

## Progression to Examination Decision Document

### Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Withington Group Neighbourhood Area
Parish Council	Withington Group Parish Council
Draft Consultation period (Reg14)	18 June to 30 July 2018
Submission consultation period (Reg16)	17 December 2018 to 11 February 2019

#### Determination

Is the organisation making the area application the relevant body under section 61G (2) of the 1990 Act		Yes
Are all the relevant documentation included within the submission <ul style="list-style-type: none"> <li>• Map showing the area</li> <li>• The Neighbourhood Plan</li> <li>• Consultation Statement</li> <li>• SEA/HRA</li> <li>• Basic Condition statement</li> </ul>	Reg15	Yes
Does the plan meet the definition of a NDP - 'a plan which sets out policies in relation to the development use of land in the whole or any part of a particular neighbourhood area specified in the plan'	Localism Act 38A (2)	Yes
Does the plan specify the period for which it is to have effect?	2004 Act 38B (1and 2)	Yes
Are any 'excluded development' included?	1990 61K / Schedule 1	No

<ul style="list-style-type: none"> <li>• County matter</li> <li>• Any operation relating to waste development</li> <li>• National infrastructure project</li> </ul>		
Does it relation to only one neighbourhood area?	2004 Act 38B (1and 2)	Yes
Have the parish council undertaken the correct procedures in relation to consultation under Reg14?		Yes
<p>Is this a repeat proposal?</p> <ul style="list-style-type: none"> <li>• Has an proposal been refused in the last 2 years or</li> <li>• Has a referendum relating to a similar proposal had been held and</li> <li>• No significant change in national or local strategic policies since the refusal or referendum.</li> </ul>	Schedule 4B para 5	No

### Summary of comments received during submission consultation

External Consultation Responses	
Historic England	<p>"Historic England is supportive of both the content of the document and the vision and objectives set out in it.</p> <p>We commend the approach taken in the Plan to the historic environment of the Parish which we feel is suitably proportionate. We are particularly supportive of the emphasis placed upon the conservation of local distinctiveness and variations in local character through good design".</p> <p>Overall we feel that it is a well-considered, concise and fit for purpose Plan constituting a positive example of community led planning.</p> <p>I hope you find this advice helpful.</p>
Natural England	Natural England does not have any specific comments on this draft neighbourhood plan.
Welsh Water	It does not appear that Welsh Water were consulted on the Regulation 14 consultation. However, given that there are no "allocations" without planning consent within the Neighbourhood Plan, we do not have anything specific to add.

National Grid	National Grid has identified that it has no record of apparatus within the Neighbourhood Plan area.
Herefordshire Council – Air, Land & Water Protection	<p>Westside</p> <p>The 'Allocated Residential Development' –Policy 'P3' is described in the NDP as a 'cluster of mostly redundant farm buildings allocated for residential development'</p> <p>Some farm buildings may be used for the storage of potentially contaminative substances (oils, herbicides, pesticides) or for the maintenance and repair of vehicles and machinery. As such it is possible that unforeseen contamination may be present on the site. Consideration should be given to the possibility of encountering contamination on the site as a result of its former uses and specialist advice be sought should any be encountered during the development</p> <p>The allocated site also appears from a review of Ordnance survey historical plans to have historically been used as orchards. By way of general advice, orchards can be subject to agricultural spraying practices which may, in some circumstances, lead to a legacy of contamination and any development should consider this.</p>
Herefordshire Council – Strategic Planning	<p>The plan is in general conformity with the Core Strategy. However a suggested alteration of wording to Policy P3 is proposed. The Core Strategy takes a positive approach to new development, and would not seek to propose any definitive "caps" on numbers of dwellings.</p> <p>Please see Appendix 1 for full comments.</p>
Herefordshire Council – Environmental Health and Trading Standards	No further comments to make with regard to this neighbourhood plan.
Other Responses	
Gladman Developments	<p>Policy P1 – Allocated Sites in Withington</p> <p>Planning commitments should not be referenced as allocations, the policy should be revised, and the sites identified as 'approved residential developments'.</p> <p>To meet the basic conditions neighbourhood plan policies should be deliverable. If these permissions were to lapse there would be no certainty that these allocations would come forward in the plan period. In this scenario it would be the responsibility of the Local Planning Authority to assess the cause of under-delivery and identify actions to increase delivery in future years. This is particularly relevant to the proposed care home site which has seen a considerable period pass since the grant of outline consent with no indication that it is likely to come forward any time soon.</p> <p>Policy P2 – Withington Settlement Boundary. The use of a settlement boundary to arbitrarily restrict suitable</p>



