

Much Birch Examination

Parish Council and Herefordshire Council response to Examiner's questions

1. Policy MB2 I consider that the policy is imprecise and unnecessary as it largely repeats part of Policies MB8, MB16 and MB18 and does not add any policy considerations. The supporting text paragraphs 4.9 to 4.12 is helpful in explaining to plan users the plan's approach to selecting locations for development, although paragraph 4.11 would benefit from a cross reference to Policies MB16 and MB18. I am recommending that the policy itself should be deleted and paragraphs 4.9 – 4.12 retained and revised. Would the QB confirm that the following is acceptable:

Revise the second sentence of paragraph 4.11 to read: “Policy MB16 sets out the requirements that will be considered in assessing new or improved community facilities. These should be located in or adjacent to the development boundaries.” Add the following to the end of paragraph 4.11: “Policy MB18 sets out criteria that will be used in considering proposals for new or expanded business development.”

QB: The comment on policy MB2 is noted. The suggested changes to paragraph 4.11 are very helpful. The intention of the Policy was to set out the strategy for development as a whole within the Parish, not just housing. Like similar policies in other Herefordshire NDPs we have particularly used this policy to explain the approach taken to distributing housing among the three settlements within the parish. Herefordshire Core Strategy indicates that settlement boundaries or reasonable alternatives should be used (paragraph 4.8.23). Some NDPs have simply defined boundaries, others have had a mixture of boundaries and ‘reasonable alternatives’, and some have proposed settlement boundaries and allocations. Some NDPs have proposed different approaches for the various settlements within their parishes. In addition, Herefordshire Council advises that where a parish has more than one settlement, it was up to the Parish Council to determine how its housing requirements should be met – whether in one settlement or within a number. The intention for Policy MB2 is to show that a consistent policy approach has been adopted across the Parish's settlements. The use of ‘development boundary’ as a reasonable alternative has already been explained.

At one of Herefordshire Council's NDP advisory sessions, the Head of Development Management asked that where settlement boundaries were proposed, NDPs should make it clear that housing development outside of these boundaries must comply with Core Strategy policy RA3. Although this is referred to in policy MB8, its reference in Policy MB2 was to emphasise this at the very start of the NDP.

The NDP provides for new dwellings to be permitted outside of development boundaries on sites adjacent to them that are ‘brownfield’ sites (previously developed land). It is understood this complies with Core Strategy policy RA2 (and the NPPF). The policy's removal would not promote such development. Would it be possible to consider whether this provision might be included in policy MB8.

The policy also promotes a strategy in which the principles for sustainability require community and economic development to be promoted with housing if a balanced community is to be achieved.

2. Policy MB3 (3) states that a TPO will be made on any tree affected by the development that has amenity value. This is a very prescriptive requirement and there may be other factors that have to be taken into account when deciding whether to make a TPO. Would HC comment on whether this requirement is deliverable or whether it would be more reasonable to state that conditions will be attached to planning consent to safeguard trees of high amenity value.

QB: It is agreed that the policy requirement is very prescriptive, but the provision in the Planning Acts indicates that where trees are considered such as to be protected in the interest of amenity, TPOs should be used. Perhaps the wording might be 'Where appropriate, Tree Preservation Orders will be used to protect trees of amenity value upon development sites.' In this way, the decision maker will need to consider whether it is in the interest of amenity to afford such protection.

HC: Although adding where appropriate would make the policy more flexible. It would be more reasonable to state conditions attached to planning consent to safeguard trees of high amenity value. This will work with the existing process of applying for a Tree Preservation Order.

3. Policy MB4 (1) calls for “full” archaeological investigations. Would the LPA comment on this in the light of NPPF para 189. I would suggest that it should be revised to read “appropriate”

QB: The suggested change appears appropriate and helpful.

HC: The revision is acceptable, adding appropriate, it ensures the policy is flexible.

4. I am proposing to include cross references to relevant Core Strategy policies in the justification to Policies MB3 and MB4. Would the QB confirm acceptance.

QB: We tried to keep cross-referencing to a minimum in non-housing policies in view of the impending review of the Core Strategy. Such cross referencing within the justification to these policies as suggested would be helpful and add clarity.

