

# **Ballingham, Bolstone and Hentland Group Neighbourhood Plan**

## **Independent Examiner's Report**

December 2018

Barbara Maksymiw

Independent Examiner BSc (Hons), MSc, MRTPI

## **Contents**

Summary

1. Introduction
2. Appointment of the independent examiner
3. The role of the independent examiner
4. Compliance with matters other than the basic conditions
5. The examination process
6. Consultation
7. Compliance with the basic conditions
8. Neighbourhood Plan policies
9. Conclusions and recommendations

Appendix 1 Background Documents

Appendix 2 Examiner's questions

## **Summary**

I have been appointed by Hereford Council to carry out an independent examination of the Ballingham, Bolstone and Hentland Group Neighbourhood Plan.

The examination was carried out in autumn 2018 and was undertaken by considering all the documents submitted to me, including the written representations. I visited the Neighbourhood Plan area on 7 September 2018.

The plan is based on extensive engagement with the local community and provides a distinct set of policies, relevant to the needs of local people. Ballingham, Bolstone and Hentland is a predominantly rural parish and the plan provides for limited new housing development, as the very modest needs identified in the Herefordshire Local Plan Core Strategy can be met through windfalls and infilling within the defined settlement boundaries.

Subject to a number of modifications set out in this report, I conclude that the Ballingham, Bolstone and Hentland Neighbourhood Plan meets the Basic Conditions and I am pleased to recommend that it should proceed to referendum.

I recommend that the referendum should be confined to the Neighbourhood Plan area.

Barbara Maksymiw

Independent Examiner

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## **1. Introduction**

1. Neighbourhood planning is a relatively new process, introduced by the Localism Act 2011, which enables local communities to develop planning policies to guide development in their area and help to shape the places where they live and work.

2. Ballingham, Bolstone and Hentland is a Group Parish, comprising three parishes grouped together and represented by a single Group Parish Council in south east Herefordshire. It lies midway between Ross-on-Wye and Hereford and is bounded to the east by the River Wye, which is designated as a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). For the most part, the Parish is characterised by farmland, with small areas of mixed woodland. The majority of the Parish lies within the Wye Valley Area of Outstanding Natural Beauty (AONB). The two main settlements are Hoarwithy and St Owen's Cross and there are a number of smaller more scattered settlements and hamlets. Proximity to the A49 and communication links beyond, give fast access to South Wales, Bristol and the Midlands.

3. The purpose of this report is to assess whether the Ballingham, Bolstone and Hentland Neighbourhood Plan (NP) complies with the relevant legislation and meets the Basic Conditions, which such plans are required to meet. Where necessary, the report makes recommendations about changes or modifications to the plan to ensure that it meets the legislative requirements.

4. The report also makes a recommendation about whether the NP should proceed to the referendum stage. If there is a positive recommendation at referendum, the NP can be "made" by Herefordshire Council and so become part of the wider development plan and then used by Herefordshire Council to determine planning applications in the plan area.

## **2. Appointment of the independent examiner**

5. I have been appointed by Herefordshire Council with the agreement of Ballingham, Bolstone and Hentland Group Parish Council to carry out this independent examination. The Neighbourhood Planning Independent Referral Service (NPIERS) has facilitated my appointment. I am a chartered town planner with extensive planning experience in local government and therefore have the appropriate qualifications and experience to carry out this examination. I am independent of the qualifying body and have no land interest in the area that might be affected by the plan.

## **3. The role of the independent examiner**

6. The role of the independent examiner is to ensure that the submitted NP meets the Basic

Conditions together with a number of legal requirements.

7. In examining the NP I am required, under Paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990, to check <sup>1</sup> that:

- the policies in the plan related to the development and use of land for a designated ! neighbourhood area; and !
- the policies in the plan meets the requirements of Section 38 of the Planning and Compulsory Purchase Act (that is, it specifies the period to which it has effect, does not include provision about excluded development and does not relate to more than one neighbourhood area); and
- the plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body

8. I must also consider whether the NDP meets the Basic Conditions set out in Schedule 4B of the Town and Country Planning Act 1990 (as amended). A plan meets the basic conditions<sup>2</sup> if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- the making of the plan contributes to the achievement of sustainable development
- the making of the neighbourhood plan is in general conformity with the strategic policies of the development plan for the area
- the making of the neighbourhood plan does not breach, and is otherwise compatible with European Union (EU) obligations

9. Regulations 32 and 33 of the Neighbourhood Planning Regulations 2012 (as amended) set out two additional basic conditions. These are:

- the making of the neighbourhood plan is not likely to have significant effects on a European site <sup>3</sup> or a European offshore marine site <sup>4</sup> either alone or in combination with other plans or projects and
- having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is

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<sup>1</sup> Set out in paragraph 8(1) of Schedule 4B of the Town and Country Planning Act (as amended) !