	<p>development from coming forward on the edge of settlements does not accord with the positive approach to growth required by the Framework. As stated in our Regulation 14 response, Gladman suggest that wording should be added to this policy to state that development adjacent to the settlement boundary would also be considered. This amendment would accord with the Framework in allowing flexibility for the WGNP to respond to changes in the future such as the Council having to identify further sites for residential development. It would also ensure that the policy aligns with HCS</p> <p>Policy RA2 which states sustainable housing growth will be supported in or adjacent to those settlements identified for growth.</p> <p>Policy P4 – Housing Layout and Design Some of the criterion in the policy are overly prescriptive and could limit sustainable development coming forward.</p> <p>Policy P6 – Local Green Spaces Policy P6 seeks to designate seven identified sites as Local Green Space. Whilst some evidence to support the designations is contained within 'Background Paper No 2' Gladman do not consider that the document is proportionate or robust enough to support all seven designations. The Parish Council should revisit this policy and ensure that sufficient evidence is provided to demonstrate consistency with the requirements of the Framework.</p>
<p>Paul Smith MRTPI (On behalf of Rachel Leake; local resident)</p>	<p>'Background Paper No. 2 – 'Analysis of Candidate Local Green Spaces' (see Appendix 1) was published post- designation of the Local Green Spaces renders it a justification for the designation not an objective exercise in identifying, confirming and rejecting candidate Local Green Spaces based upon sound criteria.</p> <p>With regard to the 'Duke Street' LGS, it is telling that the NDP justification in Background Paper No. 2 for its designation relates almost entirely to the field to the west of Duke Street not to the land to the east of this road.</p> <p>It should also be noted that the NDP in its Consultation Statement asserts that the LGS is "greatly valued" rather than it being "special .....and holding a particularly local significance..." for a particular environmental reason (see paragraph 77 of the NPPF 2012 which remains material.</p> <p>Policy P6 - Objection to Designation of Duke Street (Strategic Gap) Local Green Space</p> <p>It is important to note that the 'Duke Street' LGS comprises three parcels of land disparate in character, appearance, function and designation: the school; the field to the north of the school (both of which lie within the conservation area) and the irregularly- shaped field ("the Field") to the south-west on the opposite of Duke Street beyond the conservation area.</p> <p>Therefore, the generalised, sweeping attributes ascribed to this proposed LGS by the NDP do not apply to each of the three components of the LGS and therefore should be disaggregated. To include all three components of the LGS, the NDP must demonstrate</p>

that each component of the LGS meets the criteria of paragraph 77 of the NPPF 2012.

#### Proximity to the Community it Serves

The objector accepts that all of the proposed LGS is close to the community but only the school grounds and field to the north which includes a public footpath 'serve' the community in that it allows public access and that they lie within the conservation area. From these two components of the LGS, a view of the northern part of the conservation area is possible but not so much of the church and other listed buildings.

In contrast, The Field west of Duke Street does not fulfil any public function. It does not incorporate a public footpath, provide the community with a view of heritage assets and it lies beyond the designated conservation area.

In terms of a 'break' in development, the school and field to the north do not intervene between built development. The Field does intervene between arms of development to the north and south although a break is more apparent on a plan than from public vantage points. The western and south-western site boundaries of The Field are marked by tall hedgerows and most of the eastern Duke Street frontage is visually well-contained by a retaining wall and hedgerow.

#### Demonstrably Special

The NDP excludes the field to the north of the school and The Field from the settlement boundary. It is therefore incorrect to refer to these components of the LGS as lying "in the fabric of the village". None of the LGS lies within the setting of the church with intervening buildings and grounds including the school.

