

Herefordshire Council

Titley Group
Neighbourhood Development Plan
2011-2031

Independent Examiner's Report

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23 December 2019

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Summary

I have been appointed as the independent examiner of the Titley Group Neighbourhood Development Plan.

The Plan area covers the rural Parishes of Titley; Knill; Rodd; Nash and Little Brampton; and Staunton-on-Arrow. The area is in the north western part of the County and abuts its border with Wales. The market town of Kington is about 3 miles to the south west and provides local services including schools, employment and shopping. Other services are available at Presteigne and Pembridge and Hereford is some 20 miles away.

The Plan has 15 policies covering a range of topics. It has four site allocations and defines settlement boundaries for Titley and Staunton-on-Arrow.

Relatively few modifications have been recommended for a Plan of this length and complexity; this is largely due to the high standard of preparation and presentation. However, it has been necessary to recommend some modifications including to the settlement boundary of Titley. In the main the modifications are intended to ensure the Plan is deliverable. My reasoning is set out in detail in this report. These do not significantly or substantially alter the intention or overall nature of the Plan.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore delighted to recommend to Herefordshire Council that the Titley Group Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI
Ann Skippers Planning
23 December 2019



1.0 Introduction

This is the report of the independent examiner into the Titley Group Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Herefordshire Council (HC) with the agreement of the Group Parish Council to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over thirty years experience in planning spanning the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions¹ are:

- 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 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 development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation

¹ Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

and referred to in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.² It states that:

- The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

The examiner is also required to check³ whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁴

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a 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.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Herefordshire Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

² Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

³ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

⁴ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

3.0 The examination process

I have set out my remit earlier in the previous section. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).⁵

PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁶ Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required.

PPG⁷ explains that it is expected that the examination will not include a public hearing. Rather the examiner should reach a view by considering written representations. Where an examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, then a hearing must be held.⁸

I sought clarification on a number of matters from the Group Parish Council and HC in writing and my list of questions is attached to this report as Appendix 2. I am very grateful to both Councils who have provided me with comprehensive answers to my questions. The responses received (all publicly available) have enabled me to examine the Plan without the need for a hearing.

Last year NPIERS published guidance to service users and examiners. Amongst other matters, the guidance indicates that the qualifying body will normally be given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage should they wish to do so. There is no obligation for a qualifying body to make any comments; it is only if they wish to do so. It transpired at a late stage in the examination that the Group Parish Council was unaware that there was this opportunity and so an opportunity was extended. The Group Parish Council took the opportunity to make comments.

I am very grateful to everyone for ensuring that the examination has run smoothly.

I made an unaccompanied site visit to familiarise myself with the Plan area on 24 October 2019.

Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

⁵ PPG para 055 ref id 41-055-20180222

⁶ Ibid

⁷ Ibid para 056 ref id 41-056-20180222

⁸ Ibid

As a result of some modifications consequential amendments may be required. These can include changing section headings, amending the contents page, renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Plan and so on.

I regard these as primarily matters of final presentation and do not specifically refer to such modifications, but have an expectation that a common sense approach will be taken and any such necessary editing carried out and the Plan's presentation made consistent.

4.0 Neighbourhood plan preparation

A Consultation Statement has been submitted. It meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012.

Work began on the Plan in 2016 with a Steering Group meeting for the first time in November 2016. Both Councillors and representatives from Titley and Staunton-on-Arrow made up the Steering Group. Meetings were open to the public.

Two drop in events were held in May 2017 and publicised via flyers to all households and information in the Parish magazine, on the Parish Council website and on noticeboards. 56 attended; a good number.

As well as gathering initial issues of concern, the events helped to shape the residents survey. This was undertaken in July 2017. Copies were hand delivered to all households and collected by hand by volunteers. This resulted in a good response rate of just over 61%. Two reports were produced analysing the results which were shared in a newsletter to the community.

A 'Call for Sites' was undertaken resulting in 14 sites coming forward. A Housing Site Assessment was undertaken by the Group's planning consultant. This recommended five sites for allocation and put forward settlement boundaries. Three open sessions were held in May and June 2018 to seek views. Reports were then prepared of these sessions.

Pre-submission consultation was held between 3 December 2018 – 28 January 2019, sensibly allowing more time over the Christmas period. As well as being available online, copies of the draft Plan were distributed to all households and businesses in the Plan area. Emails were sent to consultation bodies and other organisations. Copies were available at Kington Customer Service Centre.

Two drop-in events were held during the Regulation 14 period.

