

Herefordshire Council

**Madley**  
**Neighbourhood Development**  
**Plan 2011 - 2031**

**Independent Examiner's Report**

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3 September 2020

## Contents

	<b>Summary</b>	<b>3</b>
<b>1.0</b>	<b>Introduction</b>	<b>4</b>
<b>2.0</b>	<b>The role of the independent examiner</b>	<b>4</b>
<b>3.0</b>	<b>The examination process</b>	<b>6</b>
<b>4.0</b>	<b>Neighbourhood plan preparation</b>	<b>7</b>
<b>5.0</b>	<b>Compliance with matters other than the basic conditions</b>	<b>8</b>
<b>6.0</b>	<b>The basic conditions</b>	<b>9</b>
	<i>National policy and advice</i>	9
	<i>Sustainable development</i>	10
	<i>The development plan</i>	10
	<i>European Union (EU) obligations</i>	11
	<i>European Convention on Human Rights (ECHR)</i>	13
<b>7.0</b>	<b>Detailed comments on the Plan and its policies</b>	<b>13</b>
	1. <i>Setting the scene</i>	13
	2. <i>Madley Neighbourhood Area</i>	13
	3. <i>Achieving sustainable development in Madley</i>	14
	- <i>Policy M1</i>	14
	4. <i>Housing</i>	14
	- <i>Policy MH1</i>	14
	- <i>Policy MH2</i>	15
	- <i>Policy MH3</i>	16
	- <i>Policies MH4 and MH5</i>	17
	5. <i>Environment</i>	18
	- <i>Policies ME1 and ME2</i>	18
	- <i>Policy ME3</i>	19
	6. <i>Business and the local economy</i>	20
	- <i>Policies MB1 and MB2</i>	20
	- <i>Policies MB3 and MB4</i>	21
	7. <i>Social and community infrastructure</i>	22
	- <i>Policies MSC1 and MSC2</i>	22
	- <i>Policy MSC3</i>	23
	- <i>Policy MCS4</i>	24
	8. <i>Delivering the Neighbourhood Development Plan</i>	24
	<i>Appendices</i>	25
<b>8.0</b>	<b>Conclusions and recommendations</b>	<b>25</b>
	<b>Appendix 1 List of key documents</b>	<b>26</b>

## Summary

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

The Plan area comprises the Parish of Madley. Madley lies some six miles or so to the southwest of Hereford. It is bounded to the north by the River Wye and to the east by the course of a former Roman Road, Stone Street. The area is accessed by the B4352 and characterised by narrow rural roads.

Madley is the principal village, but there are several smaller scattered hamlets of Ludham, Canon Bridge, Shenmore, Cublington, Parkway and Brampton. The main village has a Church, primary school, store, a fish and chip shop, village hall and two public houses. With a population of around 1200 according to the Census 2011, the area is agricultural in nature with a high rate of self-employment.

The Plan is presented to a very high standard. It contains 17 policies covering a wide variety of topics. The Plan includes a site allocation and the designation of Local Green Spaces. The policies are firmly aimed at complementing higher tier policies rather than duplicating them. There is a welcome clarity of thinking. The policies are clearly written and will help to ensure that the vision and objectives of the Plan are met.

Unusually, it has not been necessary to recommend any modifications. Having examined well over a 100 neighbourhood plans, this is the first plan I have examined that has not needed any modifications. Everyone involved in the process of plan making is therefore to be congratulated. I commend the clarity of the Plan to others.

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 Madley 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  
3 September 2020



## 1.0 Introduction

This is the report of the independent examiner into the Madley 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 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 conditions<sup>1</sup> 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

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<sup>1</sup> 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.<sup>2</sup> 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 check<sup>3</sup> 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.<sup>4</sup>

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.

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<sup>2</sup> Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

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

<sup>4</sup> 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 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).<sup>5</sup>

PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.<sup>6</sup> 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.