In terms of visibility from the north, there are no views of the school and adjoining field from the north other than the public footpath to the immediate north of the school. In relation to The Field, it is not apparent from the north other than at the bend in Duke Street.

It is important to note that under this heading the NDP cites views of The Field from the north and does not assert other views from Duke Street exist of the Field.

The Field was purposively excluded from the conservation area by the Council when it was designated. This contradicts the NDP's assertion that The Field is 'demonstrably special'.

In terms of coalescence, Council officers have accepted the erection of two dwellings fronting Duke Street with the proposed LGS would not have an adverse effect including any alleged coalescence of the village or affect in terms of settlement setting or pattern of development (for site plan – see Appendix 2).

Further, the recent grant of planning permission for two dwellings along the southern boundary of The Field contradicts the NDP that in its entirety it justifies designation as part of the LGS (for site plan – see Appendix 3).

The NDP has failed to demonstrate the proposed LGS is demonstrably special and holds a particular local significance



particularly with regard to The Field. The objector would have expected that if The Field was "demonstrably special" its proposed designation would have attracted substantial support during the Regulation 14 consultation period which it did not.

#### Local in Character

The exclusion of The Field and the field to the north of the school from the settlement boundary contradicts the NDP's assertion that they form part of the essential fabric of the village. The recent grant of planning permission for two dwellings along the southern boundary of The Field contradicts the NDP that in its entirety must be designated as part of the LGS (see Appendix 3).

Neither The Field nor the field to the north of the school comprise any landscape feature. Nor does The Field form part of the wider landscape or the setting of the village as it is contained visually by modern houses along Duke Street.

In designating the Withington Conservation Area, the Council purposively excluded all of The Field. This contradicts the NDP's assertion that The Field is part of the historic character of the village at least to the extent that it is such importance to justify it being designated part of a LGS.

#### Not an Extensive Tract of Land

Clearly, the first part of this justification relates solely to The Field. It fails to demonstrate why all of The Field must be designated a LGS for this purpose when the Council has recently accepted the encroachment of The Field on its eastern and southern boundary would not harm the local landscape, the settlement pattern or its setting (see Appendices 2 and 3).

Neither The Field nor the land to the north of the school form part of the setting of the church. There is little, or no, inter-visibility between the proposed LGS and the church except the middle and western sectors of The Field. The NDP fails to demonstrate that the LGS status is necessary to "keep the overall setting" of the church when the setting of listed buildings are protected in any event by legislation, national planning policy and guidance.

#### General comments on the Proposed LGS designation

A mainstay of the NDP's justification for the designation of this LGS is the assertion that it all lies within the setting of the church. This assertion is not based upon an objective assessment of that setting and does not differentiate between the components of the proposed LGS. No cognisance is paid to the low degree of inter-visibility between the proposed LGS and the church due to the buildings, their grounds and trees that intervene between the two.

Nor does the NDP recognise that the setting of listed buildings is protected in any event under legislation, national planning policy and guidance. Further Policy P2 which seeks to restrict development beyond the settlement boundaries would achieve the same objective as the LGS in relation to The Field. Therefore, a LGS designation is unnecessary to achieve the NDP's main objectives for this proposed LGS designation.

Policy P6 'Local Green Spaces' (6) refers to the proposed Duke Street LGS as a 'Strategic Gap'. This indicates the purpose of the Duke Street LGS goes beyond the parameters set out of Local Green Spaces in national planning policy paragraph 77.

Reference in paragraph 4.26 of the NDP to The Field being important to the local community is not reflected in the responses to the Regulation 14 consultation document. The absence of a specific name for The Field and its exclusion from the conservation area does not point towards it being an important public and historic resource.

#### Policy P2 - Draft Settlement Boundary

The draft settlement boundaries should be amended to incorporate all sites which have been granted planning permission. Specifically, the site for which outline planning permission has been granted for two houses fronting Veldo Lane should be included with the settlement boundary (see Appendix 3). For the same reason, the site for which planning permission is currently sought under planning appeal should be included within the settlement boundary should a current planning appeal succeed (see Appendix 2).