Throughout the process there has been a dedicated tab on the Group Parish Council website and use made of noticeboards, flyers and newsletters.

I consider that the consultation and engagement carried out is satisfactory. Submission (regulation 16) consultation was held between 21 May – 2 July 2019.

The Regulation 16 stage resulted in 12 representations including a late response from Natural England. I have considered the representations and taken them into account in preparing my report.

5.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

Qualifying body

Titley Group Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. The Group Parish Council covers the Parishes of Titley; Knill; Rodd; Nash and Little Brampton; and Staunton-on-Arrow. This requirement is satisfactorily met.

Plan area

The Plan area is the whole of the Group Parish area which is shown on Plan 1 on page 3 of the Plan. HC approved the designation of the area on 14 July 2016. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements.

Plan period

The Plan period is 2011 – 2031; this is clearly stated on the front cover of the Plan and confirmed in the Basic Conditions Statement. This requirement is therefore met. These dates align with the time period for the Core Strategy.

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the Basic Conditions Statement.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be clearly differentiated. This is because wider community aspirations than those relating to development and use of land can be

included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.⁹ In this case, the Plan has clearly set out and separated community actions.

6.0 The basic conditions

Regard to national policy and advice

The Government published a National Planning Policy Framework (NPPF) in 2012. On 24 July 2018, a revised NPPF was published. On 19 February 2019, the revised NPPF was updated and replaces the previous NPPF published in March 2012 and revised last July.

Paragraph 214 in Annex 1 of that document explains that:

“The policies in the previous Framework published in March 2012 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.”

Footnote 69 explains that for neighbourhood plans “submission” means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.

The Plan was submitted on 15 May 2019. It is therefore clear that it is the NPPF published in February 2019 that is relevant to this particular examination.

The NPPF is the main document that sets out national planning policy. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the delivery of strategic policies and should shape and direct development outside of these strategic policies.¹⁰

Non-strategic policies are more detailed for specific areas, neighbourhoods or types of development.¹¹ They can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment as well as set out other development management policies.¹²

⁹ PPG para 004 ref id 41-004-20170728

¹⁰ NPPF para 13

¹¹ Ibid para 28

¹² Ibid

The NPPF also makes it clear that neighbourhood plans should not promote less development than that set out in strategic policies or undermine those strategic policies.¹³

The NPPF states that all policies should be underpinned by relevant and up to date evidence; evidence should be adequate and proportionate, focused tightly on supporting and justifying policies and take into account relevant market signals.¹⁴

Policies should also be clearly written and unambiguous so that it is evident how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area including those in the NPPF.¹⁵

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at www.gov.uk/government/collections/planning-practice-guidance which is regularly updated. The planning guidance contains a wealth of information relating to neighbourhood planning. I have also had regard to PPG in preparing this report.

PPG indicates that a policy should be clear and unambiguous¹⁶ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the planning context and the characteristics of the area.¹⁷

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹⁸ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.¹⁹

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan aligns with the NPPF clearly and thoroughly.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development.

The NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development.²⁰ This means that the planning system has

¹³ NPPF para 29

¹⁴ Ibid para 31

¹⁵ Ibid para 16

¹⁶ PPG para 041 ref id 41-041-20140306

¹⁷ Ibid para 041 ref id 41-041-20140306

¹⁸ Ibid para 040 ref id 41-040-20160211

¹⁹ Ibid

²⁰ NPPF para 7

three overarching and interdependent objectives which should be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives.²¹ The objectives are economic, social and environmental.²²

The NPPF confirms that planning policies should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account to reflect the character, needs and opportunities of each area.²³

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains a series of tables which usefully explain how the Plan aligns with each of the three components of sustainable development outlined in the NPPF.

General conformity with the strategic policies in the development plan

The development plan consists of the Herefordshire Local Plan Core Strategy 2011 – 2031 (CS) which was adopted on 16 October 2015 and various other documents including the saved policies of the Unitary Development Plan (UDP) (found in Appendix 1 of the CS). I have taken all the CS policies to be ‘strategic’.

Whilst this has formed part of my own assessment, the Basic Conditions Statement offers a helpful assessment of how each Plan policy generally conforms to the relevant CS policies.

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG²⁴ confirms that it is the responsibility of the local planning authority, in this case HC, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It is HC who must decide whether the draft plan is compatible with EU obligations when it takes the decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

²¹ NPPF para 8

²² Ibid

²³ Ibid para 9

²⁴ PPG para 031 ref id 11-031-20150209

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR).