<sup>2</sup> Set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act (as amended) !

<sup>3</sup> As defined in the Conservation of Habitats and Species Regulations 2012 !

<sup>4</sup> As defined in the Offshore Marine Conservation (Natural Habitats &c) Regulations 2007 !

Environmental Impact Assessment development (this does not apply to this examination as it is not about a neighbourhood development order).

10. As independent examiner, having examined the plan, I am required to make one of the following recommendations:

- that the plan as submitted can proceed to a referendum; or
- that the plan with recommended modifications can proceed to referendum; or
- that the plan does not meet the necessary legal requirements and cannot proceed to referendum

11. The independent examiner can only recommend modifications to ensure that the NP meets the Basic Conditions and other legislative requirements, or for the purpose of correcting errors.

12. If the plan can proceed to referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

13. Herefordshire Council will consider the examiner's report and decide whether it is satisfied with the examiner's recommendations and will publicise its decision on whether the plan will be subject to referendum, with or without modifications. If a referendum is held and results in more than half of those voting in favour of the plan, the Council must "make" the neighbourhood plan a part of its development plan. The plan then becomes part of the development plan for the area and is a statutory consideration in guiding future development and determining planning applications in the area.

#### **4. Compliance with matters other than the basic conditions**

14. Ballingham, Bolstone and Hentland Group Parish Council applied for the whole area covered by the three parishes to be designated as a neighbourhood planning area in early 2014. In April 2014 Herefordshire Council designated the Group Parish of Ballingham, Bolstone and Hentland Neighbourhood Area in accordance with the Neighbourhood Planning (General) Regulations 2012. The designated area covers the three parishes and does not cover any other Neighbourhood Area and the qualifying body is the Ballingham, Bolstone and Hentland Group Parish Council.

15. The preparation of the plan has been managed by a Steering Group of Parish Councillors and non-Parish Councillor local volunteers, with support from planning consultants (Kirkwells).

16. I am satisfied that the NP includes policies that relate to the development and use of land and does not include provision for any excluded development. The Ballingham, Bolstone and Hentland NP therefore meets the requirements set out in para 7 above.

## **5. The examination process**

17. The documents which I considered during the course of the examination are listed in Appendix 1.

18. The general rule<sup>5</sup> is that an examination is undertaken by the consideration of written representations only. Having considered all the information before me, including the representations made to the submitted plan (the Regulation 16 responses), I was satisfied that the Ballingham, Bolstone and Hentland NP could be examined without the need for a public hearing.

19. During the course of the examination it was necessary to clarify several matters with Herefordshire Council and the Group Parish Council. These are set out in Appendix 2 to this report. I was provided with prompt and helpful responses to my questions and I am satisfied that I had all the information I required to carry out the examination.

20. As part of the Neighbourhood Plan Examination process, it is important for the examiner to understand the context of the neighbourhood plan in the wider area and its overall character, as these shape the issues and policies set out in the plan. I therefore made an unaccompanied site visit to the area on 7 September 2018.

21. On 5 March 2018 an updated version of the National Planning Policy Framework (NPPF) was published for consultation and on 24 July 2018 the final version of the NPPF was subsequently published. Paragraph 214 of the Framework confirms the transitional arrangements for plans which were already under examination:

*The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.*<sup>6</sup>

22. As the Ballingham, Bolstone and Hentland NP was submitted for examination in Spring 2018 and the Regulation 16 consultation was carried out between 19 April and 31 May 2018, well in advance of the 24 January 2019 deadline, the NP has been assessed against the guidance in the former NPPF.

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<sup>5</sup> PPG para 004 ref id 41-004-20140306

<sup>6</sup> National Planning Policy Framework: 24 July 2018

## 6. Consultation

### *Consultation process*

23. Effective consultation and engagement with the local community is an essential component of a successful neighbourhood plan, bringing a sense of public ownership to its proposals and helping to achieve consensus. The policies set out in the NP will be used as the basis for planning decisions – both on local planning and on planning applications – and, as such, legislation requires neighbourhood plans to be supported by public consultation.

