

Much Birch NDP Independent Examination

Delegated Decision Statement

8 February 2021

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Much Birch Neighbourhood Area
Parish Council	Much Birch Parish Council
Submission	27 May to 8 July 2020
Examination Date	December 2020 and January 2021
Inspector Report Received	18 January 2021

1 Introduction

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

2 Background

- 2.1 The Neighbourhood Area of Much Birch was designated on 16 August 2016. The Neighbourhood Area follows the boundary of Much Birch parish boundary. The Much Birch NDP has been prepared by Much Birch Parish Council. Work on the production of the plan has been undertaken by members of the local community through a Neighbourhood Plan Steering Group since autumn 2016.

- 2.2 The Plan was submitted to Herefordshire Council on 15 April 2020. The consultation under Regulation 16 took place between the 27 May and 8 July 2020.
- 2.3 On 26 August 2020 Ms Rosemary Kidd MRTPI was appointed by Herefordshire Council, with the consent of the Parish Council, to undertake the examination of the Much Birch NDP and to prepare a report of the independent examination.
- 2.4 The examiner's report concludes that subject to making the minor modifications recommended by the examiner, the plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.
- 2.5 Having considered each of the recommendations made within the examiner's report and the reasons for them, Herefordshire Council (in accordance with the 1990 Act Schedule 4B paragraph 12) has decided to make the modifications to the draft plan referred to in Section 3 below to ensure that the draft plan meets the basic conditions set out in legislation.

3 Recommendations by the examiner

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

Policy	Modification recommended	Justification
Modification 1 Front cover	Revise the commencement date of the Plan to the year it is made on the front cover and elsewhere in the documentation.	For clarity and accuracy.
Modification 2 Policy maps	<p>Include the Parish Policies Maps in the Plan.</p> <p>Number the site allocations as shown in Policy MB9.</p> <p>Revise the title of Appendix 2 to read: "<i>Community Actions and Infrastructure</i>".</p> <p>Revise paragraph A2.1 to read: "The following are actions to be pursued by Much Birch Parish Council. <i>They do not form part of the Neighbourhood Development Plan but include measures</i> to support the growth proposed and to address community needs in terms of facilities, services and key infrastructure.</p>	For clarity.
Modification 3 Paragraph 4.7	Delete "strategic" from paragraph 4.7.	To reflect the NPPF in the interest of accuracy.
Modification 4 Policy MB2	<p>Delete "Policy MB2" from the title of the section.</p> <p>Retain paragraphs 4.9 – 4.12 in the plan.</p> <p>Revise the second sentence of paragraph 4.11 to read: "<i>Policy MB16 sets out the requirements that will</i></p>	For clarity, the policy is imprecise and repetitive.

Policy	Modification recommended	Justification
	<p><i>be considered in assessing new or improved community facilities. These should be located in or adjacent to the development boundaries.”</i></p> <p>Add the following to the end of paragraph 4.11: <i>“Policy MB18 sets out criteria that will be used in considering proposals for new or expanded business development.”</i></p> <p>Add the following to the end of Policy MB8: <i>“New housing development will be supported on previously developed land outside but adjacent to development boundaries where the development accords with Core Strategy Policy RA2.”</i></p>	
Modification 5 Policy MB3	Revise the final sentence of criterion 3 to read: “A Tree Preservation Order <i>should</i> be made <i>to safeguard</i> any tree that has <i>public</i> amenity value that is affected by a development proposal. <i>Planning conditions may also be applied.</i> ”	For clarity and to reflect Tree Officer's advice.
Modification 6 Policy MB4	Revise criterion 1 to read: “...to be accompanied by <i>appropriate</i> archaeological investigations.....”	For clarity and in accordance with NPPF.
Modification 7 Paragraph 5.8	Add the following to paragraph 5.8: <i>“Further details of the considerations for avoiding flood risk areas and managing foul and surface water drainage are set out in Core Strategy Policies SD3 and SD4.”</i>	For clarity, and to include references to the Core Strategy.
Modification 8 Policy MB6	Add the following to the end of the final paragraph of the policy <i>“except in very special circumstances.”</i>	For clarity and for the policy to reflect national guidance on national policy.
Modification 9 Policy MB7	Delete “/Open Space” from the title of Policy MB6.	
Modification	Revise the last sentence of the policy to read: “.....may be <i>supported</i> where they meet the above criteria.”	For clarity and to better reflect the means of delivery for the plan and accordance with NPPF.
Modification	Revise Policy MB8 to read:	For clarity and in accordance with