PPG<sup>7</sup> 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.<sup>8</sup> Having carefully considered the documents and representations before me, I decided it was not necessary for me to hold a hearing.

In 2018, the Neighbourhood Planning Independent Examiner Referral Service (NPIERS) published guidance to service users and examiners titled *Neighbourhood Planning Independent Examiner Referral Service 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. The Parish Council made comments and I have taken these into account.

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 August 2020.

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

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<sup>5</sup> PPG para 055 ref id 41-055-20180222

<sup>6</sup> Ibid

<sup>7</sup> Ibid para 056 ref id 41-056-20180222

<sup>8</sup> Ibid

## 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. A Steering Group was established. Regular Steering Group meetings were held and were open to the public.

A number of consultation approaches were used. These included a dedicated tab for the Plan on the Parish Council website, items in the monthly community newsletter “Tracking the News” and use of noticeboards.

Drop-in events were held at key stages. A Community Workshop organised with the Duchy of Cornwall and the Prince’s Foundation also took place.

An “Issues and Options” stage was held to identify key issues and policy options. This stage used the results from a household survey conducted for the Parish Plan to help inform it. A consultation on this stage was held in November 2016. A drop-in event was held.

Following this stage, a ‘Call for Sites’ was undertaken in the early part of 2017. This resulted in 10 sites coming forward. After professional assessment, four sites were put forward for consultation alongside settlement boundary options. An open meeting was held in September 2018 and a drop-in event a month later. Option D emerged as the preferred site. The landowner, the Duchy of Cornwall, asked the Prince’s Foundation to run a Community Workshop to explore ideas for the site. This took place in January 2019 via a public meeting and a full day workshop. The output from the workshop has been the Madley Housing Manual.

Pre-submission (Regulation 14) consultation was held between 15 July – 9 September 2019. Flyers were distributed to households and businesses advertising the consultation stage. Copies of the Plan were available locally and on request. A drop-in event was held during the consultation period.

The consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was held between 18 December 2019 – 12 February 2020 with extra time allowed over the Christmas period. The Regulation 16 stage resulted in 12 representations. I have considered all of the representations made 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

Madley Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

### Plan area

The Plan area comprises the Parish of Madley. The Plan area is shown on Plan 1 on page 3 of the Plan. HC approved the designation of the area on 14 April 2015. 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 indicates that the period it covers is 2011 – 2031. 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.<sup>9</sup>

In this particular plan, non-planning matters have been included in the Plan as a separate section and titled community actions. This is a helpful way of approaching this division which I commend to others.

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<sup>9</sup> PPG para 004 ref id 41-004-20190509



## 6.0 The basic conditions

### Regard to national policy and advice

The Government published a National Planning Policy Framework (NPPF) in 2012. A revised NPPF was first published on 24 July 2018. This revised NPPF was further updated on 19 February 2019. When published, it replaced both the 2012 and 2018 documents.

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.<sup>10</sup>

Non-strategic policies are more detailed for specific areas, neighbourhoods or types of development.<sup>11</sup> 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.<sup>12</sup>

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.<sup>13</sup>

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.<sup>14</sup>

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.<sup>15</sup>

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](http://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.

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<sup>10</sup> NPPF para 13

<sup>11</sup> Ibid para 28

<sup>12</sup> Ibid

<sup>13</sup> Ibid para 29

<sup>14</sup> Ibid para 31

<sup>15</sup> Ibid para 16

PPG indicates that a policy should be clear and unambiguous<sup>16</sup> 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.<sup>17</sup>

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

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan and its policies align with the NPPF. This is a helpful and bespoke approach which I commend to others.

### **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.<sup>20</sup> This means that the planning system has 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.<sup>21</sup> The objectives are economic, social and environmental.<sup>22</sup>

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.<sup>23</sup>

Whilst this has formed part of my own assessment, the Basic Conditions Statement explains 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'.