Further, the northern section of the draft settlement boundary incorrectly excludes Stonehouse Farm. The farm includes the farmhouse and its residential curtilage which adjoins the school and its playing fields. The farm group is an integral part of the village as demonstrated by it forming part of its conservation area. The inclusion of the farmhouse, its residential curtilage and adjoining buildings and agricultural bungalow would be entirely consistent with the designation of the settlement boundary elsewhere at the village (see Appendix 4 for proposed extension of the settlement boundary cross-hatched).

Paragraph 4.5 of the NDP states that its settlement boundary was inherited from that of a previous development plan (the Herefordshire Unitary Development Plan (UDP) – see Appendix 5)) and that the NDP is an opportunity to review that boundary.

On pages 14 to 16 inclusive of the NDP, a detailed justification for changes to the original UDP settlement boundaries is provided. However, the NDP is silent on why Stonehouse Farm and its residential curtilage have been specifically excluded from the settlement boundary. Nor is the objector aware of any logical planning reason why this exclusion is justified. There has occurred no change of planning considerations since the adoption of the UDP in 2007.

The UDP included the whole of Stonehouse Farm within the settlement boundary recognising it as an integral part of this village.

Further, the exclusion of the Field from the settlement boundary is unjustified. It clearly lies within the village net and the NDP accepts that it forms part of the essential fabric of the village. The Council has approved housing schemes upon The Field (see Appendices 2 and 3) on the grounds that its current development plan policy supports new housing on The Field as it adjoins the settlement boundary.



	<p><b>Addendum to representation</b></p> <p>Subsequently, a planning appeal for two dwellings on land fronting Duke Street has been allowed (see attached for copy of the appeal decision). This proposal was referred to as 'Appendix 2' in my earlier representations.</p> <p>I believe that this decision has the following significant ramifications for the NDP:</p> <p>It requires that the draft settlement boundary of the NDP is enlarged to include the appeal site; and</p> <p>It seriously undermines the justification for the field within which the appeal site lies (referred to in my earlier representations as 'The Field') to be designated as part of the proposed 'Duke Street (Strategic Gap)' Local Green Space under draft Policy P6 of the NDP.</p> <p>In allowing the appeal proposal, the inspector did not consider the resultant reduction in the undeveloped gap between housing to the north and south acted as a bar to development. Nor did not Inspector identify The Field as possessing any special quality in visual, historic or functional terms contrary to the assertions made by objectors to the appeal proposal. Nor did the inspector consider the development of appeal site for houses adjoining the Conservation Area justified an objection on visual or historic grounds.</p> <p>Had The Field been of such strategic gap and visual/historic or functional importance in its undeveloped site justifying its designation as part of a Local Green Space for the reasons given in the NDP, I would have expected the Planning Inspector to conclude that some harm would have been caused by the appeal proposal. The fact that he did not supports my contention that the proposed designation of The Field as part of a Local Green Space is wholly unjustified.</p>
Russell Pryce	<p>Welcome the amendments to policy P1 (Withington allocation) to reflect the C3 use class extant outline planning permission that applies to the site on the south side of the A4103 at Whitestone.</p> <p>However, a minor correction is required to the pre-amble text, which has not been updated to reflect the amendment to the policy. At 4.3, it still refers to the site being allocated for residential care. This requires amendment to refer to the site being allocated for age restricted residential.</p>
Holmer and Shelwick Parish Council	Unanimous support
Bartestree with Lugwardine Parish	<p>Paragraph 4.1, line 8 should have the word "in" or "on" contained within it.</p> <p>There is mention of 1 settlement boundary when in fact there are two.</p>



**Please note the above are summaries of the response received during the submission consultation. Full copies of the representations will be sent to the examiner in due course.**

### **Officer appraisal**

This plan has met the requirements of the regulations as set out in the table above. All the requirements of regulation 14 were undertaken by the parish council and all the required documentation was submitted under regulation 15.

No major concerns have been raised from internal responses, however Strategic Planning have suggested alteration of wording to Policy P3 for clarity. The proportional growth figure has been exceeded within the parish by existing commitments.