5. I am proposing to add the following to the end of the final paragraph of Policy MB6 to ensure that it reflects NPPF paragraph 143 on Green Belts “*except in very special circumstances.*” Would the QB confirm acceptance of this. Much Birch Neighbourhood Development Plan

QB: Given the Examiner's advice that this is necessary to meet the NPPF requirements, the advice is accepted. An alternative might be considered to read 'Development that would result in the loss or diminution of their use and/or characteristics, *will only be supported in exceptional (or special) circumstances*'.

6. I am concerned about the use of the words “restricted to “and “permitted” in Policy MB8. There is no need to refer to development complying with other policies in this plan. In any case it should be “the development plan”. Should reference to Core Strategy Policies RA5 and H2 also be included? Would the QB and LPA comment on the following revised wording:

“New housing development will be supported within the development boundaries of Much Birch, King’s Thorn, Wormelow and The Cleaver, as shown on the Policies Maps. Land outside the development boundaries will be regarded as countryside, where new housing development will only be supported where it complies with Core Strategy Policies RA3, RA5 or H2. Revise the development boundary at Much Birch to include the sites with planning permission under 170308/F and 200975/F. (See also the revision proposed under Policy MB12) Would the LPA confirm whether there any other sites that have received planning permission that should be included in the development boundaries?”

QB: It would be hoped that should the policy be redrafted, with no reference to ‘allocated sites’, the NDP would continue to meet the provisions of NPPF paragraph 14 (b). The Examiner’s advice upon this would be welcome.

Is it possible to retain reference to any new dwellings needing to be sensitively designed? It is understood that Core Strategy Policy RA3 itself cross refers to Core Strategy policies RA5 and H2 (among others). The inclusion of the two sites referred to (170308/F and 200975/F) within the Much Birch development boundary is supported as indicated in the earlier response to Regulation 16 comments.

HC: No other large sites have recently been approved, to include in the settlement boundary. Sites that have been granted planning permission, that fall within the settlement boundaries. These are all of a small scale and are infill within the existing settlement boundary. Much Birch- 170308/f-3 dwellings, Land at the Underhills, Hollybush Lane. Wormelow-160819/O- 1 dwelling. Land to the rear of Post Office and Shop Wormelow Kingsthorne- P163364/O, Land south of Ladywell Lane Kingsthorne, Hereford 3 dwellings. P161453/O, Land adjacent to Laburnam House 1 dwelling. P153313/F- Land adjacent to Highland Cottage, Parish Lane 1 dwelling. P153074/F Land adjoining Gilston, The Thorn Wrigglebrook Kingsthorne, Herefordshire HR2 8AN 2 dwellings. P143339/F Former village Hall and rifle club Kingsthorne Herefordshire 2 dwellings. 143169 Tan Y Coed, Barrack Hill Little Birch Hereford 1 dwelling.

7. The sites in **Policy MB9** are described as housing commitments in the justification, although the policy title is Housing Site Allocations. As the sites have planning permission there is no requirement to include them in a policy. Would HC comment on whether the inclusion of commitment sites is usual practice in their NPs. If the policy is to be retained, I would suggest that the first line of the policy should be revised to: **“The following sites are *included as housing commitments*.”**

QB: The retention of the sites as commitments would be welcome. They have been accepted by Herefordshire Council through the grant of planning permission and it is understood renewal, should this be required, would not be resisted and hence might be shown as allocations. There is no indication that the sites cannot be delivered, and it is understood recent submissions have been made for the approval of reserved matters on all three. However, there may short term reasons why they have not yet come forward. We are aware that other NDPs have taken this approach.

HC: It has been common practice to identify and add commitment sites in neighbourhood plans and our policies maps. The changes recommended by the examiner are accepted.

8. Policy MB9

a) Would the QB confirm whether or not any of the commitment sites in **Policy MB9** were assessed in the Sites Assessment Report and SEA and explain why only the three commitment sites were included in the Plan?

QB: Only sites that were submitted through the Parish 'Call for Sites' were considered within the site assessment. There were a significant number of these as can be seen in the assessment report. The three committed sites were not submitted by their owners, already had planning permission when the site assessment was undertaken, and therefore not considered within the site assessment report which looked at potential new sites. NDP paragraph 6.11 makes it clear that the sites already had planning permission (see references to Herefordshire Council's Neighbourhood Planning Guidance Note 20 below). The presentation of options (with Option 1 being the chosen approach) makes it clear that the approach is based upon maintaining those existing committed sites. The options were presented to the community at an informal consultation during the preparation of the NDP and the option adopted was that which received community support. It is understood that the SEA will have considered these sites through the process of assessing options SEA (section 5) and policy MB9 (Table after paragraph 6.6). The three committed sites were included in that they were of a size to comprise allocated sites as opposed to small sites of up to 3 dwellings that would normally be considered infilling within or adjacent to the built up areas of the settlement. Appendix A below contains the analysis of sites prepared for the NDP that shows site sizes. It also shows whether each site might fall within or adjacent to a settlement's built-up area (I) or in the open countryside (O).