24. In line with the Neighbourhood Planning (General) Regulations 2012<sup>7</sup>, the Steering Group has prepared a Consultation Statement for the NP which sets out how the group approached public consultation, who was consulted and the outcomes.

25. Throughout the plan preparation process, the Steering Group sought to consult and engage as wide a range of people as possible and feedback has been used to inform the content and scope of the Plan. Consultation included newsletters, public meetings and three drop-in sessions to seek views on the first informal draft of the plan. The Steering Group had written terms of reference and minutes of meetings were published through the Parish Council and on the NP web pages.

26. The first formal consultation on the Ballingham, Bolstone and Hentland Regulation 14 Draft Neighbourhood Plan took place between 6 March 2017 and 18 April 2017.

27. One respondent pointed out that there is no record in the Consultation Statement regarding his objection to Policy BBH1 on page 24 of the Plan, which was made on 17 March 2017, and no Council comment. This omission should be rectified.

- **Recommendation: Add missing representation dated 17 March 2017 and Parish Council response to Consultation Statement**

28. It is clear from the Consultation Statement that the Steering Group has engaged widely with the local community and kept people informed as the plan progressed. This consultation process has helped to develop the vision for the plan and ensure that the community's vision for the Group Parish has been clearly shaped by the views and priorities of the community. This is:

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<sup>7</sup> Regulation 15 of the Neighbourhood Planning (General) Regulations 2012



*Our vision for Ballingham, Bolstone and Hentland is for them to be home to strong and thriving communities, working together to maintain and celebrate our history, preserve our beautiful rural setting and unique character while embracing sustainable development*

#### *Representations received*

29. Preparing the NP has involved two statutory six-week periods of public consultation. The first, on the Regulation 14 Draft Plan, took place between 6 March and 18 April 2017. In all, sixteen representations were received – seven from members of the community, five from statutory bodies and external consultees and four from Herefordshire Council.

30. The second consultation on the Submission Draft NP was managed by Herefordshire Council and took place between 19 April and 31 May 2018. This generated fifteen responses – one from a local resident, eight from statutory bodies and external consultees and six from Herefordshire Council.

31. Occasionally in this report I refer to representations and identify the organisation making that particular comment. However, I have not referred to every representation in my report. Nonetheless, I can assure everyone that each comment made has been looked at and carefully considered.

32. From the evidence in front of me, it is apparent that the Ballingham, Bolstone and Hentland NP has been subject to appropriate and extensive community engagement involving much time and effort by the Steering Group. They are to be congratulated for all their sustained effort and for producing a very succinct NP. I am therefore satisfied that the consultation process which has been followed complies with the requirements of the Regulations.

#### **7. Compliance with the basic conditions**

33. In my role as independent examiner I must assess whether the Plan meets the Basic Conditions<sup>8</sup> set out in the Regulations as described in paras 7-9 above.

34. I have considered the Ballingham, Bolstone and Hentland Basic Conditions Statement produced by the Steering Group, and other supporting documentation, to assist my assessment which is set out below.

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<sup>8</sup> Para 8(2) of Schedule 4B of the Town and Country Planning Act (as amended)

### *National Policy*

35. National planning policy is set out in the National Planning Policy Framework (NPPF) and in the supporting Planning Practice Guidance (PPG). At the heart of the planning system is a presumption in favour of sustainable development, which applies to all levels of plan making. For neighbourhood plans, this means that neighbourhood plans should support the strategic development needs set out in Local Plans and plan positively to shape local development. Included in the twelve core principles of the NPPF<sup>9</sup> is a requirement for neighbourhood plans which provide a practical framework within which decisions on planning applications can be made in a confident and consistent manner. Policies also should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.

36. Table 1 of the Basic Conditions Statement sets out a very comprehensive assessment of how each of the policies in the NP has regard to the twelve core principles of the NPPF. The NP therefore satisfies the basic condition that it has regard to national policies and advice.

### *Sustainable development*

37. The qualifying body also has to demonstrate how a neighbourhood plan contributes to the achievement of sustainable development as set out in the NPPF<sup>10</sup>.