There were no major concerns from external responses with regards to the ability of the plan to meet the required minimum proportional growth contributing towards the deliverability of the Core Strategy. Therefore the plan is considered to meet the general conformity requirements of the Core Strategy and comments are generally supportive.

External responses from technical bodies such as Historic England, Natural England, National Grid, and Welsh Water have raised no objection to the Regulation 16 draft plan.

Holmer and Shelwick Parish Council supported the plan and Bartestree with Lugwardine Parish council made comments on wording amendments.

There was a representation from Gladman Development, which outlines concerns that the plan in its current form does not comply with basic conditions.

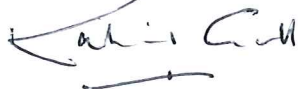
One representation was received from a planning consultant regarding the designation of Duke Street (Strategic Gap) Local Green Space (Policy P6) and a number of amendments to the NDP were suggested to be made to meet the objector's points. Another was received requesting some minor wording changes to the allocation site reasoned justification.

It is considered that there are no issues which should stop this plan progressing to examination.

### **Assistant Director's comments**

#### **Decision under Regulation 17 of the Neighbourhood Planning (General) Regulations 2012.**

**The decision to progress to appoint an examiner for the above neighbourhood plan has been Approved.**



**Richard Gabb**

**Programme Director – Housing and Growth**

Date: 14.2.2019.

## Neighbourhood Development Plan (NDP) – Core Strategy Conformity Assessment

From Herefordshire Council Strategic Planning Team

Name of NDP: Withington Group- Regulation 16 submission draft

Date: 10/01/19

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
P1- Allocated Sites in Withington	SS2; RA2	Y	
P2- Withington Settlement Boundary	RA2; RA3	Y	
P3- Westhide and Preston Wynne	RA2	Y/N	<p>A suggested alteration of wording is proposed. The Core Strategy takes a positive approach to new development, and would not seek to propose any definitive “caps” on numbers of dwellings.</p> <p>Without a clear basis, setting an uppermost limit on infill developments of 3 houses would not fully align with this approach.</p> <p>It is suggested that the wording is adjusted to “small-scale infill sites”.</p> <p>The likelihood is, given their size, such infill sites would not yield developments much larger than the limits currently suggested in any case. However, taking a slightly more flexible approach as suggested would ensure full conformity with the approach taken in the Core Strategy.</p>
P4- Local Distinctiveness- Housing Layout and Design	SS6; LD1	Y	<p>Criterion d- From a development management point of view, this may not be easy to interpret or enforce in practice.</p> <p>Would this apply to all types of garage elements (including self-</p>

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
			contained within a front courtyard/garden), or just those adjacent to the main dwelling house?
P5- Affordable Housing	SS2; H1	Y	
P6- Green Spaces	SS6; LD3; OS3	Y	
P7- Transport and Traffic	SS4; MT1	Y	
P8- Conserving Historic Character	SS6; LD4	Y	
P9- Herefordshire and Gloucestershire Canal	SS6; E4; LD4	Y	
P10- Broadband	N/A	Y	Typographical error? First sentence presumed to mean: <i>"Improvements to broadband and are welcomed..."</i>
P11- Telecommunications- Mobile Phone Coverage	N/A	Y	Same as above.
P12- Employment	SS5; RA6; E3	Y	
P13- Agriculture and Tourism	SS5; RA6; E4	Y	The policy text seems to do little to supplement or add any localised context to the equivalent Core Strategy policies. It would therefore be open to question whether its inclusion is strictly necessary.
P14- Polytunnels	N/A	Y	
P15- Renewable Energy	SS7; SD2	Y	
P16- Social and Community Facilities	SS1; SC1	Y	It could be suggested that some of these criteria, C and F noted in particular, could be sought under



Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
			the traffic and travel policy rather than as community facilities.
P17- Minimising Flood Risk in Withington Marsh	SS7; SD3	Y	Developments should also be subject to the sequential and, if necessary, exception tests set out in the NPPF where required. Regard should also be had to the latest Strategic Flood Risk Assessment (SFRA) for Herefordshire.