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<sup>16</sup> PPG para 041 ref id 41-041-20140306

<sup>17</sup> Ibid

<sup>18</sup> Ibid para 040 ref id 41-040-20160211

<sup>19</sup> Ibid

<sup>20</sup> NPPF para 7

<sup>21</sup> Ibid para 8

<sup>22</sup> Ibid

<sup>23</sup> Ibid para 9

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

### **European Union Obligations**

A neighbourhood plan must be compatible with European Union (EU) obligations. A number of EU obligations may be of relevance for these purposes including in respect of Strategic Environmental Assessment, Environmental Impact Assessment, Habitats, Wild Birds, Waste, Air Quality and Water matters.

PPG<sup>24</sup> 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.

### ***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 November 2019 has been submitted as the initial screening assessment in March 2015 indicated a SEA was needed.

The ER confirms that a Scoping Report dated September 2016 was prepared and sent to the statutory consultees. Responses were received from the Environment Agency, Historic England and Natural England.

A draft ER underwent a period of consultation alongside the pre-submission version of the Plan. After this period, four policies were amended including significant changes to Policies MH5, ME2 and MB1. These three policies have been rescreened. This showed that the changes did not affect the overall conclusions made at the earlier stage.

The ER concludes that the Plan "...is in general conformity with both national planning policy...and strategic policies..." and "Overall the plan is positive and would have a positive impact upon the SEA baseline data."<sup>25</sup> It was published for consultation alongside the submission version of the Plan.

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<sup>24</sup> PPG para 031 ref id 11-031-20150209

<sup>25</sup> Environmental Report Non-technical summary

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.<sup>26</sup> 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 European site, either alone or in combination with other plans or projects.<sup>27</sup> The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

A HRA dated November 2019 has been submitted. This explains that an initial screening undertaken in March 2015 concluded that a full HRA screening would be needed. This was because the Plan area's northern boundary borders the River Wye/Lugg Special Area of Conservation (SAC) and the Plan area falls within the hydrological catchment of the River Wye (including the River Lugg) SAC.

The HRA concludes that the Plan "will not have a likely significant effect"<sup>28</sup> on the European site. This related both to alone and in combination effects. It also takes account of the changes made to four policies after the pre-submission consultation stage.

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. I also note that Natural England agreed with the conclusion of the draft report during the pre-submission consultation.<sup>29</sup>

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<sup>26</sup> PPG para 030 ref id 11-030-20150209

<sup>27</sup> Ibid para 047 ref id 11-047-20150209

<sup>28</sup> HRA Report November 2019 para 9.1

<sup>29</sup> Natural England 3 September 2019 as reported in the HRA November 2019 Appendix 2

### ***Conclusion on EU obligations***

National guidance establishes that the ultimate responsibility for determining whether a plan meets EU obligations lies with the local planning authority.<sup>30</sup> In undertaking work on SEA and 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. Having regard to the Basic Conditions Statement, there is nothing in the Plan that leads me to conclude there is any breach or incompatibility with Convention rights.

## **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 to a very high standard. There are 17 policies. It starts with a helpful contents page.

### **1. Setting the scene**

This is a helpful introduction to the Plan which sets out some background information, signposts the contents of the Plan to readers which helps readers find their way around the Plan and sets out the planning context for the Plan. It does so clearly and is well-written.

### **2. Madley Neighbourhood Area**

This is a well-written and informative section which provides a wealth of information about the Parish and its characteristics.

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<sup>30</sup> PPG para 031 ref id 11-031-20150209

### 3. Achieving Sustainable Development in Madley

Sustainable development underpins the Plan. This part of the document sets out what sustainable development means in, and for, the Plan area.

It sets out a clearly articulated vision for the area. This states:

“ In 2031, Madley will be a rural parish whose character has been protected and enhanced through incremental, appropriate and sustainable development, so that the quality of life for all in the community is maintained and improved.”

The vision is supported by five objectives covering housing, the environment, economy, infrastructure and a set of community actions. All are articulated well and will help to deliver the vision.