An Environmental Report (ER) dated May 2019 has been submitted as the initial screening assessment of June 2016 indicated a SEA was needed.

The ER confirms that a Scoping Report dated February 2017 was prepared and sent to the statutory consultees from 21 February – 28 March 2017. A response was received from Natural England.²⁵

A draft ER underwent a period of consultation alongside the pre-submission version of the Plan. Natural England responded but did not offer any substantive comments.²⁶

Following the Regulation 14 stage, changes were made to the Plan. The ER of May 2019 includes a review of the revisions.

The ER concludes that the Plan "...is in general conformity with both national planning policy...and strategic policies...It does not propose any growth that would be over and above the growth prescribed by strategic policies...".²⁷ It was published for consultation alongside the submission version of the Plan.

HC will monitor the outcomes from the Plan's policies annually.

The ER is a comprehensive document that has dealt with the issues appropriately for the content and level of detail in the Plan. This in line with PPG advice which confirms the SEA does not have to be done in any more detail or using more resources than is considered to be appropriate for the content and level of detail in the Plan.²⁸ In my view, it has been prepared in accordance with Regulation 12 of the Regulations.

Therefore EU obligations in respect of SEA have been satisfied.

Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a

²⁵ ER Appendix 3

²⁶ Ibid Appendix 7

²⁷ Ibid Non-technical summary

²⁸ PPG para 030 ref id 11-030-20150209

European site, either alone or in combination with other plans or projects.²⁹ The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

A HRA dated May 2019 has been submitted. This explains that an initial screening undertaken in June 2016 concluded that a full HRA screening would be needed. This was because the Plan area falls within the hydrological catchment area of the Rivers Lugg and Arrow. And therefore falls within the River Wye (including the River Lugg) Special Area of Conservation (SAC).

The HRA concludes that the Plan “will not have a likely significant effect”³⁰ on the European site. This related both to alone and in combination effects.

On 28 December 2018, the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) was substituted by a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

Given the nature and characteristics of the SAC concerned and the nature and contents of this Plan, I consider that the requisite requirements have been met and that the prescribed basic condition is complied with.

National guidance establishes that the ultimate responsibility for determining whether a plan meets EU obligations lies with the local planning authority.³¹ In undertaking work on HRA, HC has considered the compatibility of the Plan in regard to EU obligations, including with the Water Framework Directive, and does not raise any concerns in this regard.

European Convention on Human Rights (ECHR)

The Basic Conditions Statement contains a statement in relation to human rights. There is nothing in the Plan that leads me to conclude there is any breach of the fundamental rights and freedoms guaranteed under the ECHR or that the Plan is otherwise incompatible with it or does not comply with the Human Rights Act 1998.

²⁹ PPG para 047 ref id 11-047-20150209

³⁰ HRA Report May 2019 para 9.1

³¹ PPG para 031 ref id 11-031-20150209

7.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. Where I suggest specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is presented well. There are 15 policies and a section of community actions. It starts with a useful contents page. HC has suggested each individual policy should be listed in the contents page. This is a useful suggestion which I commend to the Group Parish Council, but is not a modification needed in respect of my remit.

1. Setting the scene

This is a helpful introduction to the Plan that takes the reader through the various sections of the Plan and signposts where to find supporting information. It sets out the rationale for the Plan and how it fits into national and local planning policy.

2. Titley Group Neighbourhood Area

This is an informative and well-written section that set outs a wealth of useful information about the Plan area. It sets the scene well for the Plan.

3. Achieving sustainable development in Titley Group

This section explains the premise of the Plan.

Vision

The clearly articulated vision for the area is:

“By 2031, The Titley Group of parishes will be:

- A home for thriving and distinct local communities, where the needs of all ages (including those of the younger generation) for both housing and local employment can be met;
- A place where high-quality and sustainable community services, infrastructure and transport are available, with additional provision delivered by or in step with new development; and
- A location which supports successful and environmentally-sustainable farming

enterprises and other small businesses, home working, flexible working and self-employment; and

- A sustainable rural environment where the character of the villages, the natural beauty of the landscape, wildlife and historic heritage are conserved and enhanced, providing an attractive and peaceful countryside for all to enjoy.”

Objectives

The vision is supported by a number of objectives grouped under the headings of housing and settlements, economic and social development and environment. All are articulated well and will help to deliver the vision.