In defining the development boundaries, the Parish Council was aware that Herefordshire Council's Neighbourhood Planning Guidance Note 20 indicates that '*It is also advisable to include sites that have received planning permission within the settlement boundary*'. This approach was followed in relation to the sites at the former Mushroom Farm and Court Farm. However, the Parish Council also noted other advice that '*The settlement boundary does not necessarily have to cover the full extent of the village nor be limited to its built form*.' It sets out its analysis of why the area further along Tump Lane, including the site with planning permission, was not included in any boundary (NDP paragraph 6.10).

b) Would the LPA confirm the status of the three sites included in Policy MB9. IN the light of comments made in the representation by Plainview Planning, are they all considered to be deliverable? Was the commitment site at Tump Lane approved as a Rural Exceptions Site?

b) It is understood that the first site (Land amounting to 0.5 hectares at former Mushroom Farm, The Cleaver) has now commenced construction and hence is no longer a committed site.

In relation to the Tump Lane site, the basis for its approval is uncertain in that it was granted at appeal although it is believed to have been made in terms of compliance with the broad NPPF 'sustainable development' criteria in view of Herefordshire Council's absence of a 5-year housing land supply rather than Core Strategy policies. The NDP must comply with the Core Strategy policies. The fact that half the dwellings were restricted to affordable housing through agreement is not something that the Parish Council is able to pronounce upon. The Parish Council notes that the proportion is far higher than would be needed to meet the Core Strategy requirement and would not wish to prejudice the agreement between Herefordshire Council and the developer by its actions in association with the NDP.

c) Would the LPA provide me with the updated figures for Table 1.

Parish / Group parish	RA2 Settlement	Number of households in parish	% growth in CS	Number of new houses to 2031	Completions 2011-2020	Commitments as at 1 April 2020	Residual
Much Birch	Kingsthorpe Much Birch/ Axe and Cleaver Much Birch Wormelow	406	14	57	18	54	18

d) Will the LPA confirm the status of the planning application at the Pilgrim Hotel.

D) Application 201830 Land abj to The Pilgrim Hotel, has been granted planning permission for the erection of 5 dwellings, (granted 19th October 2020). The planning officer's report can be found at

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201830&search-term=Pilgrim%20Hotel

9. Policy MB10 – is there a word or phrase missing from the first sentence of this policy after, ...and, in particular,....”? Was a Parish Housing Needs Survey undertaken as part of preparing this NP? If so, what were the findings? QB: It is agreed that the first sentence is rather clumsy and perhaps may be rephrased to read: *‘Developers will be required to make a meaningful contribution to the local housing needs of the community in terms of size, type, tenure’.* A Housing needs survey was undertaken in 2017 and its results summarised in the site assessment report (paragraph 3.3). The full report can be seen at <http://www.muchbirchparish.org.uk/pdfs/Housing-Needs-Survey-Report.pdf>

10. Policy MB11 is a local lettings policy concerned with managing the letting of affordable housing. It is not appropriate to include such a policy in the NDP. If the QB wish to retain it in the document I will recommend that it should be moved to the section on Community Actions and introduced with text on the lines of : “*The Parish Council will work with HC Housing Services to agree a local lettings connections policy as follows:.....*”. Would the QB and HC confirm that this is acceptable.

QB: We are aware that this policy approach has been adopted in other NDPs where it has been supported by Herefordshire Council (Housing section). It had been understood that such matters were subject to agreements under the Planning Act and therefore relevant to show how the approach should apply to the affordable housing built within the Parish. We would like it to be retained in some form.

HC: Examiners recommendations are acceptable.

11. Paragraph 6.21 could be added to the justification to Policy MB10 and revised to refer to the Community Action. Much Birch Neighbourhood Development Plan

QB: This would be supported in light of the change likely to be proposed.

12. Paragraph 6.22 relates to design considerations and could be added to the justification to Policy MB12. The reference to complying with other policies in the NDP should be revised to refer to the “development plan” to accord with NPPF para 2.