38. Table 2 of the Basic Conditions Statement briefly explains how the Ballingham, Bolstone and Hentland Submission Plan contributes to the economic, social and environmental aspects of sustainable development.

39. When considered alongside the assessment provided in Table 1, which also assesses the plan's compliance with the NPPF, I conclude that this Basic Condition is met.

### *Development Plan*

40. The NP also has to demonstrate that it accords with the strategic policies of the Development Plan. In terms of the wider planning of Herefordshire as a whole, the Neighbourhood Plan has been prepared in the context of the Herefordshire Local Plan Core Strategy (HLPCS), which was adopted on 16 October 2015. There is therefore an up to date development plan in place.

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<sup>9</sup> NPPF (2012) para 16 and 17

<sup>10</sup> NPPF 2012) para 18-219

41. Table 3 of the Basic Conditions Statement sets out a very comprehensive assessment of how each of the policies in the NP conforms generally with the relevant strategic policies in the HLPCS. It is also evident that a number of the policies are designed to support and amplify the policies in the HLPCS so that they are relevant to the particular needs and priorities of the parish.

43. Various departments in Herefordshire Council have provided comments on the plan as it has progressed through each stage of preparation and the Council's Progression to Examination Decision Document dated 8 June 2018 confirms the Council's view that the NP is legally compliant and can proceed to examination.

44. From my assessment of the plan's policies in the rest of my report, it is evident that the strategic policies of the adopted HLPCS have generally been carried through to the NP. Therefore, subject to the recommended changes set out in Section 8 below, I conclude that the NP is in general conformity with the strategic policies of the development plan and therefore this basic condition is met.

#### *Basic Conditions – conclusions*

45. I have considered the Basic Conditions Statement, the supporting evidence and representations made to the Ballingham, Bolstone and Hentland NP and I am satisfied that the Plan as submitted follows the general principles set out in national planning policy and contributes to the achievement of sustainable development. It sets out a positive vision for the parish and policies to protect its distinctive character while accommodating development needs.

46. At a practical level, however, a few of the policies in the Submission NP need some minor adjustment to ensure that they comply with the NPPF and the strategic guidance in the HLPCS. I have therefore suggested a number of modifications in Section 8 below to help ensure that the plan accords with national and strategic guidance and therefore meets the basic conditions.

#### *European obligations and Human Rights Requirements*

#### *Strategic Environmental Assessment (SEA)*

47. The SEA Directive aims to provide a high level of protection to the environment by ensuring that environmental considerations are included in the process of preparing plans and programmes. The Group Parish's approach is set out in two Environmental Reports, dated January 2017 and March 2018.

48. A screening opinion was carried out at the initial stages of preparing the NP 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 Strategic Environmental Assessment (SEA) would be required.

49. Initial assessment of the Reg 14 plan showed that none of the NP policies are considered to be in direct conflict with or propose greater levels of growth and development than strategic policies contained in the HLPCS, which themselves have undergone a full Sustainability Appraisal. Once the NP had been redrafted in light of the responses to the Reg 14 consultation, a further assessment concluded that the conclusion set out in the Draft Environment Report is still valid, that is that the Ballingham, Bolstone and Hentland Group NP is in general conformity with both national planning policy contained in the NPPF and strategic policies set within the HLPCS.

50. A screening report was also carried out to assess whether a Habitats Regulation Assessment (HRA) would be required. This was necessary because the Group Parish falls within the catchment for the River Wye (including River Lugg) and is in the Wye Valley Woodlands both of which are designated as Special Areas of Conservation (SAC) under European legislation.

51. An HRA Addendum report was produced in March 2018 and this confirms that the earlier conclusion that the Ballingham, Bolstone and Hentland Group NP will not have a likely significant effect on the River Wye SAC and Wye Valley Woodlands SAC remains valid.

52. These conclusions with regard to SEA and HRA have been agreed by Natural England and Historic England through consultation.

53. In light of Counsel Advice on the implications of the recent European judgment in the case of *People Over Wind and Sweetman v Coillte Teoranta (C-323/17)* ("*Sweetman*") and the representations from Natural England to a number of Habitat Regulation Assessment consultations undertaken post the judgment, Herefordshire Council issued a Briefing Note to neighbourhood planning bodies. As a result, a rescreening of the Ballingham, Bolstone and Hentland NP was carried out. The purpose of the final HRA Report is to detail the findings of the screening of proposed changes to policies and consider if they significantly affect the conclusions of the earlier HRA Report (January 2017 and March 2018) and reviewed in terms of the implications of Sweetman. The report concluded that "the earlier conclusions that the Ballingham, Bolstone and Hentland NDP will not have a likely significant effect on the River Wye SAC and Wye Valley Woodlands SAC remains valid."