Sustainable development

Policy TG1: Sustainable development

The Plan focuses on how it might deliver sustainable development recognising that the three aspects of sustainable development are mutually dependent. Policy TG1 sets out five key objectives that seek to help deliver sustainable development in the Group Parish. It is a positive policy that takes account of national policy and guidance,³² reflects the principles in the CS including CS Policy SS1 and helps to achieve sustainable development. This clearly worded policy meets the basic conditions and no modifications are therefore recommended.

4. Housing needs and requirements

It is useful for me to set out the strategic context for the Plan.

The strategy for the rural areas in the CS³³ is positive growth. CS Policies SS2 and RA1 Indicate that 5,300 dwellings will be delivered throughout the rural housing market areas (HMA).

The strategy is based on seven HMAs. This Plan area falls within the Kington HMA. This HMA has an indicative housing growth target of 12% according to CS Policy RA1. This equates to 23 dwellings in the Plan area over the Plan period.

The CS explains that this indicative growth target in CS Policy RA1 will form the basis for the minimum level of new housing to be accommodated in each neighbourhood plan across the County.

³² NPPF in particular Section 2

³³ Core Strategy Section 4.8

The main focus for development is within or adjacent to existing settlements listed in two figures, 4.14 and 4.15. CS Policy RA2 translates this into policy. Titley is identified in Figure 4.14 as a settlement which will be the main focus of proportionate housing development. Staunton-on-Arrow is identified in Figure 4.15 as a settlement where proportionate housing is appropriate.

The CS explains that where there is more than one settlement listed in Figures 4.14 and 4.15, there is the appropriate flexibility to apportion the minimum housing requirement between the settlements concerned.³⁴ The CS continues that this will allow for a locally flexible approach that respects settlement characteristics, the distribution of local facilities and other local factors.

The housing growth target is at least 23 dwellings. Table 1 of the Plan³⁵ shows five completions since 2011, 16 commitments (as at 1 April 2018), allocations in the Plan of 13 and a windfall allowance of 16. Together these total 50 units; a figure which exceeds the housing growth target and one that represents a positive approach to growth.

However, I do have some concern over the windfall allowance put forward. Whilst I can see it is based on historic figures and the figure allowed for is reasonable numerically and the introduction of new settlement boundaries for Titley and Staunton-on-Arrow is welcomed, both boundaries have been relatively tightly drawn. I saw relatively few obvious opportunities within the boundaries as put forward for windfall sites. HC has also made a similar point in its representations. I appreciate some housing is likely to come through the rural areas policies. I deal with this matter further in my discussion of Policy TG5.

A 'Call for Sites' and a Housing Site Assessment have been undertaken.

The CS explains that settlement boundaries for settlements identified in CS Policy RA2 will be defined in neighbourhood plans or the Rural Areas Sites Allocation Development Plan Document. Once a settlement boundary is defined, CS Policy RA3 will apply to land outside of settlements.

CS Policy RA3 applies to rural areas and restricts housing development to certain categories including agricultural or other rural workers, replacement dwellings, reuse of existing buildings, rural exception housing, design of exceptional quality or gypsy and traveller sites.

Policy TG2: Housing needs and requirements

This policy sets out how the housing requirement will be met in the Plan area. This will be achieved through site allocations in Titley and Staunton-on-Arrow, defining settlement boundaries for Titley and Staunton-on-Arrow and through development

³⁴ Core Strategy paragraph 4.8.21

³⁵ The Plan page 14

permitted via CS Policy RA3. It seeks to ensure that housing is of a type and size that meets local needs. It supports live/work units and self build housing.

The policy approach and wording reflects the NPPF in that it seeks to boost the supply of housing, considers small sites and is responsive to locally identified needs.³⁶ It is in general conformity with the CS and CS Policies SS2, RA2, RA3, RA4, and RA5 in particular. It will help to achieve sustainable development. It therefore meets the basic conditions. No modifications are therefore proposed.

Rural exception housing

Policy TG3: Rural exception housing

The Plan positively seeks to provide affordable housing through rural exception sites recognising the identified need in the Kington HMA and that the nature of the Plan area's settlements and proposed allocations are unlikely in themselves to bring forward any.

Policy TG3 supports rural exception sites cross referencing CS Policy H2 which deals with such proposals explaining that sites should meet local needs, remain in perpetuity as affordable housing and be in a suitable location and respect character and appearance. It permits some market housing to subsidize any such schemes as long as it is satisfactorily demonstrated that the scale of market housing is required to deliver the scheme.

The policy seeks to direct any such sites towards Titley and failing that Staunton-on-Arrow.

