

Kington NDP Independent Examination

Delegated Decision Statement

12 June 2019

Neighbourhood Planning (General) (Amendment) Regulations 2012

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| Name of neighbourhood area | Kington Area Neighbourhood Area |
| Parish Councils | Kington Town, Huntington, Kington Rural and Lower Harpton Group. |
| Submission | 3 October to 14 November 2018 |
| Examination Date | January-May 2019 |
| Inspector Report Received | 5 June 2019 |

1 Introduction

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

2 Background

- 2.1 The Neighbourhood Area of Kington was designated on 11 November 2013. The Neighbourhood Area follows the parish boundaries of Huntington, Kington Rural and Lower Harpton Group and Kington Town. The Kington Area NDP has been prepared by Kington Town Council, Huntington, Kington rural and lower Harpton group. Work on the production of the plan has been undertaken by members of the local community through a Neighbourhood Plan Steering Group since winter 2014.

- 2.2 The Plan was submitted to Herefordshire Council on 21 September 2018, and the consultation under Regulation 16 took place between the 3 October to 14 November 2018, where the Plan was publicised and representations invited.
- 2.3 On 23 January 2019 Rosemary Kidd Dip TP, MRTPI was appointed by Herefordshire Council, with the consent of the Town and Parish Councils, to undertake the examination of the Kington Area NDP and to prepare a report of the independent examination.
- 2.4 The examiner's report concludes that subject to making the modifications recommended by the examiner, the plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.
- 2.5 Having considered each of the recommendations made within the examiner's report and the reasons for them, Herefordshire Council (in accordance with the 1990 Act Schedule 4B paragraph 12) has decided to make the modifications to the draft plan referred to in Section 3 below to ensure that the draft plan meets the basic conditions set out in legislation.

3 Recommendations by the examiner

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

| Policy | Modification recommended | Justification |
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| Recommendation 1: Front page | Revise the date of the Plan period to 2019 – 2031. | Interests of accuracy and clarity updating information. |
| Recommendation 2: Throughout | Apply a consistent form of wording and punctuation to policies where all criteria are to be satisfied. | Interests of accuracy and clarity. |
| Recommendation 3: Policy KANP ENV1 | Revise Policy as follows: Revise criterion (ii) to read ".....as identified in the <i>Character Appraisal – Kington (February 2016)</i> and the <i>Kington Area Landscape Sensitivity and Capacity Assessment (October 2015)</i> ". Delete "the list of Cherished Places (see Appendices 4, 5 and 6." Revise criterion (iii) to read: "respecting topography and <i>not being visible against the skyline when seen from a distance, whether.....</i> " Delete the list of Open Spaces in Appendix 4 of the KANP. | Interests of accuracy and clarity. Clarification of the text and to add more detail To explain the policy better. |
| Recommendation 4: Policy KANP ENV3 | Revise paragraph 9.2.5 to read: "....the <i>Character Appraisal – Kington (February 2016)</i> has been prepared" | Interests of accuracy and clarity in line with the correct title of the characterisation |

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| | | assessment. |
| Recommendation 5 Policy KANP SB1 | Revise the settlement boundary for Hergest to include only the existing housing and the housing allocation. | Revise settlement boundaries to better reflect settlement and supporting evidence. |
| Recommendation 6 Policy KANP H1 | <p>Revise the justification to Policy KANP H1 as follows: Delete Site K1 Greenfield Drive and paragraph 9.4.9.</p> <p>Renumber the site allocations and revise the Policies Map.</p> <p>Include the site in the table of commitments.</p> <p>Paragraph 9.4.15 delete "dis".</p> <p>Revise the fourth sentence of paragraph 9.4.18 to read: "A new access road will be required to serve the development which should be taken from Marwick Close; it should be designed to the satisfaction of the County Highway Authority."</p> <p>Paragraphs 9.4.20 and 21 delete "strategic".</p> | Interest of clarity and accuracy. |
| Recommendation 7: Policy KANP H2 | <p>Revise Policy KANP H2 as follows:</p> <p>Delete "to engage and consult with the community and Town and Parish Councils and".</p> <p>Add the following to the justification: "<i>Green infrastructure including landscaped amenity open space and children's play areas should be provided within the development to meet the needs of future residents and to compensate for any amenity land / green space lost to provide access to the site from Eardisley Road.</i>"</p> <p>Add the following to the justification: "<i>In view of the significance of the development to the local community, pre-application consultation on the proposed development with the community and Town and Parish Councils will be welcomed.</i>"</p> | <p>Interest of clarity and accuracy.</p> <p>Strengthen justification of the policy.</p> <p>Better conformity with Herefordshire Highways Design Guidance.</p> |
| Recommendation 8 Policy KANP H3 | <p>Revise Policy KANP H3 as follows: Revise criterion (i) of Policy KANP H3 to read; "<i>A full ecological and tree survey shall be undertaken and submitted as part of any planning application taking account of the advice of the Council's Ecologist. The proposals for the development of the site shall include proposals to enhance the local habitat and the provision of open space.</i>"</p> <p>Include a new paragraph in the justification setting out the requirements of the ecological and tree survey: "<i>A full ecological and tree survey should be required including some longer term survey work during optimal times of the year for bats, birds, otters, amphibians and reptiles. Any development would need to demonstrate full mitigation and a high level of enhancements, including but not limited to bird and bat roosting opportunities in/on the new buildings, hedgehog, and pollinator homes and reptile/amphibian</i></p> | <p>Interests of accuracy and clarity.</p> <p>Strengthen the justification of the policy.</p> <p>To be in closer conformity with national and strategic policies.</p> |

