to economic, social and environmental aspects. Taking account of the information presented, I am satisfied that the BNDP contributes to the delivery of sustainable development.

### **Basic Condition 3 – is in general conformity with strategic policies in the development plan**

- 2.35 The third Basic Condition is for the neighbourhood plan to be in general conformity with the strategic policies contained in the Development Plan for the area. The adopted strategic policies covering the Neighbourhood Plan area are contained in the Herefordshire Local Plan Core Strategy which was adopted in 2015.

- 2.36 The Basic Conditions Statement comments on how the Plan objectives and policies will support and deliver the NPPF objectives and the Core Strategy policies.
- 2.37 The Council raised no concern over general conformity with the strategic policies of the development plan. I consider in further detail in Section 3 below the matter of general conformity with the strategic policies of the plan.

#### **Basic Condition 4 – Compatible with EU obligations and human rights requirements**

- 2.38 A neighbourhood plan must be compatible with European Union obligations as incorporated into UK law, in order to be legally compliant. Key directives relate to the Strategic Environmental Assessment Directive and the Habitats and Wild Birds Directives. A neighbourhood plan should also take account of the requirements to consider human rights.
- 2.39 Regulation 15 of the Neighbourhood Planning Regulations as amended in 2015 requires either that a Strategic Environmental Assessment is submitted with a Neighbourhood Plan proposal or a determination from the responsible authority (Herefordshire Council) that the plan is not likely to have “significant effects.”
- 2.40 A screening opinion was carried out on the draft BNDP and it concluded that due to the range of environmental designations in and around the parish, there may be significant environmental effects and consequently a SEA would be required. The Environmental Report assesses the objectives, policies and options and includes a rescreening of revised policies. The final Environmental Report was published in February 2018.
- 2.41 The conclusions of the SEA for the Submission draft BNDP indicates:  
*“Task B4 of SEA brings together the results of earlier tasks and thus identifies the cumulative impact of the entire of the NDP. This task (set out in Appendix 4 of the Environmental Report) reveals that the objectives and policies contained in the Burghill Parish NDP are in general conformity with the Local Plan (Core Strategy), which means that the cumulative effect of the plan will contribute to the achievement of the SEA objectives”.*
- 2.42 Habitat Regulations Assessment (HRA) screening has been carried out as the Parish falls within the catchment for the River Wye. The River Wye is a European site, a Special Area of Conservation (SAC). The HRA assesses the potential effects of the BNDP on the River Wye SAC. The initial report was prepared on the in May 2013 and updated in December 2015 on the pre-submission draft plan, in June 2016 on the first submission draft plan and in February 2018 on the second submission draft plan.
- 2.43 The HRA on the Reg 14 draft BNDP stated that *“It is unlikely that the Burghill Neighbourhood Plan will have any in-combination effects with any Plans from*

*neighbouring parish council due to the level of growth proposed is of the same that is proposed for the Hereford Housing Market Area in the Herefordshire Core Strategy.” It concluded that the draft “Burghill NDP would not have a likely significant effect on the River Wye (including the River Lugg) SAC”.*

- 2.44 The HRA Screening of first submission draft BNDP in June 2016 highlighted the importance of the additional criteria to Policy B13 regarding the treatment of waste water. It concluded that revised BNDP policies were unlikely to result in significant effects on the European site.
- 2.45 The HRA Screening on the second submission draft BNDP in February 2018 noted that *“The resubmission Burghill NDP did not change significantly since the previous submission. Two sites were removed from the NPD at Lower Burlton as an alternative site now has planning permission for 50 dwellings in the location. The settlement boundary had been altered in Lower Burlton and Burghill to take account of extant planning permissions granted since the previous Reg16 consultation.”* The resubmission BNDP policies were assessed as unlikely to result in significant effects on the European site.
- 2.46 Further revisions were made to the HRA in August 2018 to take account of the recent judgement (People over Wind, Peter Sweetman vs Coillte). The Court of Justice of the European Union (CJEU) ruled that Article 6(3) of the Habitats Directive must be interpreted as meaning that mitigation measures should be assessed within the framework of an appropriate assessment and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of the plan on a European site at the screening stage. The initial screening undertaken in September 2013 concluded that a full HRA would be required. Mitigation was not taken into account at this stage. The final HRA Report detailed the findings of the screening of proposed changes to policies and considered if they significantly affected the conclusions of the earlier HRA Report (December 2015, June 2016 and February 2018) and reviewed it in terms of the implications of the Sweetman judgement.
- 2.47 Dwr Cymru Welsh Water (DCWW) has stated for the Core Strategy that there is currently existing capacity with regards to permitted headroom in the Sewage Treatment works serving the Burghill area to continue to treat the water from the amount of housing provided for in the Core Strategy policies. Policy SD4 of the Core Strategy and Policy B13 of the NDP indicate that development would not be permitted if wastewater treatment and water quality cannot be assured
- 2.48 In addition, the Nutrient Management Plan for the River Wye SAC should ensure that development within Herefordshire which can be accommodated within existing water discharge permits would not be likely to have a significant effect upon the River Wye SAC.

- 2.49 No mitigation measures have been included within the screening of the policies of the BNDP. Policies of the Core Strategy and the BNDP will form part of the development plans. A key requirement of the Core Strategy is to meet the Water Framework Directive.
- 2.50 This review and rescreening have been found to be unlikely to result in significant effects on the River Wye SAC and concluded that the *"Burghill Plan will not have a likely significant effect on the River Wye SAC"*.
- 2.51 The HRA screening also concluded that *"It is unlikely that the Burghill Plan will have any in-combination effects with any plans from neighbouring parish councils as the level of growth proposed is the same as that proposed for the Hereford Housing Market Area in the Herefordshire Core Strategy"*.
- 2.52 Herefordshire Counsel's advice on the judgement of People over Wind and Peter Sweetman v Coillte, was that as all neighbourhood plans need to be in conformity with the Core Strategy and the policies of the development plan read as a whole, there is no need for the Neighbourhood Plans to include additional mitigation covered within these policies as it is within the higher level plan (the Core Strategy).
- 2.53 The advice gives a clear conclusion that the examinations could be concluded, where either there is an adequate sewage treatment capacity; or where there is not, Core Strategy Policy SD4 will apply.
- 2.54 The statutory environmental bodies: Historic England, Natural England and the Environment Agency were consulted on the SEA Scoping Report in September 2014 and the Environmental Report in July 2016 and May 2018. Consultation on the HRA screening report took place in July 2016 and May 2018. The environmental bodies made no comments to the reports on the April 2018 submission Plan.
- 2.55 The Basic Conditions Statement includes a Human Rights Assessment and concludes that *"the Plan has been produced in full consultation with the local community. The Plan does not contain policies or proposals that would infringe the human rights of residents or other stakeholders over and above the existing strategic policies at national and district levels"*. From the evidence provided in this assessment and the Consultation Statement, I am satisfied that the plan makers have sought to consult the whole community and have taken their views into consideration in preparing the BNDP. I am satisfied that the Plan has met the requirements of the Human Rights Act.
- 2.56 The HRA screening has also considered the requirements of the Water Framework Directive to ensure that proposals for growth do not adversely affect the river water quality and this included the associated watercourses flowing into the rivers.
- 2.57 The Environment Agency has not indicated that any proposals within the BNDP would conflict with measures and provisions it is advocating to meet its

obligations under this Directive as set out in the Severn River Basin Management Plan or the River Wye Nutrient Management Plan.