The policy is clearly worded, has regard to the NPPF,³⁷ is in general conformity with the CS and in particular CS Policies SS2, RA3 and H2 and helps to achieve sustainable development. It meets the basic conditions. No modifications are recommended.

5. Land for housing in Titley

Land at Titley Farm

Policy TG4: Land at Titley Farm

The site comprises some 0.35 hectare of land north of Titley Farm. It is proposed for about six market housing units to meet local needs and a recreational open space for

³⁶ NPPF paras 59, 61, 68, 69, 70, 77, 78

³⁷ Ibid para 77

the community. An existing farm track on the site's north eastern boundary would provide access from the B4355.

The site is shown clearly on Plan 4. This divides the site into two specific areas for housing and open space. The Plan seeks a holistic planning application for the uses and suggests a planning obligation to deliver and maintain the open space element.

Planning obligations should only be sought where they meet the statutory tests³⁸ which are also set out in the NPPF.³⁹ The tests are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. I do not consider that a planning obligation would necessarily meet these tests without further consideration. A modification is made to address this point and to clearly allocate the site for the mix of uses envisaged.

The site allocation seeks to ensure that the supply of housing is boosted and local needs taken into account whilst providing a new community facility. With these modifications, it will meet the basic conditions.

- **Change the first sentence of the policy to read: “Land at Titley Farm as shown on Plan 4 is allocated for a *mixed use scheme of housing development* for around six dwellings and recreational open space.”**
- **Change criterion 7. to read: “*the provision of the recreational open space and its maintenance will be satisfactorily secured prior to any grant of planning permission.*”**
- **Add the words “*or otherwise suitable legal mechanism*” after “planning obligation” in paragraphs 5.5 and 5.6 on pages 17 and 18 of the Plan**

Titley settlement boundary

Policy TG5: Titley settlement boundary

The Plan explains that the built up area of Titley comprises two elements separated by a large triangle of land known as Stagg Meadow. The proposed settlement boundary therefore comprises two areas; this is acceptable given the nature of the settlement albeit with some revision.

Firstly, the settlement boundary does not include a permitted scheme at Balance Farm, Eywood Lane for five dwellings (reference P160381/O). Whilst the Plan does not support development there, the development has been permitted. HC's Guide to Settlement Boundaries (Revised June 2015) indicates that it is advisable to include sites

³⁸ Regulation 102 Community Infrastructure Levy Regulations 2010 as amended by CIL (Amendment) (England) (No 2) Regulations 2019

³⁹ NPPF para 56

that have received planning permission. Whilst the Group Parish Council have indicated they interpreted this guidance as sites with reserved matters approval, I take a different view as the principle has been approved and such guidance is generally taken to mean this more widely. I consider it is therefore important to include this site. I am also mindful that the site has been included within the commitments figures for the Plan which reinforces my view.

To include the Balance Farm site would then leave an odd parcel of land adjacent to it. Whilst I appreciate there is planning history to this land, including a planning application for five dwellings which was dismissed on appeal (reference P162824/O), I note that the Guide to Settlement Boundaries indicates that physical boundaries should be used where appropriate and that boundaries should include buildings and land which make up the village form. I consider that it would be appropriate to include this land within the settlement boundary. I appreciate this recommendation will be controversial with the community, but for me to recommend otherwise and leave this land out of the settlement boundary would not promote the proper planning of this area as it would leave an isolated and irregular piece of land and an oddly shaped settlement boundary which would not reflect the physical features on the ground.

The inclusion of the land in the settlement boundary does not in itself mean that development on this site would be acceptable. Indeed the Guidance Note rightly indicates that inclusion within a settlement boundary does not guarantee any planning permission and there are other policies which ensure that the character and form of the village are respected. In addition, this modification will appease any concerns over the windfall allowance made in the Plan; whilst based on historic figures, HC makes the point that there appear to be limited opportunities for infilling within the settlement boundary. I agree with this assessment and whilst appreciating windfalls may come from other sources, the extension to the settlement boundary will address HC's point on this matter.

With a modification to the settlement boundary, and those required as a consequence, the policy will meet the basic conditions.

- **Change the extent of the settlement boundary for Titley on Plan 4 by including the site with planning permission at Balance Farm, Eywood Lane (reference P160381/O) and the adjacent site subject to reference P162824/O [please note I use the planning application number simply to identify the extent of the land to be included within the settlement boundary]**
- **Delete paragraph 5.9 on page 19 of the Plan**
- **Consequential amendments will be needed including to Plan 4 and the Policies Maps**

6. Land for housing in Staunton-on-Arrow

Land opposite Old Court Cottage/Newton, Staunton-on-Arrow

Policy TG6: Land opposite Old Court Cottage/Newton, Staunton-on-Arrow

The site is allocated for a mix of housing and a village green and car park. Approximately five units will be provided. The site of some 1.4 hectares forms part of a commercial orchard site. There are residential properties opposite the site. Access would be gained from an existing access.