QB: This was included at this point as an introduction to policy MB12. There is no objection to it being moved. The ‘development plan’ reference adds clarity.

13. Policy MB12 criterion 9 concerns the location of new development rather than the design of new housing. It is suggested that it may be better placed at the end of Policy MB8. Would the QB confirm that this is acceptable.

QB: There is no objection to it being moved as this would retain the provision, be more appropriate, and, perhaps, enable reference to sensitivity to be incorporated.

14. The title of Policy MB13 refers to Housing but the first sentence of the policy states “any development”. Would the QB confirm their acceptance to the following revision of the first sentence: “...footprint of *new housing development*.” QB: The change adds clarity and is supported.

15. Policy MB14 is considered to be a Community Action and should be moved in that section of the NDP.

QB: The intention of this policy is to compliment Core Strategy policy SS4 and uses very similar terminology. That was approved by a Planning Inspector. It identifies those matters which the local community consider improvements to the local and strategic highway network, in particular to reduce congestion, improve air quality and road safety and offer greater transport choices. It would be a pity to lose it given Herefordshire Council has identified the approach as a strategic planning priority through policy SS4 so to retain it in one form or other would be preferred. However, the Examiner’s comments are noted.

16. Policy MB15 criterion 6 cannot be used to resolve existing on-street parking problems. I am proposing to revise it to read: “*Proposals should provide adequate on-site parking in accordance with Herefordshire Council’s parking standards.*” Would the QB confirm this is acceptable.

QB: The Examiner’s proposed change is acceptable.

17. Policy MB16. I have a number of concerns about this policy:

a) Planning policies cannot safeguard services and reference to them should be deleted.

b) The policy refers to open spaces but these are not included in the list of community facilities and are in any case safeguarded under Policy MB6 as Local Green Spaces. The justification refers to the lack of open spaces but the policy and the plan as a whole propose nothing to address this need. As there are no proposals for open space improvements, I am suggesting that reference to open spaces should be deleted from this policy.

c) The justification refers to the need for parking at the school, but it is not included in the list of community facilities. Does the QB wish to include the school in the list? d) It is not clear how existing facilities are to be protected other than by the provision of alternative facilities. I am proposing that the policy should be revised to refer to Core Strategy Policy SC1 which provides clearer guidance on how proposals that would result in the loss of community facilities would be considered. I am proposing to recommend the deletion of the first and third

paragraph of the policy and their replacement with the following. Would the QB comment on this.

“The following existing community facilities will be retained in accordance with Herefordshire Local Plan Core Strategy Policy SC1:”

QB: The Examiner’s concerns in relation to services is noted although the intention was to protect a service use that might be restricted by an adjacent new development. An example includes the use of a village hall for wedding receptions and evening events that might cause noise and would lead to nuisance complaints should new housing be too close. This may also be relevant to public houses which the community would not wish to lose.

Policy MB6 refers primarily to ‘Local Green Space’. There is understood to be a requirement to provide small areas of amenity and other open space within new developments. Perhaps some reference to their protection under Core Strategy policies OS2 and OS3 might be included in the supporting text to either policy MB6 or MB16.

The reference to the Primary School within this policy is a very helpful suggestion and the Examiner is thanked for identifying this omission. It is Much Birch Church of England Primary School. There is no objection to the suggested change to the first and third paragraphs although some reference to enabling development that would enhance the viability of the facilities would be welcome if possible. This would represent a positive approach that owners might see as community support.

18. Policy MB18 - I have concerns about the grammar of the opening sentence and of criterion 8. Would the QB confirm that the following revisions would be acceptable:

Revise the first sentence of the policy to read: “Proposals for the creation of new rural businesses and the expansion of existing businesses, including the diversification of businesses and the development of tourism related businesses, will be encouraged where they are suitable.....”

Revise criterion 8 to read: “Not generate traffic that *would* adversely affect the amenity of residents or require *highway improvements that would require* the loss of important landscape features.”

QB: The changes are improvements that are welcomed.

QB attached a break down of planning permissions in Much Birch below.