- 2.58 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan and no representations at pre or post-submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the BNDP is compatible with EU obligations and therefore with Basic Conditions Nos 4 and 5.

### **Consultation on the Neighbourhood Plan**

- 2.59 I am required under The Localism Act 2011 to check the consultation process that has led to the production of the Plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012.
- 2.60 The Consultation Statement sets out an overview of the various stages of consultation that have been carried out during the preparation of the BNDP. It highlights the aims of the consultation and summarises the consultation process undertaken during the preparation of the plan. Feedback from the Regulation 14 and 2016 Regulation 16 consultations as well as the post Regulation 16 consultation on the Updated Site Assessment Report is recorded in the Appendices of the evidence report.
- 2.61 The preparation of the Neighbourhood Plan commenced in January 2013 with a presentation at the annual parish meeting. This was followed by:
- The initial public meeting was held on 26 November 2013 to discuss the commencement of the preparation of the BNDP. This was publicised through the Burghill Parish Magazine which is delivered to every household in the parish.
  - A further open meeting was held on 4 March 2014. This was publicised through the Parish Magazine and publicity leaflets delivered to each household and posters on the Parish noticeboards
  - Meetings with the head and governors of the village academy were held in March 2014.
  - A questionnaire was circulated to all households and businesses in the plan area in April 2014. This also included a call for sites. Publicity was given through the Parish Magazine and flyers and posters.
  - Progress updates were published in June, July and October 2014 Parish Magazine and on the Burghill Community website.
  - The Options Days were held Burghill Village Hall on 15 and 16 November 2014. The events sought the views of the community on the Vision and Objectives, the potential development sites that been proposed and revisions to the settlement boundaries.
  - Following the analysis of the questionnaires and the feedback from the Options Days progress was reported in the Parish Magazine in May and August 2015.
  - The Parish Council approved the draft of the BNDP on 18 November 2015 for discussion with Herefordshire Council and the preparation of the SEA.

The draft NP was published on the community and Parish Council's websites for information with hard copies available. Publicity was given in the December 2015 Parish Magazine.

- The Regulation 14 consultation was carried out between 20 January to 11 March 2016. An e-mail or letter was sent to all Consultation Bodies, including neighbouring Parish Councils, providing information about the consultation on the Draft Plan. The consultation process was also promoted through the Parish Magazine, the community and Parish Council websites and a flyer delivered to all households. Many detailed points were raised in response to the consultation and are summarised in the Consultation Statement.
- A progress report was included in the Parish Magazine in April 2016. This noted that an assessment of the adequacy of the consultation process had been carried out by Herefordshire Council and the Herefordshire Association of Local Councils which confirmed that all the requirements of the Neighbourhood Planning Regulations had been met.

2.62 Burghill Parish Council submitted their Neighbourhood Development Plan to Herefordshire Council on 6 July 2016. The Regulation 16 consultation ran from 13 July 2016 to 24 August 2016. However following the comments received at this consultation, Herefordshire Council produced a "Progression to Examination Decision Document" on 23 September 2016 which recommended that the Burghill Neighbourhood Plan did not progress to examination at this stage and that additional consultation (under Regulation 16) was undertaken following the parish council's consideration of the issues outlined below:

- *"Given the concern regarding the deliverability of three of the allocated sites, the public concern regarding the site selection process and the currently unavailability of the Kirkwell's initial site assessment work, it is difficult to conclude that the plan will enable the required growth to meet the requirements of Policy RA2 of the Core Strategy.*
- *A review is suggested to ascertain the deliverability of proposed allocation sites and flexibility of the associated policies should it be evident that site allocations cannot be achieved due to constraints. It is also highly recommended that during this period of review all current and future documentation relating to site assessment and selection is available publicly and community involvement is included prior to re-submission of the plan.*
- *Transportation and Strategic Planning have also highlighted the requirement for the inclusion of references to the Hereford Relief Road within the NDP and its associated policies maps particularly with reference to Policy B9."*

- 2.63 In response to this, independent consultants were appointed to undertake an update of the Site Assessment Report to include a comprehensive re-assessment of all the sites in the original report of September 2015.
- 2.64 The Updated Site Assessment Report was approved by the Parish Council on 12 April 2017 for public consultation, with a deadline of the end of June 2017 for comments.
- 2.65 The Updated Site Assessment Report was posted on the Burghill Parish Council website. Articles were included in the April and May 2017 parish magazines. Paper copies were made available at locations in the village and at the weekly CAP sessions held in the Simpson Hall, Burghill.
- 2.66 The responses were reviewed by the planning consultants and are included in the Consultation Statement. The final version of the Updated Site Assessment Report was produced in August 2017. Updates on progress were published in the parish magazine.
- 2.67 The Final Updated Site Assessment Report was approved by the Parish Council on 6 September 2017 for a further round of consultation to allow residents to inspect the final document and make any further comments. This was published on the Parish Council website with publicity in the parish magazine.
- 2.68 Revisions to the housing sites to be included in the BNDP were agreed by the Parish Council in the light of the findings of the Final Updated Site Assessment Report. A newsletter advising residents of the revisions to the BNDP was included in the December 2017 parish magazine.
- 2.69 Burghill Parish Council resubmitted the BNDP to Herefordshire Council in May 2018. The Regulation 16 consultation on the Submission Draft Plan was undertaken by Herefordshire Council between 10 May to 21 June 2018. Twenty eight responses were received; these included three letter of support to the plan, 17 representations concerned with the consultation process, the wording of policies and various sites included in the Plan and seven from organisations.
- 2.70 I have carefully considered the responses made concerning the adequacy of the consultation process. From the evidence presented to me I am satisfied that the consultation and publicity on the draft Plan has met the requirements of Regulations 14, 15 and 16 in the Neighbourhood Planning (General) Regulations 2012.
- 2.71 This report is the outcome of my examination of the Submission Draft Version of the Burghill Neighbourhood Plan 2011 - 2031. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions. My report makes recommendations based on my findings on whether the Plan meets the Basic Conditions and provided the Plan is modified as recommended, I am satisfied that it is appropriate for the Neighbourhood Plan to be made. If the plan receives the support of over 50%

of those voting, then the Plan will be made following approval by Herefordshire Council.