The site is clearly shown on Plan 5. The policy seeks to locate the dwellings to the rear of this site orientated towards the proposed village green. I note that the Housing Site Assessment (April 2018) indicates the dwellings should be sited to the east of the site. Given the predominately linear form, there is potential for the proposed allocation to alter the character of the settlement. There may be some confusion about what constitutes the rear of the site. I therefore asked the Group Parish Council to clarify the meaning and their response has been helpful. A modification is made to address this point and to add clarity to the policy.

Otherwise the policy clearly sets out the expectations and requirements for the development of this site in a manner acceptable to the community. However, in line with my comments in relation to Policy TG4, a modification is made in respect of the planning obligation requirement. With these modifications, the policy will meet the basic conditions.

- **Change criterion 3. to read: “the new dwellings are sited to the *north east* of the site...” [retain the remainder of the criterion as is]**
- **Change criterion 9. to read: “*the provision of the community open space and its maintenance will be satisfactorily secured through an appropriate legal mechanism prior to any grant of planning permission.*”**
- **Add the words “*or otherwise suitable legal mechanism*” after “planning obligation” in paragraphs 6.8 and 6.9 on pages 21 and 22 of the Plan**

Small sites at Staunton-on-Arrow

Policy TG7: Small sites at Staunton-on-Arrow

Two sites; land west of Jacobs Oak and land east of the Old Vicarage are identified for the development for one dwelling in this policy and the sites concerned shown clearly on Plan 5. Both sites have rightly been included in the settlement boundary proposed for Staunton-on-Arrow.

In my view the sites are potentially capable of accommodating more than one unit with careful and sensitive design without detriment to the character and appearance of the settlement. By restricting development to one unit on these sites may therefore prevent the achievement of sustainable development. A modification is made to this policy to address this.

With this modification, the policy will reflect national policy and guidance's encouragement to smaller sites⁴⁰ and help meet the CS's housing requirements. It would not prevent one dwelling on each site to come forward, but also allows greater flexibility should a specific scheme be found acceptable.

- **Change the policy to read: “Proposals for the development of the following sites for *carefully designed small scale housing development of high quality that respects and reflects the character of the settlement and surrounding context as shown on Plan 5 will be supported:***

[retain numbered list as is]”

Staunton-on-Arrow settlement boundary

Policy TG8: Staunton-on-Arrow settlement boundary

The supporting text to this policy rightly identifies Staunton-on-Arrow are being linear in form with no development in depth. The inclusion of the proposed allocation and its requirements may result in development that alters this character somewhat, but may also be one of the few opportunities to provide a community open space. Whilst the settlement boundary is fragmented, I consider it is drawn appropriately.

The policy is clearly worded. It meets the basic conditions and will particularly help to achieve sustainable development and meet the CS's housing requirements. No modifications are therefore recommended.

7. Economic and social development

Economic development in Titley Group

Policy TG9: Economic development in Titley Group

Employment in the Group Parish is in a variety of sectors; mixed farming, small businesses, local services and home working. Self employment is significant and notably higher than the County wide figures.

⁴⁰ NPPF paras 68, 69, 78

This policy supports proposals which generate employment where they are of an appropriate type, scale and nature in relation to their location and setting; both within the settlement boundaries for Titley and Staunton-on-Arrow and in the countryside beyond.

Five criteria are included within the policy which particularly supports the reuse of rural buildings for business and live/work units, the extension of existing premises, home working, the development and diversification of rural land-based business and tourism and leisure proposals.

Two modifications are necessary to bring the policy in line with the NPPF's support for economic growth in rural areas and for sustainable tourism and leisure developments that benefit the local community and visitors.

The first modification is to remove the word "redundant" from the criteria as the NPPF does not distinguish between rural buildings which are redundant or not.⁴¹

The second is to add support for new buildings.⁴² The policy is a local expression of and in line with the general thrust of CS Policies SS5, RA5, RA6, E1, E3 and E4. With these modifications, the policy will help to achieve sustainable development and meet the basic conditions.