This reassessment was subject to public consultation between 26 September 2018 and 31 October 2018.

54. Only one comment was received in response to the consultation. This was from Historic England and confirmed that they had no objections.

55. On a point of detail, the statements in paragraphs 7.1, 7.2 and 8.8 of the updated HRA Report, are incorrect and Herefordshire Council has confirmed that these are typographical errors. I therefore suggest that these are corrected and an updated version placed on the website.

- **Recommendation: In the updated HRA report delete “The submission NDP incorporates the modifications that the second examiner has recommended within the examiner’s report” from paragraph 7.1 and substitute “The submission NDP incorporates the changes made post regulation 14”; in paragraph 7.2 delete “final NDP following the examination” and substitute “post regulation 14” and in paragraph 8.8 delete “from the examination” and substitute “made post regulation 14”.**

56. I have considered all the relevant background material and I am therefore satisfied that the submitted Ballingham, Bolstone and Hentland Group NP meets the requirements set out in the SEA Directive so this basic condition is met.

#### *Human rights requirements*

57. Section 3.6 of the Basic Conditions Statement explains that consultation on the Ballingham, Bolstone and Hentland Group NP has been wide ranging and it has been prepared in full consultation with the local community; it confirms that it is considered that the NP is compatible with the requirements of EU obligations in relation to human rights.

58. I am satisfied therefore that the NP is compatible with the requirements of EU obligations in relation to human rights and no evidence has been submitted to me to suggest otherwise. I am satisfied, then, that the Plan does not breach the European Convention on Human Rights obligations and therefore meets the Basic Conditions.

#### *Other Directives*

59. I am not aware of any other European Directives that would apply to this NP, and in the absence of any evidence to the contrary, I am satisfied that the plan is compatible with EU obligations.

## 8. Neighbourhood Plan policies

60. This section of my report considers the NP policies against the basic conditions.

61. The Plan is clearly written and is very well presented, with a clear structure distinguished by separate sections.

62. All of the policies relate to the development and use of land and none cover excluded development, such as minerals and waste, so the statutory requirements and guidance set out in Planning Practice Guidance<sup>11</sup> are met.

63. As part of this examination, my report includes a series of recommended modifications to ensure that the policies are expressed concisely and precisely in order to comply with the basic conditions. Where I have suggested modifications, these are identified in **bold text**. The recommended modifications relate mainly to issues of clarity and precision and are designed to ensure that the plan fully accords with national and strategic policies. I have considered the policies in the order they appear in the Plan, by section and comment on all of the policies, whether I have suggested modifications or not. Where I consider that the supporting paragraphs need amendment to help explain and justify the plan policy, I have made comments to that effect.

### [Sections 1-3](#)

64. These sections introduce the Neighbourhood Plan, explains why a NP is being prepared and the key stages in the preparation of the NP. My only comment is that Section 3 requires some minor updating, to include the dates of the Reg 16 Consultation and the likely date of a Referendum.

- **Recommendation: Update dates in Section 3 as appropriate**

### [4. Background to the area](#)

65. This section outlines the key characteristics and main features of the three parishes and I have no comments to make.

### [5. Key Issues, Vision and Objectives](#)

66. This section outlines the key issues, vision and objectives of the plan and I have no comments to make.

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<sup>11</sup> Planning Practice Guidance PPG para 004

## 6. Policies and Proposals

67. This section introduces the policies. The plan policies are grouped by objective and for each policy there is a short reasoned justification followed by the actual policy, which is distinguished by the use of coloured text. This is a very clear approach and the Steering Group are to be commended on the presentation of the policies which combines clarity with succinctness.

### Objective 1 Housing

*Policy BBH1: Promoting new housing development in the settlements of Hoarwithy and St Owen's Cross*

68. This policy explains that the very modest housing requirements set by the HLPCS means that only one home will need to be built every two or three years to meet the needs of the Group Parish. The NP explains that these can be provided within the newly defined settlement boundaries for each village.