#### Policy M1: Sustainable development

The Plan focuses on how it might deliver sustainable development recognising that the three aspects of sustainable development are mutually interdependent. Policy M1 sets out five criteria that seek to help deliver sustainable development in the Plan area, placing emphasis on balancing what are sometimes conflicting objectives. It is a positive policy that takes account of national policy and guidance, reflects the principles in the CS and helps to achieve sustainable development. This clearly worded policy meets the basic conditions and no modifications are therefore recommended.

### 4. Housing

#### Policy MH1: Housing delivery

The strategy for the rural areas in the CS<sup>31</sup> 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 Hereford HMA. This HMA has an indicative housing growth target of 18% according to CS Policy RA1.

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. The indicative growth target equates to 89 dwellings within the neighbourhood plan area over the Plan period.

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<sup>31</sup> 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. Madley is identified in Figure 4.14 as a settlement which will be the main focus of proportionate housing development.

The Plan seeks to accommodate this growth by identifying a site allocation and defining a settlement boundary for Madley. A 'Call for Sites' has been undertaken to inform this development strategy. It explains that through a combination of completions since 2011, commitments, the proposed site allocation and a reasonable windfall allowance, the Plan seeks to accommodate some 94 dwellings over the Plan period. This is slightly more than the minimum proportional growth target.

Whilst I recognise that PPG indicates the allocation of reserve sites to help address emerging evidence of housing need can minimise potential conflicts and help to ensure policies in neighbourhood plans are not overridden by new local plans,<sup>32</sup> there is no obligation for neighbourhood plans to do this.

I am also mindful that HC has not objected to the Plan or its policies as not being in general conformity with the CS on this point.

Policy MH1 sets out this housing strategy. It does so in a clear way. It meets the basic conditions, particularly CS policies SS2, RA1 and RA2. No modifications are recommended.

## **Policy MH2: Land west of Archenfield, Madley**

This policy allocates a site on the western edge of the village for housing development. The site is clearly shown on Plan 4 on page 20 of the Plan.

A Community Workshop was held in January 2019 by the Prince's Foundation to discuss development of the site at the request of the landowner, the Duchy of Cornwall. The Plan includes an indicative sketch based on ideas discussed at the workshop. I welcome this creative approach and the inclusion of this sketch within the Plan document. I have taken this stage to be indicative of the commitment of the landowner to bring forward the site.

The policy allocates the site for around 22 dwellings. This is a flexible approach which will encourage a design-led scheme to come forward. The policy has seven criteria which guide any development on the site. These cover housing type and size, affordable housing provision, design and layout, landscape including the retention of a mature tree and access and footpath routes. Reference is made to the Madley Housing Manual. This was developed during the Community Workshop run by the Prince's Foundation.

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<sup>32</sup> PPG para 009 ref id 41-009-20190509, para 103 ref id 41-103-20190509

A representation has asked that a reference to cycling be included. Given the existence of the Housing Manual and the context of the site, I consider this is unnecessary in this instance.

The policy is clearly worded and will guide development on the site as it sets out the local community's expectations. It meets the basic conditions and no modifications are therefore suggested.

### **Policy MH3: Madley settlement boundary**

CS Policy RA2 supports sustainable housing growth in or adjacent to the settlements listed in Figures 4.14 and 4.15 of the CS. The CS explains that settlement boundaries for settlements identified in CS Policy RA2 will be defined in neighbourhood plans or in the Rural Areas Sites Allocation Development Plan Document. In the period leading up to the definition of appropriate settlement boundaries, development proposals will be assessed against their relationship to the main built up form of the settlements (if they are listed in Figures 4.14 or 4.15 of the CS).<sup>33</sup>

Once a settlement boundary is defined, CS Policy RA3 will apply to land outside of settlements. Therefore once a settlement boundary is defined, land outside it is regarded as countryside.