- **Delete the word "redundant" from criterion 1. of the policy**
- **Add the words "...and well designed new buildings..." after "...rural buildings..." in the first criterion of the policy**

Infrastructure

Policy TG10: Infrastructure

The Plan considers a number of issues raised by the community during the evolution of the Plan. It explains carefully and very well those issues which are not able to be included as planning policies as they are not development and use of land related and those that will become community actions for the Group Parish Council to take further.

Policy TG10 covers two issues; the first is telecommunications. The infrastructure for both home and business use is supported. This is in line with the NPPF's support for high quality communications infrastructure⁴³ and is a local expression of CS Policies SS5 and MT1.

⁴¹ NPPF para 83

⁴² Ibid

⁴³ Ibid Section 10

The second element of the policy relates to walking, cycling and public transport infrastructure. By encouraging other modes of transport and enhancing walking and cycling networks, the policy reflects the NPPF⁴⁴ and promotes sustainable transport.

The policy is clearly worded and meets the basic conditions. As a result no modifications are recommended.

Renewable energy

Policy TG11: Renewable energy

Renewable energy schemes, including community-led renewable energy proposals, are supported by this policy subject to acceptable effects on the natural and historic environments, amenity and highway safety and capacity.

The policy is clearly worded and is a local expression that takes account of the NPPF's drive to meet the challenge of climate change and can be viewed as a positive strategy promoting such energy whilst ensuring that adverse impacts are satisfactorily addressed.⁴⁵ It generally conforms to CS Policy SD2 adding detail to it at the local level and will help to achieve sustainable development. It meets the basic conditions and no modifications are recommended.

Community facilities

Policy TG12: Community facilities

This policy supports provision for new community facilities in Titley and Staunton-on-Arrow and supports the enhancement of existing facilities. It refers to the co-location of services to assist with viability considerations. It is flexible with respect to diversification that will enable or increase viability of services and facilities.

It is a clearly worded policy. It takes account of the NPPF⁴⁶ which promotes the retention, and development, of local services and community facilities. It generally conforms to CS Policy SC1 in particular which protects, retains and enhances existing social and community infrastructure. It will help to achieve sustainable development. As a result the policy meets the basic conditions and no modifications are suggested.

⁴⁴ NPPF Section 9, paras 102, 104

⁴⁵ Ibid paras 148, 151, 152

⁴⁶ Ibid paras 83, 84, 92

8. Environment

Natural environment

Policy TG13: Natural environment

A variety of natural environment features are to be found in or near the Plan area. These include the Flintsham and Titley Pools Site of Special Scientific Interest, local wildlife sites and ancient woodland as well as deciduous woodland, wood pasture, traditional orchards and parkland. In addition the Plan area falls within the catchment areas of the Rivers Wye and Lugg. The Plan recognises the importance of green infrastructure and the interconnectivity between habitats.

The policy seeks to ensure that any proposals protect, conserve and enhance the natural environment and makes reference to CS Policies SD3, SD4, LD1, LD2 and LD3.

It has five criteria; all are clearly worded. I note HC's concern about "important views" referred to in criterion 5. These are referred to in the supporting text in paragraph 8.4. Whilst I understand the desire for greater certainty and usually ask that any such views are indicated on a map, in this case given the topography and landscape of the Plan area, this would be difficult to do successfully. I saw at my visit that views of the features identified were many and varied, often long distance and of 180 degrees. Therefore somewhat unusually, I consider that this criterion has sufficient clarity in these very particular circumstances.

The NPPF is clear that the planning system should contribute to and enhance the natural and local environment.⁴⁷ Criterion 3. of the policy recognises that a distinction should be made between the hierarchy of international, national and locally designated sites so that protection is commensurate with their status as the NPPF advises.⁴⁸

The policy takes account of national policy and guidance. It generally conforms to CS Policies SS6, SD3, SD4, LD1, LD2 and LD3 and will help to achieve sustainable development. Therefore it meets the basic conditions and no modifications are recommended.

Historic environment

Policy TG14: Historic environment

There are a number of designated heritage assets in the Plan area including various listed buildings and scheduled ancient monuments. There are also an unregistered

⁴⁷ NPPF para 170, 171, 174

⁴⁸ Ibid paras 170, 171

parks and gardens at Titley Court and Staunton Park. The Plan explains that historic farmsteads are a notable feature.

This policy seeks to ensure that development proposals take account of the heritage assets and their settings in the Plan area. The NPPF is clear that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.⁴⁹ CS Policy LD4 addresses the historic environment and makes a reference to their significance which aligns with the stance taken by the NPPF. The policy has three criteria which reflect the stance taken in the NPPF.