### 3.0 Neighbourhood Plan – As a whole

- 3.1 The Neighbourhood Plan is considered against the Basic Conditions in this section of the Report following the structure and headings in the Plan. Given the findings in Section 2 above that the plan as a whole is compliant with Basic Conditions No 4 (EU obligations) and other prescribed conditions, this section largely focuses on Basic Conditions No 1 (Having regard to National Policy), No 2 (Contributing to the achievement of Sustainable Development) and No 3 (General conformity with strategic policies of the Development Plan).
- 3.2 Where modifications are recommended, they are presented and clearly marked as such and highlighted in bold print, with any proposed new wording in italics.
- 3.3 Basic Condition 1 requires that the examiner considers whether the plan as a whole has had regard to national policies and advice contained in guidance issued by the Secretary of State. Before considering the policies individually, I have considered whether the plan as a whole has had regard to national planning policies and supports the delivery of sustainable development.
- 3.4 The Plan is well presented with policies relating to housing, employment, education, traffic and highways, design, natural and historic heritage, community facilities and open spaces, water management and renewable energy.
- 3.5 Seven maps are included in the Plan showing the boundary in the plan area and sites in various settlements. Map 6 shows the Local Green Spaces and is barely legible and should be deleted. I recommend under Policy B10 that a larger scale map is included to show the boundary of the LGS at St Mary's Park clearly. The other sites are shown on Map 3 Burghill village.
- 3.6 Map 4 includes an area identified as a "Private Low Intensity Leisure Use" in Tillington. The Leisure Use site is not a proposal of the BNDP and it should therefore be deleted from Map 4.
- 3.7 All maps should have keys which cross reference to the relevant policy of the Plan. The housing allocation and commitments should have a site reference number which should be shown on the Policies Map. It is important that the boundaries of sites are shown clearly so that they can be used consistently by decision makers and it is therefore recommended that the clarity of the maps and their keys is improved.
- 3.8 Twenty three site options have been assessed for their suitability, deliverability and achievability in the Updated Site Assessment Report 2017. Appendix 4 sets out an assessment of the policy options and sites selected in the first submission Plan which includes the same sites as the re-submission Plan. Appendix 10 of the Environmental Report sets out an assessment of the sustainability of all the 23 site options.

- 3.9 The area of sites is set out in “acres” in the Plan. It is recommended that the units of measurement should be changed to “hectares” to be consistent with the Herefordshire Core Strategy and established practice.
- 3.10 A number of policies state that certain types of development “will be permitted”. The NPPF paragraph 11 states that “*Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.*” The decision making authority will consider the policies of the development plan as a whole as well as other material considerations in determining planning applications. A Neighbourhood Plan cannot determine whether a particular form of development will or will not be permitted.

#### **Recommendation 2:**

**The housing allocation and commitments should have site reference numbers which should be shown on the Policies Map.**

**The site shown as a private low intensity leisure use on Map 4 should be deleted.**

**Delete Map 6.**

**Change the unit of area measurement to “hectares”.**

## **The Neighbourhood Plan - Policies**

### **Introduction**

- 3.11 The Introductory sections of the Plan is lengthy, setting out the results of the questionnaire survey in detail. In order for the plan to be focused on the planning policies, it is recommended that when the Plan is finalised the introductory sections of the Plan should be reviewed and summarised with the detailed material being included in a background evidence report. Section 3 should be reduced to a list of the key issues rather than a summary of the questionnaire results.

**Recommendation 3: Summarise the key issues facing the Parish that are to be addressed in the Plan in Section 3 and place the questionnaire results in a background evidence report.**

### **Vision and Objectives**

- 3.12 The Vision and Objectives were developed through community discussions and consultation and are set out in section 4. The Vision seeks to ensure that Burghill is a pleasant place to live with amenities that allow it to be a thriving community and with a separate identity from the city of Hereford.

- 3.13 There are eleven objectives with actions set against each as to how they are to be achieved. These actions should be limited to how the policies in the Plan will deliver the objective. There is a reference under each policy to the relevant objective it delivers.
- The actions against Objective 5 are actions for the Parish Council or community and should be revised to better relate to Policy B11.
  - Objective 7 seeks to maintain the separate identity of the parish from the city of Hereford by avoiding development which would promote the joining of Burghill with the city. The parish abuts the city boundary and the development of the relief road and future residential development adjoining Hereford are planned to take place in the parish. It is noted that Burghill village is about 4 miles from Hereford and there is an extensive area of countryside between. It is considered that this objective could be considered to be unduly restrictive and is not justified by robust evidence. It is recommended therefore that the objective and its action should be deleted.

**Recommendation 4: revise the action against Objective 5 to read “*To seek to safeguard and enhance the community facilities*”.**

**Delete Objective 7 and its action.**

## Housing

- 3.14 The introduction to the housing section explains that Policy RA2 and Table 4.14 of the Core Strategy identify Burghill and Tillington as the focus for proportionate housing growth. Policy RA1 sets an indicative housing growth target of 18% for the Hereford HMA which includes the Plan area.
- 3.15 Representations have been made that a lower growth figure should have been used in the BNDP and that Tillington is not suitable for the scale of development proposed and the settlement should not have been included in the Core Strategy under Policy RA2. It is also claimed that the settlement boundary for Tillington has been drawn without public consultation.
- 3.16 I am satisfied that as Tillington is identified as a settlement under Core Strategy Policy RA2 as the focus for proportionate housing growth, it is therefore appropriate to allocate and develop housing sites there. The BNDP has applied the housing growth target set out in the Core Strategy which equates to 123 additional dwellings in the parish by 2031. Taking account of commitments and completions at 2017, this leaves a residual requirement of 6 dwellings.
- 3.17 Following a call for sites an assessment of 23 potential sites was undertaken by independent planning consultants and they were also considered in the Environmental Report. A further re-assessment was undertaken in the light of comments made during the consultation on the first Regulation 16 BNDP. The re-assessment was carried out independently in accordance with the

guidance provided by Herefordshire Council in Neighbourhood Planning Guidance Note 21, and with additional information on deliverability submitted by agents acting for developers.

- 3.18 Three sites with a potential capacity of 24 dwellings were recommended as the most suitable for development and these have been included in the settlement boundaries for Burghill and Tillington and shown on the maps as Proposed Housing Sites.
- 3.19 The Qualifying Body has explained that this will provide a degree of flexibility in housing supply as some sites with planning permission may not be able to satisfy drainage constraints and some dwellings may be lost through conversion.
- 3.20 I agree that the housing growth figure proposed in the BNDP has had regard to the Core Strategy target of 18% and is acceptable and will provide a degree of flexibility. In any case the Core Strategy figure should not be viewed as a cap on the additional housing growth.
- 3.21 I have visited all the sites proposed for allocation and considered the Updated Site Assessment Report.
- 3.22 Three sites are shown on Maps 2 and 3 as “Planning Commitments”. The Qualifying Body has confirmed that these are large sites with planning permission for housing development. It is recommended that the table in paragraph 6.1.6 is updated to the 2018 (or latest) figures and the list of sites with planning permission in paragraph 6.1.7 is deleted and placed in an Appendix. Where necessary, the settlement boundaries should be updated to include sites with planning permission. Additional text should be added to the justification to state that the large sites are shown on Maps 2 and 3 as Housing Commitments:
- Site HC1: Tillington Road / Roman Road, 50 dwellings.
  - Site HC2: Pye Finch 24 dwellings.
  - Site HC3: Adjacent to Bredstone House, outline 10 dwellings.
- 3.23 As stated in paragraph 2.70 above, I consider that adequate consultation has been carried out on the draft plan including the Updated Site Assessment Report.
- 3.24 The note in paragraph 6.1.21 that the Herefordshire Council advice that windfall development could not be relied upon because of their uncertainty in the housing growth calculation has been questioned by respondents. I make no comments on the statement made by the Council.
- 3.25 Paragraph 6.1.31 states that the “housing requirement has been *imposed* on the Parish by the Core Strategy”. It would be more accurate to state “the approved housing requirement set out in the Core Strategy”.