PLANNING PERMISSIONS SINCE May 2019 – MUCH BIRCH PARISH

APPLICATION NO	LOCATION	TYPE	BEDROOMS	APPROVAL DATE	INSIDE OUTSIDE	COMMENTS
P190880/F	Site at The Granary Much Birch Herefordshire	1 x D	3	24 May 2019	I	Much Birch

P173361/O	<u>Ladywell Cottage Ladywell Lane Wrigglebrook Kingsthorne Herefordshire HR2 8AW</u>	1		23 October 2017	I	Kingsthorne
P173052/F	<u>Land at Ash Farm Much Birch Herefordshire</u>	1		19 October 2017	O	Ag Dwelling
P172107/O	<u>Land at Worcester Cottage Court Farm Road Much Birch Hereford</u>	+2		15 August 2017	I	Demolish 1 pair semis replace with 2 pair of semis Much Birch
P171922/F	<u>Treberva Fruit Farm Much Birch Herefordshire</u>	1		26 July 2017	I	Building conversion Much Birch
P170402/F	<u>Land at Red House Much Birch Hereford Herefordshire</u>	1		5 April 2017	O	Other Hollybush Lane – Bigglestone end
P170308/F	<u>Land at The Underhills Hollybush Lane Much Birch Herefordshire</u>	3 x D		20 March 2017	I	Much Birch Hollybush Lane ADD into SB?
P163364/O	<u>Land south of Ladywell Lane Kingsthorne Hereford</u>	3 x D		26 April 2017	I	Kingsthorne ADD into SB?
P161453/O	<u>Land adjacent to Laburnam House Little Birch Hereford</u>	1 x D		12 July 2016	I	Kingsthorne ADD into SB? Check if in Parish

P160819/O	<u>Land to the rear of Post Office and Shop Wormelow Hereford</u>	1 x D		26 May 2016	I	Wormelow ADD into SB? Check if in Parish
P153630/O	<u>Land at Hollybush Lane Much Birch Herefordshire</u>	1 x D		16 March 2016	O	Other Hollybush Lane – Bigglestone end
<u>P153552/F</u>	<u>Land adjacent Rangers Lodge Little Birch Road Kingsthorne Herefordshire</u>	1 x D		23 February 2016	I	Kingsthorne
P153313/F	<u>Land adjacent to Highland Cottage Parish Lane Much Birch Hereford Herefordshire</u>	1 x D		25 January 2016	I	Kingsthorne ADD into SB? Check if in Parish
P153074/F	<u>Land adjoining Gilston The Thorn Wrigglebrook Kingsthorne Herefordshire HR2 8AN</u>	2		8 August 2017	I	Kingsthorne ADD into SB?
P151550/F	<u>Wormelow Stores Wormelow Herefordshire HR2 8EJ</u>	+3		24 August 2015	I	Wormelow Demolition of shop. Provide new shop, 1 flat and 2 dwellings
P150717/F	<u>Land at Wrigglebrook Lane Much Birch Herefordshire</u>	1 x D		15 July 2015	O?	Other Not adjacent to but close to Much Birch – would not

						have considered within a reasonable settlement boundary.
P143339/F	Former village hall and rifle club Kingsthorne Herefordshire	2 x D		14 January 2015	I	Kingsthorne ADD into SB?
P143169/F	Tan-y-coed Little Birch Hereford	1 x D		9 March 2015	I	Kingsthorne ADD into SB?
P143094/PA7	Ancillary store at Wormelow Stores Wormelow Herefordshire HR2 8EJ	2		17 December 2014	O	RBG
P141830/O	Court Farm Much Birch Herefordshire HR2 8HT	18		28 September 2015	I	1.0 hectares Reserved matters approved January 2019 Much Birch
P141230/F	Counties View Much Birch Hereford HR2 8HL	1 x D		23 October 2014	O?	Other Much Birch although not SB area – opposite primary school
P140554/O	Land at Former Mushroom Farm Much Birch Hereford	5 x D		15 April 2015	I	Cleaver 0.5 hectares Reserved matters approved 10 March 2016
P130945/O	Land at Tump Lane Much Birch Herefordshire	20		4 th July 2018	I	Wormelow 1.44 hectares Includes up to 10

						affordable dwellings and parking for existing dwellings
S113524/F	<u>Treberva Much Birch Hereford HR2 8HU</u>	1		2 March 2012	O	RBG
S110746/F	<u>The Pump House Much Birch Hereford</u>	1		23 May 2011	O?	Other Much Birch although not SB area – opposite primary school
S103162/F	<u>The Granary Minster Farm Much Birch Herefordshire HR2 8HS</u>	2		17 February 2011	I	Much Birch – NB works likely to have been completed after March 2011