69. While this general approach accords with the strategic policies of the HLPCS, the reference to housing growth "in sustainable locations immediately adjacent to the settlement boundaries" in the first paragraph of Policy BBH1 and in the supporting text at para 6.5, runs the risk of being much more permissive of development in what is, effectively, the open countryside than either the HLPCS or the NPPF. This issue has also been raised by an objector.

70. This is a particular concern, given the sensitive nature of the land adjacent and to the east of Hoarwithy, which is within the Wye Valley SAC, the flood plain of the River Wye and the Wye Valley AONB. Now that the NP defines settlement boundaries for Hoarwithy and St Owen's Cross, greater emphasis should be placed on any new housing development taking place within these boundaries. Any development which comes forward outside settlement boundaries is then covered by HLPCS policy RA3 and this is clearly explained in para 6.10 of the NP.

- **Recommendation: Reword second sentence of BBH1 to read: "Sustainable housing growth within the settlement boundaries of Hoarwithy and St Owen's Cross will be supported". Delete "or sustainable additions to the settlements" from BBH1b. Reword first sentence of para 6.5 to read "To encourage such growth Policy BBH1 supports proportionate growth within the existing settlements of Hoarwithy and St Owen's Cross, within the defined settlement boundaries."**

71. Two versions of the Policies Maps 1 and 2 are included with the NP documentation. The versions

bound into the document do not have any keys, although these are included in the versions which are on the website. However, different symbols and shading are used. This is potentially confusing for users of the plan and this needs to be resolved so that there is only one definitive version of each Proposals Map in the Plan. The versions which are on the website are at a larger scale and so are easier to read, so I suggest these are used. Figure 3 shows the Hoarwithy Conservation Area, using a red line notation, and it would be helpful if the boundary of the Conservation Area was also added to Proposals Map 1 to assist future users of the plan. I also note that the key on the Hoarwithy Policies Map refers to the St Owens Cross Settlement Boundary; this needs to be corrected.

- **Recommendation: Delete Proposals Maps 1 and 2 on pages 25 and 26 of the NP document and substitute Proposals Maps 1 and 2, at a scale of 1:5,000 from the NP website. Add boundary of Hoarwithy Conservation Area to Proposals Map 1. Amend key on Hoarwithy Policies Map to refer to Hoarwithy Settlement Boundary**

#### Objective 2: Transport

##### *Policy BBH2: Public transport*

72. This policy accords with HLPCS policy MT1 which deals with traffic management, highway safety and promoting active travel and I have no comments to make.

##### *Policy BBH3: Traffic and road safety*

73. This policy accords with HLPCS policy MT1 which deals with traffic management, highway safety and promoting active travel and I have no comments to make.

##### *Policy BBH4: Footpaths, cycleways and bridleways*

74. This policy accords with HLPCS policy MT1 which deals with traffic management, highway safety and promoting active travel and I have no comments to make.

#### Objective 3: Tourism and Recreation

##### *Policy BBH5: Promoting outdoor tourism, leisure and recreation*

75. This policy seeks to protect two very different areas for outdoor tourism, leisure and recreation use. On my site visit, I saw that the area in Hoarwithy is an extensive tract of land on the eastern side of the settlement which extends down to the banks of the River Wye and lies within the floodplain



of the river. It is open in character, with defined field boundaries in some places and public access is provided by a number of Public Rights of Way. Part of the middle of the site is currently used as a private, commercial camp site. Given its location in the floodplain and the Wye Valley AONB, in order to comply with guidance in the NPPF and the HLPCS any new tourism and recreational development needs to be appropriately controlled. I therefore consider that the wording of the policy needs to be strengthened.

- **Recommendation: In first paragraph of Policy BBH5, delete “significantly” and add “natural heritage and historic assets” after “residential amenity “. Reword final paragraph of Policy BBH5 to read “These sites will be protected for outdoor tourism, leisure and recreational uses. Development of these sites will not be supported, unless as part of a development proposal which would provide alternative provision of equal or improved community benefit elsewhere within the neighbourhood area and in a location accessible to the community it is intended to serve by active modes of travel and by private car”**

76. The two sites defined in Policy BBH5 are shown on both versions of the Policies Maps, though with different notations. As suggested in para 71 above, these need to be shown on a consistent basis on the Policies Map for each settlement. As these are the only allocations made in the NP, it would help future users of the plan if they were named in some generic way – ie Site A and Site B.