**Recommendation 5: Revise the Introduction to the Housing Section as follows:**

**Update the table in paragraph 6.1.6 to the 2018 (or latest) figures;**

**Amend column 3 to 123 to be consistent with paragraph 6.1.5.**

**Delete paragraph 6.1.7 and place the up to date list of housing commitments in an Appendix.**

**Additional text should be added to the justification to state that the large housing commitment sites are shown on Maps 2 and 3 as Housing Commitments and numbered:**

- **Site HC1: Tillington Road / Roman Road, 50 dwellings.**
- **Site HC2: Pye Finch 24 dwellings.**
- **Site HC3: Adjacent to Bredstone House, outline 10 dwellings.**

**Revise paragraph 6.1.31 to read “... the potential to meet the *approved* housing requirement *set out* in the Core Strategy and.....”.**

**Update the settlement boundaries on Maps 3 and 4 where necessary to include sites with planning permission.**

### **Policy B1 - Scale and type of new housing in Burghill and Tillington and Lower Burlton**

- 3.26 The opening paragraph of Policy B1 states that proposals for new housing will only be considered on allocated sites or within the settlement boundaries. This is incorrect as planning applications have to be considered wherever they are proposed. In the interests of clarity and so that the policy can be interpreted consistently by decision makers, the policy should state that the site allocated for housing development and other infill sites within the settlement boundaries should be developed for housing where they satisfy the relevant criteria. The allocated site should be re-numbered (HA1) and the number shown on the Policies map.
- 3.27 Criterion f) requires the provision of at least 35% of new development to be affordable housing and 15% to be single storey dwellings. This fails to include the threshold of 10 dwellings set in the Core Strategy Policy H1 on affordable housing and 50 dwellings set in Policy H3 on the range and mix of housing.
- 3.28 I have asked the Qualifying Body for their evidence to justify the figure of 15% of dwellings to be single storey. They have stated that this is from answers to the questionnaire and the views of local people identifying the need for accommodation for elderly people. I have concerns that this is anecdotal evidence of residents' opinions and has not been derived from a Housing Needs Survey to identify residents' needs. I am recommending that the figure be deleted as there is no robust evidence to justify the figure of 15% and no account has been taken of other forms of housing that may be developed to meet the needs of the ageing population (eg adaptable and accessible housing and flats). Core Strategy Policy H3 makes provision for a mix of

house types including bungalows where appropriate without specifying a target percentage.

- 3.29 In view of the small size of sites allocated and the lack of local evidence of the housing needs, it is recommended that the policies of the Core Strategy are relied on in these matters and criterion f) should be revised accordingly.
- 3.30 Criterion g) repeats criterion 1 of Policy RA3 and is considered to be unnecessary.
- 3.31 For clarity, the final paragraph of Policy B1 should be revised to read “...should be in accordance with...”
- 3.32 Representations have included a number of alternative policy options for revisions to the wording of Policy B1 mainly regarding the approach to development in Tillington. It is understood that these were proposed at an earlier stage of the plan making. The Qualifying Body has considered the alternative policy options and sites and has put forward its selected approach in the submitted plan. My role as an examiner is to consider whether the BNDP as submitted meets the Basic Conditions.
- 3.33 The Environment Agency has also stated that robust confirmation should be provided that development is not impacted by flooding and that there is sufficient waste water infrastructure to accommodate growth. As there is no public sewerage system in Tillington, private sewage treatment measures will be required and it will be for developers to show that they can satisfy the Council’s requirements.
- 3.34 Paragraph 6.1.26 recommends three sites as most suitable for development. They are not however allocated in Policy B1 and their status is unclear. They are shown on the Policies Maps as Proposed Housing Sites and included in the settlement boundaries.
- 3.35 I have asked the Qualifying Body and Herefordshire Council for further information to demonstrate that the sites in Tillington are deliverable specifically that satisfactory access can be achieved. Herefordshire Council has responded to say that a planning application for 9 dwellings on site 25 NE of Cherry Orchard was withdrawn in April 2018 as the developer was not able to demonstrate that the west visibility splay of 2.4m x 90m was achievable.
- 3.36 The Updated Sites Assessment Report highlighted concerns about achieving a satisfactory means of access to site 10. No assessment has been set out to demonstrate that a satisfactory means of access can be provided to serve the proposed housing development, either by way of the existing access serving the Business Park or by a new means of access.
- 3.37 It has been pointed out to me that the Total Score calculation on page 70 of the Updated Site Assessment Report for site 10 adjacent to the Tillington Business Park is incorrect. It should be 6.25 and not 5.75. This higher score means that the site scored less favourably. Three other sites had the same

score (sites 21, 22 and 24). Site 21 is proposed for housing, site 22 is included in the settlement boundary and has recently received planning permission. Site 24 has been granted planning permission as exceptional development in the countryside for accommodation for travellers with a personal consent and therefore meets the housing needs for this community. The site continues to be excluded from the settlement boundary in the BNDP.

- 3.38 It is considered that the error in the calculation is not critical in determining whether the site should be selected for housing development as other sites with the same score have been considered suitable.
- 3.39 I am not satisfied that the Qualifying Body has provided robust evidence to demonstrate that satisfactory means of access can be provided to deliver the proposed housing development on sites 10 and 25. It may be that developers can acquire land to achieve the required visibility splays, but at this stage no evidence has been provided to show that this is feasible and that the sites are deliverable, as required by the NPPF. Consequently, I am recommending that the sites should not be allocated for housing development. Retaining the settlement boundary around the sites will mean that developers may come forward to give further consideration to infill development on the sites as has happened with site 22.
- 3.40 No concerns have been raised in the Updated Site Assessment Report about the deliverability of site 2. Paragraph 6.1.27 notes that it has been recently planted as a working orchard and may not become available until the later years of the Plan. It is recommended that the site should be allocated for housing through Policy B1.

**Recommendation 6: Revise the first paragraph of Policy B1 to read:**

***“Land opposite Burghill Golf Club, Burghill (site HA1 on Map 3) is allocated for housing development.”***

***“New housing development will be supported on the allocated site and on infill sites within the settlement boundaries of Lower Burlton, Burghill and Tillington in accordance with the Herefordshire Core Strategy and the following criteria:”***

***Revise criterion f) to read: “Demonstrates....types and sizes including affordable housing and housing for older people in accordance with Core Strategy policies to meet the most recent evidence of housing need in the area.”***

***Revise the final paragraph of Policy B1 to read “....should be in accordance with...”***

***Include the reference numbers of the housing commitments and the housing allocation on the Policies Maps. Delete the shading and site number from sites 10 and 25 from Map 4. No change to the settlement boundaries.***