The policy is clearly worded, takes account of national policy and guidance, reflects CS Policies SS6 and LD4 in particular and will help to achieve sustainable development. It meets the basic conditions and no modifications are recommended.

Design and access

Policy TG15: Design and access

This policy seeks to add a local level of detail to CS policies. Of particular concern to the community is the need for new development to be in keeping with its surroundings and for access to be carefully considered for its wider impacts on character.

The policy has seven criteria. All are aimed at ensuring that new development is of a high standard and is appropriate in its setting and respects the character of the area.

The NPPF states that good design is a key aspect of sustainable development.⁵⁰ It explains that neighbourhood plans play an important role in explaining how the special qualities of an area should be reflected in development.⁵¹ The policy takes account of national policy and guidance. It reflects CS Policies SS4, SS6, MT1 and SD1 in particular whilst seeking to address areas of concern in the locality. It will help to achieve sustainable development. It meets the basic conditions and no modifications are recommended.

9. Delivering the Neighbourhood Development Plan

This section explains how the Plan will be used. It sets out how the Group Parish Council will seek to implement the Plan's objectives including through proactive working with applicants. This is a useful way of bringing the Plan together and linking back to the Plan's vision and objectives.

⁴⁹ NPPF para 184

⁵⁰ Ibid para 124

⁵¹ Ibid para 125

Community actions

Seven community actions are identified in Table 3 of the Plan.⁵² This section explains that these relate to matters which cannot be addressed through development and use of land policies, but nevertheless are important to the achievement of the Plan's vision and objectives.

Appendices

There are three appendices. Appendix A is a list of the evidence base. Appendix B is a list of relevant national and local planning policies. Appendix C is a table of dwelling completions and commitments. Given the presentation of the Plan, all are helpful in this particular instance.

8.0 Conclusions and recommendations

I am satisfied that the Titley Group Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Herefordshire Council that, subject to the modifications proposed in this report, the Titley Group Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the Plan should proceed to a referendum based on the Titley Group Neighbourhood Plan area as approved by Herefordshire Council on 14 July 2016.

Ann Skippers MRTPI
Ann Skippers Planning
23 December 2019

⁵² Page 37 of the Plan

Appendix 1 List of key documents specific to this examination

Neighbourhood Development Plan 2011 – 2031 Submission Draft April 2019

Basic Conditions Statement May 2019

Consultation Statement April 2019

Environmental Report May 2019

Habitats Regulations Assessment Report May 2019

Titley village Policies Map

Staunton-on-Arrow Policies Map

Herefordshire Core Strategy 2011-2031 October 2015 and Appendices

Saved Policies of the Unitary Development Plan 2007

Documents referred to in Appendix A of the Plan and on the Group Parish Council website <https://titleygroup-pc.gov.uk> including the Housing Site Assessment (April 2018)

Group Parish Council comments on Regulation 16 representations

List ends

Appendix 2 Questions from the examiner

Titley Neighbourhood Plan Examination

Questions of clarification from the Examiner to the Group Parish Council and HC

Having completed my initial review of the Neighbourhood Plan (the Plan), I would be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information. Please do not send or direct me to evidence that is not already publicly available.

1. Policy TG4, Land at Titley Farm. What work has been done with the landowner to help ensure the site is deliverable in the manner envisaged (i.e. mix of housing and open space)?
2. Policy TG5, Titley Settlement Boundary. A number of queries arise:
 - a. Please send me brief factual information about the Balance Farm site including a plan of the site with planning permission for five housing units and any other relevant planning history including on adjacent sites. Without prejudice, if I were minded to recommend the inclusion of both these parcels of land in the settlement boundary, does the GPC have any comment on this?
 - b. Should the Village Hall and car park be included in the settlement boundary?
3. Policy TG6, Land opposite Old Court Cottage/Newton.
 - a. Criterion 3. of the policy requires the new dwellings to be sited to the rear of the site. I note the Housing Site Assessment Report refers to the east of the site. Please could the GPC provide a rough/indicative plan of the area intended for housing (for my benefit)? What modification might I make to the policy to ensure that the location of the proposed housing is clear?
 - b. What work has been done with the landowner to help ensure the site is deliverable in the manner envisaged (i.e. mix of housing and village green)?

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this list of clarification questions is a public document and that your answers will also be in the public domain. Both my questions and your responses should be placed on the Councils' websites as appropriate.

With many thanks.
Ann Skippers
29 October 2019