- **Recommendation: Consider denoting allocations made in policy BBH5 as Sites A and B and amending Policies Maps 1 and 2 and third paragraph of Policy BBH5 accordingly**

#### Objective 4: Business

##### *Policy BBH6: Employment growth and jobs*

77. This policy deals with employment growth and jobs in a general way, but provides little guidance on the scale or access arrangements which would need to be considered if and when any such proposals come forward. To ensure compliance with policy RA6 in the HLPCS, it should be amended to make a closer link with the strategic guidance.

- **Recommendation: Change “when” to “provided” in second line of Policy BBH6. Add as new paragraph at the end of BBH6: “Planning applications should:**
  - (i) **ensure that the development is of a scale appropriate to its location and setting**
  - (ii) **generate traffic movements that can safely be accommodated within the local road network”**

## Objective 6: Communications Infrastructure

### *Policy BBH7: New development to improve communications infrastructure*

78. This policy seeks to support improvements in communications infrastructure but, as drafted its scope is rather wide and could be taken to apply to all new development. It should be redrafted to provide more precision and the policy title also amended.

- **Recommendation: Amend title of Policy BBH7 to “Communications infrastructure \* development” and reword first line of policy BBH7 to read “New communications \* infrastructure development will be supported... ” \***

## Objective 6: Landscape character

### *Policy BBH8: Protecting and enhancing landscape character*

79. This policy seeks to protect and enhance the landscape character of the NP area. To ensure consistency with the NPPF and the strategic policies in the HLPCS, clause (c) would benefit from a more direct reference to nationally and internationally designated sites, ie the Wye Valley AONB and the Wye Valley SAC. On a point of detail, the Parliamentary Act referred to in para 6.17 should be the Countryside and Public Rights of Way Act.

- **Recommendation: Amend BBH8c to read “they protect and enhance the Wye Valley AONB, the Wye Valley SAC and other designated areas such as wildlife sites, listed buildings, conservation areas and ancient monuments”. In para 6.17 add “and the Wye Valley SAC” after the “Wye Valley AONB” in the second sentence. Change “the Country Rights of Way Act 2000” in the fifth sentence of para 6.17 to “the Countryside and Public Rights of Way Act 2000.”**

## Objective 7: Natural heritage and historic assets

### *Policy BBH9: High quality design*

80. I have no comments on this policy.

*Policy BBH10: Protecting local landscape and local heritage assets*

81. This policy seeks to protect a range of local landscape and local heritage assets. Although they are named and listed in the policy no guidance is given as to where they are located and two of the Ancient woodland sites at Kidley Hill and Ballingham Hill are referred to as “unlabelled sites”. This does not provide the precision which is required in a planning policy.

82. In response to my query, the Steering Group provided a list of the Landscape and Heritage Assets which they wished to protect through policy BBH10 and explained that these are listed on Herefordshire Council’s Historic Environment Record database.

83. In order to ensure that the NP provides clear guidance for future users of the plan, I suggest that policy BBH10 is expressed in more generic terms and the detail about the sites which are to be protected by the policy are included in a separate Appendix to the plan. An amendment also needs to be made to explain where the mapping of these assets can be found reference to the mapping details.

- **Recommendation: Amend Policy BBH10 to read “Development proposals should be designed in such a way that they conserve and enhance the local landscape and local heritage assets listed in Appendix 1.” Add to end of paragraph 6.20 “These assets are listed in Appendix 1 and mapped on the Historic Environment Record website [https://www.herefordshire.gov.uk/info/200177/conservation/95/archaeology\\_and\\_the\\_historic\\_environment\\_-\\_advice\\_and\\_information/](https://www.herefordshire.gov.uk/info/200177/conservation/95/archaeology_and_the_historic_environment_-_advice_and_information/)”. Add new Appendix 1- List of Local Landscape and Heritage Assets.**

Objective 8: Community facilities

*Policy BBH11: Protecting community facilities, shops and pubs*

84. I have no comments on this policy

Objective 9: Needs of different age groups

*Policy BBH12: A vibrant and thriving community*

85. I have no comments on this policy

### [7. How to comment on this document](#)

86. This section explains the consultation process for the Submission Draft version of the plan and, as such, will be superseded by the examination and final adoption process. I therefore suggest that it is deleted and the paragraph numbering for the remainder of the plan revised accordingly.