**Revise the justification to reflect the modifications to the Policy wording.**

## **Employment**

### **Policy B2 - Supporting existing small scale local employment**

- 3.41 This policy seeks to safeguard the local business parks at Tillington and Burlton Court Farm and sets out two circumstances where changes of use or redevelopment of employment premises may be acceptable.
- 3.42 Core Strategy Policy E2 safeguards the employment areas that are rated as best and good and sets out criteria for considering proposals that would result in the loss of employment land on sites rated as moderate. The two sites in the Plan area are not safeguarded under Core Strategy Policy E2.
- 3.43 The opening paragraph of the policy is considered to be vague and imprecise. It is not possible to protect existing sources of employment through planning policy; the usual terminology is to safeguard land and buildings for particular uses. It refers to “sites throughout the parish”; this is considered to be vague and not capable of being used consistently by decision makers.
- 3.44 The second paragraph refers to the redevelopment or change of use of existing employment premises being permitted subject to satisfying one of two criteria. This aspect of the policy is vague and imprecise as it does not state the acceptable future use of the site or building.
- 3.45 In any case Neighbourhood Plan policies cannot indicate whether planning permission should be granted for a particular form of development. NPPF paragraph 2 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan consists of the Local Plan as well as the Neighbourhood Plan and there may be other matters that have to be considered before granting planning permission.
- 3.46 The proposal for housing development on land adjacent to Tillington Business Park would only be satisfactory if uses on the Business Park are limited to B1 or similar uses that are suitable in a residential area. The Qualifying Body has informed me that the Business Park was granted permission for Class B1 uses with A1 use for the shop; although it is noted that there are caravan storage and car repair businesses on the Business Park.
- 3.47 The wording of Policy B2 is vague and imprecise and not capable of being interpreted consistently by decision makers. It has not had regard to national planning guidance. It is recommended that the policy be deleted.

**Recommendation 7: delete Policy B2.**



### Policy B3 - Supporting new small scale local employment

### Policy B4 – Rural enterprise and farm diversification

- 3.48 Policy B3 seeks to permit new small scale local employment opportunities on an existing commercial area or on a brownfield site or through the conversion of an existing building. There is a degree of overlap and conflict between this policy and Policy B4 on rural diversification. The latter policy is more restrictive and would only permit the conversion of traditional agricultural buildings that form part of a group of buildings. I therefore recommend that the policies be amalgamated and the wording clarified to better explain the areas to which each part of the policy applies.
- 3.49 Both policies refer to development being “permitted” contrary to national planning guidance. Criterion g) of Policy B3 is unnecessary.

#### **Recommendation 8: Amalgamate Policies B3 and B4 as follows:**

**“New employment development will be encouraged on the Tillington Business Park, Burlton Court Farm Business Zone, through the re-use of a brownfield site or the conversion of a suitable existing building, including an agricultural building, provided that: criteria c) to f) of Policy B3.**

**“Where the development proposal involves the conversion of an agricultural building that forms part of an historic farmstead, the development should meet the following criteria b) to h) of Policy B4.”**

### Policy B5 – Supporting development of communications infrastructure

- 3.50 I make no comments on Policy B5.

## Education

### Policy B6 – Education

- 3.51 The policy provides general support for the expansion of Burghill Academy. The first paragraph of the policy is worded that the “Parish Council support” whilst paragraph 6.3.5 refers to the “Neighbourhood Development Plan supporting”. This form of wording is more appropriate for a Community Project rather than a planning policy. The second paragraph includes reasons for the policy which should be placed in the justification.
- 3.52 Revisions are recommended to ensure that the policy sets out planning policy to guide any future development proposals in accordance with national planning guidance.

**Recommendation 9: Delete the first and second paragraphs of Policy B6 and replace with:**

***“Proposals to extend of Burghill Academy should: criteria a) to e) with grammatical revisions as necessary.***

**Delete paragraph 6.3.5.**

## **Traffic and Highways**

### **Policy B7 - Traffic management and transport improvements**

- 3.53 The first paragraph of the policy gives support to proposals to improve road safety and traffic management to include combined footway and cycleways between housing areas and community facilities. No routes for improvement are proposed in the BNDP. The final paragraph of the policy states that the parish council will encourage improvements to public transport in the area.
- 3.54 The second part of the policy identifies three transport improvements that are to be sort through S106 developer contributions or Community Infrastructure Levy payments.
- 3.55 The NPPG states that *“A qualifying body should set out in their draft neighbourhood plan the prioritised infrastructure required to address the demands of the development identified in the plan.”* (Paragraph: 046 Reference ID: 41-046-20140306)
- 3.56 NPPF paragraph 204 sets out the three tests for assessing the suitability of planning obligations and states that they should be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related to the scale and kind of the development. Traffic improvement measures can only be required from development proposals to address the impact of traffic from the proposal. They should not be required to remedy existing problems.
- 3.57 No evidence has been provided to demonstrate that the development proposals will be of a scale and kind that will require the infrastructure proposed or will deliver the measures proposed. The PPG states that policies in neighbourhood plans should be deliverable.
358. As this policy is primarily a Community Project and that part of it concerned with development proposals is not considered deliverable, I am recommending that the policy be deleted. It may be included in a separate section or Appendix of the Plan as a Community Project provided that it is reworded to set out the bullet points as an indication of the measures to be sought to improve traffic in the village as a whole and not as a requirement for specific development proposals.
- 3.59 Paragraph 6.4.9 concerning the Western Relief Road should be retained in Section 2 of the Plan.

**Recommendation 10: Delete Policy B7 and its justification. Include it as a Community Project with revised worded along the lines of “*The Parish Council will work with the Highway Authority etc to improve road safety and traffic management.*”** Revise the bullet points so that they an indication of the measures to be sought to improve traffic in the village as a whole and not as a requirement for specific development proposals.

## Design, Natural and Historic Heritage

### Policy B8 - Design of Development in Burghill Parish

- 3.60 The policy sets out 14 matters to be taken into account in the design of new development. The first paragraph states that these requirements are in accordance with the Burghill Parish Design Guidance which is set out in Appendix 3.
- 3.61 Design Guidance should provide a detailed explanation of how the principles contained in policies are to be applied in development proposals. I have concerns that the Design Guidance introduces specific requirements on the size of developments (eg they should not exceed 10 dwellings) and the size and mix of house types which are not supported by robust evidence. I will comment on the content of Appendix 3 later in this report.
- 3.62 To clarify the interpretation of the Policy, it is recommended that the policy is revised to delete the first sentence (which is descriptive and not a policy matter) and reference to the Burghill Design Guidance. The status of the Design Guidance should be explained in the justification.
- 3.63 Criterion i) should be revised as a policy cannot comply with an objective and in view of the recommendation to delete Policy B7.
- 3.64 Other recommendations are to define more clearly what “character” is to be considered and to correct typographical errors.