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| | <p><i>refugia in the retained habitat areas; and a long term management strategy for the remaining trees, riverside and flood meadow/grass areas.</i></p> <p>Ensure the reference number for the site at Hergest is consistent with that shown on Plan 2.</p> <p>Correct the typographical error in paragraph 9.4.39 line 5 "remaining".</p> | |
| <p>Recommendation 9</p> <p>Policy KANP H5</p> | <p>Revise Policy KANP H5 as follows:</p> <p>Delete criteria (iii), (x) and (xi).</p> <p>Delete the second paragraph of criterion (iv) referring to The Greater London Space Standards.</p> <p>Revise criterion (viii) to read: <i>"Provide multi-functional green infrastructure and community amenity space proportionate to the number of dwellings. Contributions to new or improved off site provision nearby may be acceptable only for small housing developments where it is not feasible to provide open space on site."</i></p> <p>Paragraph 9.4.49 should refer to the correct title of the <i>"Character Appraisal – Kington (February 2016)"</i>.</p> | <p>Interests of accuracy and clarity.</p> <p>In accordance with guidance set out in the ministerial statement 2015.</p> |
| <p>Recommendation 10</p> <p>Policy KANP E1</p> | <p>Revise Policy KANP E1 as follows:</p> <p>Delete the first paragraph.</p> <p>Show the boundary of the two industrial estates on the Policies Maps.</p> <p>Correct the typographical error in criterion (vii).</p> | <p>Interests of accuracy, consistency and conformity to strategic policies.</p> |
| <p>Recommendation 11</p> <p>Policy KANP KTC1</p> | <p>Revise Policy KANP KTC1 as follows:</p> <p>Delete the following from the first paragraph: "and retail development should, where possible, be within the boundary of the primary shopping area as defined in Map 1."</p> <p>Revise criterion (i) to read: "proposed retail developments should, where possible, be located in the Primary Shopping Frontages as defined on the Kington Town Centre Policies Map".</p> <p>Review the use of the phrase "will; need to" in the criteria of the policy.</p> | <p>In conformity with Core Strategy policies.</p> <p>In the interest of accuracy and consistency.</p> <p>Ensure policy is more flexible.</p> |
| <p>Recommendation 12</p> <p>Policy KANP INF1</p> | <p>Revise Policy KANP INF1 as follows:</p> <p>Delete the third paragraph.</p> <p>Delete the sixth and seventh paragraphs and paragraph 9.8.5 on developer contributions and CIL together with the five proposals.</p> <p>Place the proposals in a new section under Community Projects with the following text: <i>"The Town and Parish</i></p> | <p>In conformity with Core Strategy policies.</p> <p>In the interest of accuracy and consistency.</p> |