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 MH3 defines a settlement boundary for Madley. This principle is in line with the expectations set out in the CS. The boundary includes a site, land at Faraday House, that has planning permission for 37 dwellings as well as the proposed site allocation.

The settlement boundary is clearly shown on Plan 4 on page 20 of the Plan. I consider that the boundary has been drawn logically and in line with HC's Guidance Note 20 "Guide to settlement boundaries". HC has not raised any objection to the delineation.

Within the settlement boundary, the policy supports appropriate new housing echoing the thrust of CS Policy H3.

The policy is clearly worded. It meets the basic conditions and no modifications are recommended.

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<sup>33</sup> Core Strategy page 111



#### **Policy MH4: Type and size of housing**

This policy seeks to ensure new housing development provides for a mix of sizes, types and tenures to meet local needs which are specified in the policy. The local needs in the policy for smaller homes is borne out by HC's Local Housing Market Assessment 2013 which found that within the Hereford Housing Market Area, the greatest need is for 3 bed homes in relation to market housing and 2 bed, followed closely by 1 bed homes, for affordable housing.

Work on the Parish Plan and in response to the survey carried out as part of work on this Plan revealed a strong preference for a mix of homes particularly smaller units suited to people of all ages and across all tenures.

The requirement that any affordable housing should be integrated across the site is to be welcomed.

This is a clearly worded policy. It refers to the "latest assessment" of housing needs giving it sufficient flexibility to ensure it is both aspirational and deliverable.

The policy takes account of the NPPF's support for housing of different sizes, types and tenures to meet the needs of different groups,<sup>34</sup> is a local expression of CS Policy H3 in particular and will help to achieve sustainable development. It therefore meets the basic conditions. No modifications are put forward.

#### **Policy MH5: Housing in the wider countryside**

As previously mentioned, once a settlement boundary has been defined for a village, land outside it is then regarded as countryside. CS Policy RA3 sets out the development which will usually be acceptable.

Policy MH5 supplements CS Policy RA3 by supporting development in line with that CS policy but adding reference to landscape character and dark skies and citing a preference for poorer quality agricultural land over higher quality land.

The NPPF<sup>35</sup> is clear that development should be appropriate for its location and such considerations include the effect of light pollution from artificial light which can be a source of annoyance, harmful to wildlife and undermine enjoyment of the night sky<sup>36</sup> and recognising the benefits of the best and most versatile agricultural land as part of the wider enhancement of the natural environment.<sup>37</sup> The ER notes that most of the

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<sup>34</sup> NPPF para 61

<sup>35</sup> Ibid para 180

<sup>36</sup> PPG para 001 ref id 31-001-20191101

<sup>37</sup> NPPF para 170

land in the Plan area is Grade 2 with small areas of Grade 3 land, but there are significant areas of Grade 1 land in the Parish too.

The policy takes account of national policy and guidance, is in general conformity with the CS, supplementing CS Policy RA3 in particular and will help to achieve sustainable development. No modifications are therefore recommended.

## 5. Environment

### Policy ME1: Landscape character and wildlife

The Plan sets out the key features of the lowland landscape of the area. Principal Timbered Farmlands and Principal Settled Farmlands are prevalent to the north and south of Madley village respectively. There are meadows associated with the River Wye which bounds the northern part of the Plan area. A variety of natural environment features are found in or near the Plan area. These include the Cage Brook Valley Site of Special Scientific Interest, woodland and traditional orchards.

Policy ME1 seeks proposals to demonstrate that they 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. The NPPF is clear that the planning system should contribute to and enhance the natural and local environment.<sup>38</sup> 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.<sup>39</sup>

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

### Policy ME2: Building design

There is community support to encourage sustainable and locally distinctive design. Policy ME2 seeks to add a local level of detail to CS policies.