**Recommendation 11: Delete the first sentence and the first part of the second sentence “In accordance with.....Appendix 3,”**

**Revise the second sentence to read “All new development will be expected to make a positive contribution to *the distinctive character of the local area and to be of....*”**

**Revise criterion a) to delete comma after identity.**

**Revise criterion e) to read: “....detrimental impact on the character or residential amenities of the adjacent existing dwellings...”**

**Revise criterion i) to read: “*Highways and footpaths to, within and through the development should be designed to promote highway safety and encourage active travel modes.*”**

**Add “and” at the end of criterion m) and a full stop at the end on criterion n).**

**Include reference to the Burghill Design Guidance in the justification and explain its status.**

### **Policy B9 - Protecting and where possible enhancing local landscape character**

- 3.65 The policy states that “the following landscape design principles” should be incorporated into development proposals”. However the policy does not set out landscape design principles; it is more broad ranging and addresses general principles of conserving the character of landscape including historic settlements and traditional farm buildings and other heritage buildings. It is recommended that the opening paragraph of the policy should be revised to better explain the purpose of the policy: that it is concerned with the way development proposals should protect, conserve and enhance the local landscape character including the character of the historic settlements, historic buildings and traditional farmsteads.
- 3.66 Criterion a) expects the green area between Burghill and Hereford to be retained. This is an extensive area of agricultural land that is not defined in the Plan. No evidence has been submitted to demonstrate that this area has any special qualities that make it worthy of protection. The justification for this criterion is that it is in order to maintain the separate and distinct identity of the parish.
- 3.67 Map 2 indicates that the parish abuts the boundary of Hereford and includes areas of existing and proposed housing. The route of the Western Relief Road passes through the southern part of the parish.
- 3.68 The PPG on Rural Housing states that blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence. It is considered that criterion a) would place a blanket restriction on development in that part of the plan area adjacent to Hereford contrary to national planning guidance.
- 3.69 It is considered that the settlement boundaries should provide guidance on those locations that are suitable for most new development. Development outside the settlement boundaries will have be justified in accordance with national and strategic policies. It is considered that criterion a) is unnecessary, it will be unduly restrictive and is not justified by robust evidence.
- 3.70 Criterion e) repeat matters addressed in criterion b) and is unnecessary.

- 3.71 Criterion g) concerns sustainable construction methods and adds nothing to those set out in Core Strategy Policy SA1. Reference to supporting local food production is not a matter for consideration in a planning policy.
- 3.72 There is a typographical error in paragraph 6.5.8.

**Recommendation 12: Revise Policy B9 as follows:**

**Revise the first paragraph to read: “Development proposals *should protect, conserve and enhance the local landscape character including the historic settlement pattern, historic buildings and their settings and traditional farmsteads.*”**

**Delete criteria a), e) and g).**

**Revise paragraph 6.5.38 to read “*Principal Settled Farmland*”.**

## **Community Facilities and Open Spaces**

### **Policy B10 - Protection of local green spaces**

- 3.73 The policy proposes to designate 8 areas of land as Local Green Spaces. Paragraph 77 of the 2012 NPPF sets out the factors that should be satisfied to justify the designation of land as a Local Green Space.
- 3.74 Paragraph 77 states “*The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*
- where the green space is in reasonably close proximity to the community it serves;
  - where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty,
  - historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
  - where the green area concerned is local in character and is not an extensive tract of land.”
- 3.75 Sites 1 to 3 are common land owned by the Parish Council. Sites 1 and 3 are grassed fields used as agricultural land. There is a footpath across site 1 but no access to site 3. It is considered that as agricultural land, the sites do not satisfy the requirements of NPPF paragraph 77. In any case the sites are already adequately protected as common land in the ownership of the Parish Council.
- 3.76 Site 2 is a large pond lined with trees; it is an attractive natural area although there is no public access. It is owned and managed by the Parish Council and registered as common land. It is considered that it is adequately protected as common land.

- 3.77 Sites 4 and 5 are areas of amenity open space within housing estates. Site 4 includes highway verges and a hedgerow along the eastern edge of the site which have more limited amenity value only. The designation should not be used as a means of closing off the potential access from the turning head at Bakers Furlong to land to the east of the current housing estate as this would be contrary to the purpose of the NPPF guidance on Local Green Space designation. It is recommended that only the larger open space in the centre of this estate and the frontage area behind the bus stop should be designated. Site 5 is considered to be suitable for designation.
- 3.78 Site 6 is an area of parkland and gardens associated with St Mary's Park used by residents for recreational activities. It is considered appropriate to designate it as a local green space.
- 3.79 Site 7 is the sports ground and play area. The area is suitable for designation although the car park and the site of the portacabins should be excluded from the Local Green Space.
- 3.80 Site 8 is a large area of agricultural land and has been identified as a possible extension to the graveyard. It is not green space and it is not appropriate to designate it under the policy. The Qualifying Body has confirmed that there are no agreements with the landowner concerning the extension of the graveyard.
- 3.81 Sport England has commented on the policy stating that the "very special circumstances" should be defined and any development on site 7 The Copse should be consistent with paragraph 74 of the NPPF.
- 3.82 I consider that the opening paragraph of Policy B10 should be revised to clarify that the sites are designated as Local Green Spaces. The final paragraph accords with advice in NPPF paragraph 78 that the policy should be consistent with that for Green Belts. The purpose of the policy is to protect the playing field and guidance in NPPF paragraph 74 will have to be taken into account in considering any proposals for development on site 7. There is no need to further define the term "very special circumstances".

**Recommendation 13: Revise Policy B10 as follows:**

**Revise the first paragraph of Policy B10 to read: "The following *sites* shown on Maps 3 and X (new map for St Mary's) are designated as *Local Green Spaces*:"**

**Delete sites 1, 2, 3 and 8. Revise the area for site 4 to the larger area of open space in the centre of the estate and the frontage area behind the bus stop and exclude the verges and hedgerow. Revise that area shown on the map for site 7 to exclude the car park and site of the portacabins. Include a larger scale map of site 6 at St Mary's Park.**

**Revise Table 3 to only include the designated sites.**

### **Policy B11 - Protection and where possible enhancement of local community facilities**

- 3.83 The policy states that there will be a presumption in favour of the protection and where possible enhancement of existing facilities. It does not specify the facilities that are applicable. The second sentence gives examples of the village hall and educational facilities. Rather than cite examples, the policy should identify the specific facilities that it applies to. The Qualifying Body has supplied the following list: The Simpson Hall, Burghill Scout and Guide Hut, St Mary's Church, The Copse Leisure Area, Burghill and Tillington Cricket Club, and Burghill Academy including Messy Boots Play Group. It is recommended that this list be included in the policy to clarify how the policy is to be interpreted by decision makers.
- 3.84 As stated in paragraph 3.10 above, policies in neighbourhood plans should not state that particular uses "will be permitted". A revision is proposed to avoid this term.

#### **Recommendation 14: Revise Policy B11 as follows:**

**Revise the first sentence to read: "...of the following existing community facilities:**

- 1. The Simpson Hall**
- 2. Burghill Academy and Messy Boots Play Group**
- 3. Burghill Scout and Guide Hut**
- 4. St Mary's Church**
- 5. The Copse Leisure Area**
- 6. Burghill and Tillington Cricket Club**

**Show the location of the facilities on the relevant Policies Map with Reference Numbers.**

**Revise the second sentence to read "The re-use of the community facilities will be *supported* for other health,....."**

### **Policy B12 - Community facilities, Community Infrastructure Levy and Section 106 Undertakings and Agreements**

- 3.85 This policy sets out proposals that are identified as priorities for improved community facilities and infrastructure through Community Infrastructure Levy and S106 agreements.
- 3.86 I have set out the reasons under Policy B7 for not including such as policy in the Neighbourhood Development Plan. The NPPG states that "*A qualifying body should set out in their draft neighbourhood plan the prioritised infrastructure required to address the demands of the development identified in the plan.*" (Paragraph: 046 Reference ID: 41-046-20140306)

- 3.87 NPPF paragraph 204 sets out the three tests for assessing the suitability of planning obligations and states that they should be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related to the scale and kind of the development. Traffic improvement measures can only be required from development proposals to address the impact of traffic from the proposal. They should not be required to remedy existing problems.
- 3.88 No evidence has been provided to demonstrate that the development proposals will be of a scale and kind that will require the infrastructure proposed or will deliver the measures proposed. The PPG states that policies in neighbourhood plans should be deliverable.
- 3.89 As with Policy B7 I am recommending that the policy be deleted. The aspiration should be reworded and included as a Community Project on the lines of “The Parish Council will work with XX to seek the following improvements to infrastructure:” The means of funding should be identified.