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| | <p><i>Councils will work with Herefordshire Council, Dwr Cymru Welsh Water etc to deliver the following improvements to the infrastructure: list of pedestrian/ cycleways, school capacity increase, waste water treatment, water supply network and community facilities. Funding for these proposals will be through developer contributions, CIL, grants etc."</i></p> <p><i>Add the following to the justification: "Dwr Cymru Welsh Water has advised that a hydraulic modelling assessment of the water supply network may be required in order to understand where a connection can be made and if any upsizing is required to serve the proposed housing development on land south of Kington."</i></p> | <p>In the interests of sustainable development.</p> <p>To improve conformity with Core Strategic and National policies.</p> |
| <p>Recommendation 13</p> <p>Policy KANP ENV4</p> | <p>Delete Policy KANP ENV4</p> | <p>Policy is superfluous to existing Core Strategy policies SD3 and SD4.</p> |
| <p>Recommendation 14</p> <p>Policy KANP LGS1</p> | <p>Revise Policy KANP LGS1 as follows:</p> <p>Revise the wording of the first paragraph to read: "The following areas are designated as Local Green Spaces. <i>Development that would result in the loss of the green space will not be supported in these areas except in very special circumstances.</i>"</p> <p>Delete the following areas: GS02, GS03, GS06, GS07, GS10, GS11, GS13, GS18, GS19, GS23, GS32, GS34, GSH01, GSH02 and the westernmost part of GS05 not forming part of the school grounds.</p> <p>Identify the following areas of amenity land within housing estates as "Valued Local Amenity Areas": GS09, GS27, GS30, GS33 and small areas of GS17.</p> <p>Include the following policy wording: "<i>The following sites shall be safeguarded as Valued Local Amenity Areas and shall be retained and enhanced for amenity and children's play: GS09, GS27, GS30, GS33 and small areas of GS17.</i>"</p> <p>Revise the title of the policy to "Green Spaces".</p> <p>Revise the Policies Maps to delete the sites that are not to be designated and to differentiate between the Local Green Spaces and Valued Local Amenity Areas.</p> | <p>To improve conformity with Core Strategic and National policies.</p> <p>Lack of evidence to support accessible greenspace on some of the sites.</p> <p>Interests of clarity and accuracy.</p> |
| <p>Recommendation 15</p> <p>Policy KANP GI1</p> | <p>Revise Policy KANP GI1 as follows:</p> <p>Revise the first paragraph as follows: "The Green Infrastructure network <i>along the river corridors within and around Kington shall be safeguarded, where possible, and enhanced.</i></p> <p>Add the following to paragraph 9.11.1: "The Strategic Corridors and Enhancement Zones are shown on Map X."</p> <p>Include Map 5-5 from the Green Infrastructure Strategy 2010 in the justification to the policy.</p> | <p>Interests of clarity and accuracy.</p> <p>To improve conformity with Core Strategy policy LD3.</p> |

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| | <p>Revise paragraph 9.11.7 as follows: line 2 delete "as Green Spaces".</p> <p>Revise the second sentence to read: "The river corridors on the western side of the town identified as <i>important</i> during the consultations are included..."</p> | |
| <p>Recommendation 16</p> <p>Policy KANP CF1</p> | <p>Revise the justification to Policy KANP CF1 as follows:</p> <p>Delete "the Public House" from paragraph 9.12.2.</p> <p>Delete paragraphs 9.12.4-5 and place in a new section of the Plan on Community Projects.</p> <p>This section should include text to explain that the projects are not planning policies.</p> <p>Revise Appendix 4 line 1 and the first sub-heading to "Community Facilities".</p> | <p>Interests of clarity and consistency.</p> |

4 Post Adoption SEA and HRA

- 4.1 The modifications made as a result of the Examiner's report, as outlined above in Section 3 of this document, have been considered in terms of any resultant changes to the Strategic Environmental Assessment and Habitat Regulations Assessment. None of the changes are considered to have a significant effect on the overall appraisals. The updated SEA and addendum to the HRA are available to accompany the final plan. Decision
- 4.1 The Neighbourhood Planning (General) Regulations 2012 requires the local planning authority to outline what action to take in response to the recommendations that the examiner made in the report under paragraph 10 of Schedule 4A to the 1990 act (as applied by Section 38A of the 2004 Act) in relation to a neighbourhood development plan. Herefordshire Council have considered each of the recommendations made in the examiner's report and the reasons for them and have decided to accept the modifications to the draft plan
- 4.2 The draft plan will be altered in line with Table 1 above and also the points set out in paragraph 3.2, in line with paragraph 12 (6) of Schedule 4B to the 1990 Act.
- 4.3 Following the modifications made, the Kington Area Neighbourhood Plan will meet the basic conditions:
- Having regard to national policies and advice contained in guidance issues by the Secretary of State, it is appropriate to make the plan
 - The making of the neighbourhood plan contributes to the achievement of sustainable development
 - The making of the neighbourhood plan is in general conformity with the strategic policies contained in the Herefordshire Local Plan – Core Strategy
 - The making of the neighbourhood plan does not breach and is otherwise compatible with EU obligations and
 - The making of the neighbourhood plan is not likely to have a significant effect on a European site either alone or in combination with other plans and projects.

4.4 It is recommended that the Kington Area Neighbourhood Plan progresses to referendum. Consideration has been given as to whether the area should be extended beyond that of the neighbourhood area. Herefordshire Council concur with examiners conclusion that nothing has been suggested which would require an extension of the area beyond that designed on 11 November 2013.

Signed 

Dated 12.6.2019.

Richard Gabb
Programme Officer – Housing and Growth