The policy is criteria-based. All are aimed at ensuring that new development is of a high standard and is appropriate in its setting respecting the character of the area. Modern

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<sup>38</sup> NPPF para 170

<sup>39</sup> Ibid paras 171, 175

design is supported where this takes an innovative approach and makes a positive contribution. It makes reference to the principles and guidance set out in the Madley Housing Manual.

I consider the policy takes account of the NPPF's emphasis on good design and its aims to create or reinforce a sense of place and to respond to local character and history.<sup>40</sup> In particular the policy clearly sets out the community's design expectations and explains how these should be reflected in development.<sup>41</sup>

It reflects CS Policies SS4, SS6, SS7, MT1, LD1 and SD1 in particular and will help to achieve sustainable development.

It meets the basic conditions and no modifications are recommended.

### **Policy ME3: Historic environment**

There are a number of designated heritage assets in the Plan area including the Grade I listed Church at Madley and numerous other listed buildings. There is also a scheduled ancient monument as well as an unregistered park and garden at Canon Bridge House.

The 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.<sup>42</sup> CS Policy LD4 addresses the historic environment and makes a reference to their significance which aligns with the stance taken by the NPPF.

This policy clarifies the stance taken by the NPPF<sup>43</sup> and the CS at the local level in relation to designated and non-designated heritage assets. It also has a criterion on historic farmsteads and agricultural buildings which is appropriate given their importance within the Plan area.

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 therefore meets the basic conditions and no modifications are recommended.

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<sup>40</sup> NPPF paras 124, 125, 127

<sup>41</sup> Ibid para 125

<sup>42</sup> Ibid para 184

<sup>43</sup> Ibid paras 193, 197

## 6. Business and the local economy

### Policy MB1: Madley Airfield

Madley Airfield is an area of some 13 hectares of employment land in the southern part of the Plan area. It has a number of buildings in employment use. To the north of the site is an auction venue used for the sale of agricultural and land-based machinery, equipment and plant and vehicles.

The site has been identified in the former Unitary Development Plan as employment land and was assessed as part of HC's Employment Land Study 2012.

The first element of Policy MB1 supports new development or the reuse of buildings on the site for Use Classes B1, B2 or B8 employment uses subject to five criteria. They cover traffic, sustainable transport, effects on residential amenity, visual amenity and landscape and potential contamination. All are appropriate given the location of the site and its potential.

The second element of the policy cross refers to CS Policy E2 which permits the redevelopment of employment sites to non-employment uses in certain circumstances. It adds a sentence regarding the site's location and access constraints. This is a logical local layer to add given the community's concern about the site's relatively isolated location and the nature of the local road network.

The site is clearly shown on Plan 5 on page 33 of the Plan. The policy cross references the plan.

The policy is clearly worded. It takes account of the NPPF's stance on supporting economic growth whilst being sensitive to ensuring that development is suited to its surroundings.<sup>44</sup> It is in general conformity with the CS and Policies E1 and E2 in particular. The local dimension to the policy will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

### Policy MB2: Tourism

Tourism is important to the Parish. Its location and the beauty of the area coupled with a good range of facilities which include two public houses and a golf course result in visitors. However, the community is concerned about the impact of additional traffic and the (lack of) provision of car parking.

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<sup>44</sup> NPPF paras 80, 81, 83, 84

Policy MB2 supports tourism and leisure developments subject to four criteria. The criteria cover the scale and design of any such schemes, access, traffic generation and car parking. In other words it is the scale of any proposals which should be appropriate.

The policy is a local expression of the NPPF's stance on supporting sustainable rural tourism and leisure developments which respect the character of the countryside<sup>45</sup> and CS Policies RA6 and E4. It will help to achieve sustainable development. It meets the basic conditions and therefore it is not necessary to suggest any modifications.

### **Policy MB3: Re-use of redundant agricultural buildings**

The development and diversification of agricultural and other land-based buildings is supported in the NPPF.<sup>46</sup> CS Policy RA5 also supports the reuse of such buildings subject to a number of criteria.