**Recommendation 15: Delete Policy B12.**

**Revise the wording and include it as a Community Project.**

## **Water Management**

### **Policy B13 - Flood Risk, Water Management and surface water run-off**

- 3.100 The policy sets out a comprehensive approach to the location of development in areas of flood risk and managing foul and surface water drainage that complements the Core Strategy policies and has taken account of national guidance. It is an important policy in water management as the area falls within the catchment of the River Wye SAC.
- 3.101 The policy has been developed in consultation with Dwr Cymru Welsh Water who have raised no concerns about its wording. No revisions are proposed.

## **Renewable Energy**

### **Policy B14 - Development of Renewable Energy Facilities in Burghill Parish**

- 3.102 The policy supports the development of land at the closed landfill site at Winslow Pit for a solar farm. The NPPF supports the delivery of renewable and low carbon energy developments. Core Strategy Policy SC2 sets out a number of criteria that renewable energy development should meet. These include the impact of such developments on the environmental and heritage assets in rural areas. Careful consideration is therefore needed in the assessment and selection of sites. No evidence has been provided that the



proposed site has been assessed in terms of the potential environmental impact of the development. The Environmental Report relies solely on the criteria sets out in the policy to safeguard the environmental assets.

- 3.103 Paragraph 6.8.4 states that a site investigation to consider the risks from contamination should be undertaken. This reflects advice from Herefordshire Council's Environmental Health Officer who has also stated that if contamination is identified, a suitable Remediation Scheme would need to be approved. It would be helpful to plan users to incorporate this advice into the wording of the justification.
- 3.104 Representations have been made that the site is prominent and its development for a solar farm would impact on the visual amenity of the countryside and may affect the setting of listed buildings 650m to the south and that more evidence is required to demonstrate that the site is suitable for the proposed use as a solar farm.
- 3.105 No evidence has been provided to demonstrate that there would be no unacceptable impacts from the development of the Winslow Pit site for a solar farm. In the circumstances I am recommending that the site should not be allocated for the proposed use and the first paragraph of the policy deleted. The potential of the site may be identified in the justification with a note of the assessments that will be required to be submitted as part of any planning application.
- 3.106 The second part of the policy concerning other forms of renewable energy development states that such schemes will be permitted when eight criteria are met. As set out in paragraph 3.10 above neighbourhood plan policies should not state that certain forms of development should "be permitted". A recommendation is made to avoid this phrase.
- 3.107 The policy adds more detailed matters to those set out in Core Strategy Policy SD2. It is recommended that the title of the policy and paragraph two are revised to refer to renewable and low carbon energy generation to reflect national and strategic guidance on the subject.

**Recommendation 16: Revise Policy B14 as follows:**

**Revise the title to "Development of Renewable *and Low Carbon Energy* Facilities"**

**Delete the first paragraph.**

**Revise the second paragraph to read "Proposals for renewable *and low carbon energy* developments for biomass, hydro, solar, landfill and biogas will be *supported* when:"**

**Revise paragraph 6.8.3 - 4 to read: "Through the call for sites process a *potential* site was identified for a commercial solar farm *at the former Winsow Pit at Burghill which is a closed landfill site (Map 7)*. For the avoidance of doubt, *Policy B14 does not allocate the site for a solar***

***farm development. Any future planning application....development; to agree an appropriate Remediation Scheme; and undertake an assessment of the potential impact of the development of the solar farm on the countryside, landscape, biodiversity and local heritage assets.”***

**The Title and key to Map 7 should be revised to read “Potential solar farm site”.**

### **Appendix 3 Burghill Design Guidance**

3.108 The Burghill Design Guidance has been prepared by the Parish Council. It has not been adopted by Herefordshire Council. It provides detailed guidance on new development in the parish to reflect concerns expressed through the consultations on the BNDP. The recommendations are made to reflect modifications to the wording of policies in my report and to delete policy matters that are not addressed in the BNDP policies or the Herefordshire Core Strategy policies.

#### **Amenities**

3.109 Open space within development sites should not be limited to “sites of 5 or more dwellings”. This should be revised to better reflect Core Strategy Policy OS2 which does not set a minimum limit and makes provision for contributions to the provision or enhancement of off site open space.

#### **Layout and Size of Development**

3.110 Housing groups to not exceed 10 dwellings. This sets a new policy prescribing the maximum size of new development that is not addressed in the BNDP policies. This should be deleted.

3.111 At least 35% of dwellings to be affordable. This should be revised to accord with my recommendation on Policy B1.

#### **Size of Dwelling**

3.112 At least 15% of dwellings to be single storey. This should be revised to accord with my recommendation on Policy B1.

#### **In character with the Parish**

3.113 Consideration should be given to how dwellings of a good quality innovative modern design are to be considered.

**Recommendation 17: Revise Appendix 3 Burghill Design Guidance as recommended in paragraphs 3.109 – 3.113.**

## 4.0 Referendum

- 4.1 The Burghill Neighbourhood Plan reflects the views held by the community as demonstrated through the consultations and, subject to the modifications proposed, sets out a realistic and achievable vision to support the future improvement of the community.
- 4.2 I am satisfied that the Neighbourhood Plan meets all the statutory requirements, in particular those set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and, subject to the modifications I have identified, meets the Basic Conditions namely:
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contributes to the achievement of sustainable development;
  - is in general conformity with the strategic policies contained in the Development Plan for the area;
  - does not breach, and is otherwise compatible with, EU obligations and human rights requirements
- 4.3 **I am pleased to recommend to Herefordshire Council that the Burghill Neighbourhood Plan should, subject to the modifications I have put forward, proceed to referendum.**
- 4.4 I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. In all the matters I have considered I have not seen anything that suggests the referendum area should be extended beyond the boundaries of the plan area as they are currently defined. I recommend that the Neighbourhood Plan should proceed to a referendum based on the neighbourhood area designated by the Herefordshire Council on 11 September 2013.

## 5.0 Background Documents

5.1 In undertaking this examination, I have considered the following documents

- Burghill Neighbourhood Plan Submission Draft Version 2011 – 2031 dated April 2018;
- Burghill Neighbourhood Plan Basic Conditions Statement;
- Burghill Neighbourhood Plan SEA Environmental Report February 2018;
- Burghill Neighbourhood Plan HRA Screening Report August 2018;
- Burghill Neighbourhood Plan Consultation Statement and Appendices;
- Burghill Neighbourhood Plan Final Updated Site Assessment August 2017
- National Planning Policy Framework March 2012 and July 2018;
- Planning Practice Guidance March 2014 (as amended);
- The Town and Country Planning Act 1990 (as amended);
- The Localism Act 2011;
- The Neighbourhood Planning (General) Regulations 2012;
- Herefordshire Local Development Framework Core Strategy (2011-2031) 2015;
- Renewable and low carbon energy: Guidance to help local councils in developing policies for renewable and low carbon energy and identifies the planning considerations. Ministry of Housing, Communities & Local Government June 2015.