- **Recommendation: Delete Section 7 and adjust the paragraph numbering for the remainder of the plan accordingly**

### [8. Monitoring and Review](#)

87. This section outlines the monitoring and review arrangements for the plan and I have no comments to make.

## **9. Conclusions and Recommendations**

88. I have examined the Ballingham, Bolstone and Hentland NP and I have concluded that, subject to the modifications set out in my report, it meets the basic conditions and other statutory requirements.

89. I am therefore pleased to recommend to Herefordshire Council that, subject to the modifications set out in my report, the Ballingham, Bolstone and Hentland NP should proceed to referendum.

90. I am also required to consider whether the referendum area should be extended beyond the Ballingham, Bolstone and Hentland NP area. I see no reason why it would be necessary to alter or extend the plan area for the purposes of holding a referendum, nor have I received any representations to that effect. I therefore conclude that the plan should proceed to referendum based on the neighbourhood area approved by Herefordshire in April 2014.

## **APPENDIX 1: Background Documents**

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

- Submission Draft Ballingham, Bolstone and Hentland Neighbourhood Plan 2018-2031: April 2018 and associated Policies Maps
- Ballingham, Bolstone and Hentland Neighbourhood Development Plan Consultation Statement, April 2018
- Ballingham, Bolstone and Hentland Neighbourhood Development Plan (NDP) Basic Conditions Statement April 2018
- Environmental Report for Ballingham, Bolstone & Hentland Group Neighbourhood Area: Herefordshire Council: March 2018
- Herefordshire Council: Ballingham, Bolstone and Hentland NP - Progression to Examination Decision Document 8 June 2018
- Habitat Regulations Assessment (HRA) of Neighbourhood Development Plans
- Statement in relation to CASE 323/1/COURT OF JUSTICE OF THE EUROPEAN UNION People over Wind and Peter Sweetman v Coillte: Herefordshire Council
- Habitat Regulation Assessments (HRA) of Neighbourhood Development Plans Statement in relation to CASE 323/1/COURT OF JUSTICE OF THE EUROPEAN UNION People over Wind and Peter Sweetman v Coillte Update following Counsel Advice: Herefordshire Council 13 September 2018
- HRA Screening Assessment (Ballingham, Bolstone and Hentland NDP) September 2018
- National Planning Policy Framework (NPPF) 2012
- National Planning Policy Framework (NPPF) 24 July 2018
- Planning Practice Guidance March 2014 and subsequent updates

## **APPENDIX 2:**

### **Ballingham, Bolstone and Hentland Neighbourhood Plan Examination**

#### **Request for further information and questions from the Examiner to Herefordshire Council and Ballingham, Bolstone and Hentland Group Parish Council**

I have carried out a preliminary review of the Neighbourhood Plan and the evidence submitted in support of it and there are a few matters where I need some clarification or further information. I would therefore be grateful if both Councils could assist me, as appropriate, in answering the following questions.

#### *Settlement Boundary*

A representation from Moray Clouston dated 19 May 2018 makes a number of points about the Submission Draft NP. An attachment to his letter seems to be a copy of the representation he made in April/May 2017 regarding the earlier version of the plan. Please can you confirm that this is the case? It would also be helpful if you could provide me with a copy of the map he had included in his original representation, which identifies the points marked A, B and C on the settlement boundary.

#### *Policy BBH8 Protecting Local Landscape and Local Heritage Assets*

Although this policy lists a large number of local landscape and local heritage assets, I am not clear how they have been identified and, more importantly, where they are located. I am also a little concerned about the reference to "unlabeled sites" at Kidley Hill and Ballingham Hill.

Is a list of such assets kept and updated by Herefordshire Council, including mapping, which could be referred to in the policy itself or the supporting text? Rather than listing every single asset in the policy, some Neighbourhood Plans have taken a generic approach to protecting such assets by having a high-level policy and then providing the detail in an appendix. I would welcome your views on whether such an approach might be appropriate for the Ballingham, Bolstone and Hentland NP.

Many thanks for your assistance with these questions. Once I have received your responses, I may need to ask for further clarification or further queries may arise as the examination progresses.

Please note that these questions and requests for information is a public document and the answers and any associated documents will also be in the public domain. Both my questions and the responses should be placed on the Councils' websites as appropriate.

Barbara Maksymiw

10 September 2018