This policy specifically supports the reuse of redundant farm buildings for small scale rural businesses provided the impact on the local road network and car parking provision as well as responding positively to context are acceptable. The criteria in this policy add local context to the CS policy. It will help to achieve sustainable development.

The policy meets the basic conditions. It is clearly worded. No modifications are therefore necessary.

### **Policy MB4: Agricultural development**

Policy MB4 seeks to establish the basis of consideration for agricultural related development including intensive livestock unit and polytunnel proposals. The local community is especially concerned about the impact of large scale proposals on the landscape and local highway network and the resulting effect on tourism.

The policy contains six criteria which cover visual impact, amenity and highways considerations, effects on the natural and historical environments, drainage matters and effects on public rights of way.

As well as the six criteria, it seeks to ensure that cumulative impacts will be taken into account.

The policy is clearly worded and subject to satisfactory impacts, such developments can be supported. The NPPF supports the development and diversification of agricultural

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<sup>45</sup> NPPF para 83

<sup>46</sup> Ibid

and other land-based rural businesses.<sup>47</sup> The policy is in general conformity with CS Policies SS6, RA6, MT1 and SD1 in particular. It will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

## **7. Social and community infrastructure**

### **Policy MSC1: Community facilities**

There are a number of facilities in the Plan area including two public houses, the primary school, the Parish Hall and the village shop which are valued by the community.

This policy seeks to retain existing community facilities and support enhanced or new facilities. It cross-references CS Policy SC1 which protects, retains and enhances existing social and community infrastructure.

The clearly worded policy takes account of the NPPF<sup>48</sup> which promotes the retention, and development, of local services and community facilities, is a local expression of CS Policy SC1 in particular and helps to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

### **Policy MSC2: Open space and recreation**

Madley Recreation Field has a football field, adult fitness trail, play area and tennis courts. There is a nine hole golf course at Brampton.

Policy MSC2 resists the loss of open space, recreation areas and buildings in general unless it can be demonstrated the facility is surplus to requirements, its loss would be replaced by equivalent or better facilities in a suitable location or the development is for alternative sports provision which clearly outweighs any loss of existing provision.

The policy takes account of the NPPF<sup>49</sup> and generally conforms to CS Policy OS3. It is a local expression of this policy and guidance adding a local layer of detail. It will help to achieve sustainable development. It meets the basic conditions. No modifications are therefore suggested.

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<sup>47</sup> NPPF para 83

<sup>48</sup> Ibid paras 83, 92

<sup>49</sup> Ibid para 97

### Policy MSC3: Local Green Space

Four areas of Local Green Space (LGS) are proposed. All four are clearly shown on either Plan 4 or Plan 6 on pages 20 and 43 of the Plan respectively.

The NPPF explains that LGSs are green areas of particular importance to local communities.<sup>50</sup> The effect of such a designation is that new development will be ruled out other than in very special circumstances.

The identification of LGSs should be consistent with local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. It is only possible to designate LGSs when a plan is prepared or updated and LGSs should be capable of enduring beyond the end of the plan period. The NPPF makes it clear that this designation will not be appropriate for most green areas or open space. Further guidance about LGSs is given in PPG.

Table 3 offers an assessment of each of the proposed LGSs and I made a site visit.

**The Glebe Field, Madley** adjoins the churchyard. It is valued for its beauty and contribution to the setting of the village and of the adjacent Church. From the B4352 approach to the village, the site affords a view of the Church. I saw at my visit that this field is distinct from others around it, is an important feature at this entry point to the village and contributes to the setting of the Church.

I note there is objection to this designation on the basis it is agricultural land that could be ploughed for example. This may be the case, but its connection with the Church and village setting is important. It falls outside the proposed settlement boundary, but many Local Green Spaces do; there is no need for a Local Green Space to fall within a village boundary as the two designations are different with different purposes. I do not consider it to be an especially extensive tract of land either; there is no guidance on this matter in the NPPF or PPG, but I saw at my visit that this area is clearly defined and in the local context I do not consider it to be extensive.