## 6.0 Summary of Recommendations

**Recommendation 1: Revise the date of the Plan period to 2018 – 2031.**

**Recommendation 2:**

**The housing allocation and commitments should have site reference numbers which should be shown on the Policies Map.**

**The site shown as a private low intensity leisure use on Map 4 should be deleted.**

**Delete Map 6.**

**Change the unit of area measurement to “hectares”.**

**Recommendation 3: Summarise the key issues facing the Parish that are to be addressed in the Plan in Section 3 and place the questionnaire results in a background evidence report.**

**Recommendation 4: revise the action against Objective 5 to read “*To seek to safeguard and enhance the community facilities*”.**

**Delete Objective 7 and its action.**

**Recommendation 5: Revise the Introduction to the Housing Section as follows:**

**Update the table in paragraph 6.1.6 to the 2018 (or latest) figures;**

**Amend column 3 to 123 to be consistent with paragraph 6.1.5.**

**Delete paragraph 6.1.7 and place the up to date list of housing commitments in an Appendix.**

**Additional text should be added to the justification to state that the large housing commitment sites are shown on Maps 2 and 3 as Housing Commitments and numbered:**

- **Site HC1: Tillington Road / Roman Road, 50 dwellings.**
- **Site HC2: Pye Finch 24 dwellings.**
- **Site HC3: Adjacent to Bredstone House, outline 10 dwellings.**

**Revise paragraph 6.1.31 to read “... the potential to meet the *approved* housing requirement *set out* in the Core Strategy and.....”.**

**Update the settlement boundaries on Maps 3 and 4 where necessary to include sites with planning permission.**

**Recommendation 6: Revise the first paragraph of Policy B1 to read:**

***“Land opposite Burghill Golf Club, Burghill (site HA1 on Map 3) is allocated for housing development.”***

***“New housing development will be supported on the allocated site and on infill sites within the settlement boundaries of Lower Burlton, Burghill and Tillington in accordance with the Herefordshire Core Strategy and the following criteria:”***

**Revise criterion f) to read: “Demonstrates....types and sizes including *affordable housing and housing for older people in accordance with Core Strategy policies to meet the most recent evidence of housing need in the area.*”**

**Revise the final paragraph of Policy B1 to read “....*should* be in accordance with...”**

***Include the reference numbers of the housing commitments and the housing allocation on the Policies Maps. Delete the shading and site number from sites 10 and 25 from Map 4. No change to the settlement boundaries.***

**Revise the justification to reflect the modifications to the Policy wording.**

**Recommendation 7: delete Policy B2**

**Recommendation 8: Amalgamate Policies B3 and B4 as follows:**

***“New employment development will be encouraged on the Tillington Business Park, Burlton Court Farm Business Zone, through the re-use of a brownfield site or the conversion of a suitable existing building, including an agricultural building, provided that: criteria c) to f) of Policy B3.***

***“Where the development proposal involves the conversion of an agricultural building that forms part of an historic farmstead, the development should meet the following criteria b) to h) of Policy B4.”***

**Recommendation 9: Delete the first and second paragraphs of Policy B6 and replace with:**

***“Proposals to extend of Burghill Academy should: criteria a) to e) with grammatical revisions as necessary.***

**Delete paragraph 6.3.5.**

**Recommendation 10: Delete Policy B7 and its justification. Include it as a Community Project with revised worded along the lines of “*The Parish Council will work with the Highway Authority etc to improve road safety and traffic management.*” Revise the bullet points so that they an indication of the measures to be sought to improve traffic in the village as a whole and not as a requirement for specific development proposals.**

**Recommendation 11: Delete the first sentence and the first part of the second sentence “In accordance with.....Appendix 3,”**

**Revise the second sentence to read “All new development will be expected to make a positive contribution to *the distinctive character of the local area and to be of....*”**

**Revise criterion a) to delete comma after identity.**

**Revise criterion e) to read: “....detrimental impact on the character or residential amenities of the adjacent existing dwellings...”**

**Revise criterion i) to read: “*Highways and footpaths* to, within and through the development *should be designed to promote highway safety* and encourage active travel modes.”**

**Add “and” at the end of criterion m) and a full stop at the end on criterion n).**

**Include reference to the Burghill Design Guidance in the justification and explain its status.**

**Recommendation 12: Revise Policy B9 as follows:**

**Revise the first paragraph to read: “Development proposals *should protect, conserve and enhance the local landscape character including the historic settlement pattern, historic buildings and their settings and traditional farmsteads.*”**

**Delete criteria a), e) and g).**

**Revise paragraph 6.5.38 to read “*Principal Settled Farmland*”.**

**Recommendation 13: Revise Policy B10 as follows:**

**Revise the first paragraph of Policy B10 to read: “The following *sites* shown on Maps 3 and X (new map for St Mary’s) are designated as *Local Green Spaces*:”**

**Delete sites 1, 2, 3 and 8. Revise the area for site 4 to the larger area of open space in the centre of the estate and the frontage area behind the bus stop and exclude the verges and hedgerow. Revise that area shown on the map for site 7 to exclude the car park and site of the portacabins. Include a larger scale map of site 6 at St Mary’s Park.**

**Revise Table 3 to only include the designated sites.**

**Recommendation 14: Revise Policy B11 as follows:**

**Revise the first sentence to read: “....of the following existing community facilities:**

**7. The Simpson Hall**

8. Burghill Academy and Messy Boots Play Group
9. Burghill Scout and Guide Hut
10. St Mary's Church
11. The Copse Leisure Area
12. Burghill and Tillington Cricket Club

Show the location of the facilities on the relevant Policies Map with Reference Numbers.

Revise the second sentence to read "The re-use of the community facilities will be *supported* for other health,....."

**Recommendation 15: Delete Policy B12.**

Revise the wording and include it as a Community Project.

**Recommendation 16: Revise Policy B14 as follows:**

Revise the title to "Development of Renewable *and Low Carbon Energy* Facilities"

Delete the first paragraph.

Revise the second paragraph to read "Proposals for renewable *and low carbon energy* developments for biomass, hydro, solar, landfill and biogas will be *supported* when:"

Revise paragraph 6.8.3 - 4 to read: "Through the call for sites process a *potential* site was identified for a commercial solar farm *at the former Winslow Pit at Burghill which is a closed landfill site (Map 7). For the avoidance of doubt, Policy B14 does not allocate the site for a solar farm development. Any future planning application....development; to agree an appropriate Remediation Scheme; and undertake an assessment of the potential impact of the development of the solar farm on the countryside, landscape, biodiversity and local heritage assets.*"

The Title and key to Map 7 should be revised to read "Potential solar farm site".

**Recommendation 17: Revise Appendix 3 Burghill Design Guidance as recommended in paragraphs 3.109 – 3.113.**