**Kettle Ponds, north of Madley village** are valued for their geological, landscape and wildlife interest. The kettle ponds are a feature of glacial moraine form and therefore are an important and unusual habitat.

**Madley Moat** is a kettle pond which was restored as a wildlife habitat in 2007 as part of a County-wide project. It is valued for its ecology, but also its historical and archaeological interest. There is permissive access and school visits take place.

**The Bower, Shenmore** is a roughly triangular area of highway verge, elevated from the surrounding roads and used as an amenity space and meeting area, particularly by the community at Shenmore. There is a seat and views of the wider area are gained.

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<sup>50</sup> NPPF paras 99, 100, 101

In my view, all of the proposed LGSs meet the criteria in the NPPF satisfactorily. The inclusion of the green spaces identified is consistent with the local planning of sustainable development and all are capable of enduring beyond the Plan period.

Turning now to the wording of the policy, it refers to the “very special circumstances” which reflects the NPPF’s policy to manage development in LGSs in line with policy for Green Belts. It is clearly worded.

The policy therefore meets the basic conditions and no modifications are recommended.

#### **Policy MSC4: Flood resilience and resistance**

The NPPF<sup>51</sup> is clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Flood risk is something that neighbourhood plans can address and forms part of planning for new development in relation to a range of impacts arising from climate change.

There is local concern over flooding given the area’s proximity to watercourses, particularly the River Wye and a history of surface water flooding.

Policy MSC4 seeks to set out expectations for new development to improve flood resilience and resistance. This reflects the NPPF’s stance<sup>52</sup> by encouraging proposals to be flood resistant and resilient. It is clearly worded. It adds a local layer of detail to CS Policy SD3 and will help to achieve sustainable development. The policy meets the basic conditions and no modifications to it are therefore put forward.

### **8. Delivering the Neighbourhood Development Plan**

This section explains how the Plan will be used in decision making by both the Parish Council and HC in considering planning proposals.

The section then refers to community actions; these are actions which are not development and use of land related matters, but nevertheless are important to capture. The community actions are identified in Table 4 on page 47 of the Plan. This is the preferred way of expressing these matters and the presentation of the table is clear.

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<sup>51</sup> NPPF para 155

<sup>52</sup> Ibid para 163



## Appendices

Three appendices are attached to the Plan.

Appendix A is a list of the evidence base.

Appendix B draws attention to national and local planning policies.

Appendix C contains information about housing commitments and completions.

## 8.0 Conclusions and recommendations

I am delighted to conclude that the Madley Neighbourhood Development Plan meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Herefordshire Council that the Madley 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 Madley Neighbourhood Plan area as approved by Herefordshire Council on 14 April 2015.

*Ann Skippers* MRTPI

Ann Skippers Planning

3 September 2020

## Appendix 1 List of key documents specific to this examination

Madley Neighbourhood Development Plan 2011 – 2031 Submission draft October 2019

Basic Conditions Statement November 2019

Consultation Statement October 2019

Environmental Report November 2019

Habitats Regulations Assessment Report November 2019

Madley Parish Policies Map

Madley village Policies Map

Madley Airfield Policies Map

The Bower Policies Map

Madley Housing Manual January 2019 (The Prince's Foundation)

Herefordshire Core Strategy 2011-2031 October 2015 and Appendices

Saved Policies of the Unitary Development Plan 2007

Parish Council comments on Regulation 16 representations

Other information on <https://madleyparishcouncil.org> website including Preferred option for housing delivery includes Drop-in Day results November 2018 (DJN Planning Limited), Housing site selection report October 2018 (DJN Planning Limited), How many houses do we need?, Call for Sites Assessment Report April 2017 (Kirkwells), Duchy of Cornwall NDP Presentation 2 May 2019 and David Nicholson NDP Presentation 2 May 2019

**List ends**