Policy	Modification recommended	Justification
10 Policy MB8	<p><i>“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, where it constitutes sensitive infilling. 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.”</i></p> <p>Include recommendation from Policy MB2: <i>“New housing development will be supported on previously developed land outside but adjacent to development boundaries where the development accords with Core Strategy Policy RA2.</i></p> <p>Include recommendation from Policy MB12: <i>“New housing development in the countryside should avoid the coalescence of settlements.”</i></p> <p>Revise the development boundary at Much Birch to include the sites with planning permission under 170308/F and 200975/F.</p>	NPPF.
Modification 11 Policy MB9	<p>Revise the first line of the policy to read: <i>“The following sites are included as housing commitments:”</i></p> <p>Revise the title of the Policy to <i>“Housing Commitments”</i></p> <p>Revise the key to the Policies Map to read <i>“Housing commitments”</i>.</p> <p>Update paragraph 6.11 and Table 1.</p>	Improve clarity making it explicit the three sites are commitments.
Modification 12 Policy MB10	Delete <i>“and, in particular, to meet local housing need.”</i> from the first sentence of Policy MB10.	Improve clarity of the policy.
Modification 13 Policy MB11	<p>Move the policy text to Appendix 2 (Community Actions and Infrastructure).</p> <p>The text from Policy MB11 should be introduced as follows: <i>“The Parish Council will work with HC Housing Services to agree a local lettings connections policy as follows:.....”</i></p> <p>Move paragraph 6.21 to the justification to Policy MB10</p>	Policy is a housing letting policy and not a planning policy, therefore deletion is recommended.

Policy	Modification recommended	Justification
	<p>after Table 2 and before paragraph 6.20.</p> <p>Delete the second sentence (The criteria set out...) and revise it to refer to Appendix 2.</p> <p>Move paragraph 6.22 to the justification to Policy MB12 before paragraph 6.23 and revise the first sentence to read: "...other policies set out in <i>the development plan</i>."</p>	
<p>Modification 14</p> <p>Policy MB12</p>	<p>Delete criterion 9 and add the following to Policy MB8: "<i>New housing development in the countryside should avoid the coalescence of settlements.</i>"</p> <p>Revise criterion 10 to read: "...undertake <i>Landscape and Visual Impact Assessments</i>...."</p>	<p>To ensure the policy conforms to NPPF and Core Strategy SD1.</p> <p>Further clarification.</p>
<p>Modification 15</p> <p>Policy MB13</p>	<p>Revise the first sentence of the policy to read: "...footprint of <i>new housing development</i>."</p>	<p>To ensure the policy conforms to NPPF and Core Strategy SD1. Further clarification.</p>
<p>Modification 16</p> <p>Policy MB14</p>	<p>Move the Policy and its justification to Appendix 2 (Community Actions and Infrastructure).</p>	<p>Deleted as the policy is not a Development Management Policy.</p>
<p>Modification 17</p> <p>Policy MB15</p>	<p>Revise the first sentence to read: "Development proposals should ensure:"</p> <p>Revise criterion 6 to read: "Proposals should provide adequate on-site parking in accordance with Herefordshire Council's parking standards."</p> <p>Revise criterion 7 to read: "Internal road layouts <i>should comply</i>"</p>	<p>To ensure the policy conforms to NPPF and Core Strategy MT1.</p>
<p>Modification 18</p> <p>Policy MB16</p>	<p>Delete the first and third paragraphs of the policy and replace them with: "<i>The following existing community facilities should be safeguarded and retained. Any proposals affecting these facilities or resulting in their loss will be considered in accordance with Core Strategy Policy SC1.</i>"</p> <p>Add "<i>Much Birch Church of England Primary School</i>" to the List of facilities.</p> <p>Delete "and services" from the second paragraph of the policy.</p> <p>Revise paragraph 8.2 as follows:</p> <ul style="list-style-type: none"> • Delete "and services" from the first sentence. 	<p>To ensure consistency between policy and justification.</p>

Policy	Modification recommended	Justification
	<ul style="list-style-type: none"> • Revise the fifth and following sentences to read: “<i>Core Strategy Policy SC1 encourages developments that might increase the viability of existing facilities, for example through diversification. The community would not wish..... that they are no longer viable.</i> <p><i>Core Strategy Policy SC1 sets out the provisions for considering proposals that would result in the loss of community facilities.</i></p> <p><i>The two areas of open space in the parish are safeguarded as Local Green Space. Proposals that would result in the loss of any other areas of open space should be considered against Core Strategy Policy OS3. More open space may be required to meet the needs of the community and should be provided in accordance with Core Strategy Policy OS2. The provision of car parking..... and surgery.”</i></p> <p>Show the community facilities and their curtilages on the Policies Maps.</p>	
<p>Modification 19</p> <p>Policy MB18</p>	<p>Revise the first sentence of the policy to read: “<i>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.....</i>”</p> <p>Revise criterion 8 to read: “<i>Not generate traffic that would adversely affect the amenity of residents or require highway improvements that would require the loss of important landscape features.</i>”</p> <p>Revise the first sentence of paragraph 9.2 to read: “<i>This policy places emphasis upon the scale...</i>”</p>	<p>Further clarification of the policy</p>

4 Post Adoption SEA and HRA

- 4.1 The modifications made as a result of the Examiner's report, as outlined above in Section 3 of this document, have been considered in terms of any resultant changes to the Strategic Environmental Assessment and Habitat Regulations Assessment. None of the changes are considered to have a significant effect on the overall appraisals. The updated SEA and addendum to the HRA are available to accompany the final plan.

5 Decision

- 5.1 The Neighbourhood Planning (General) Regulations 2012 requires the local planning authority to outline what action to take in response to the recommendations that the examiner made in the report under paragraph 10 of Schedule 4A to the 1990 act (as applied by Section 38A of the 2004 Act) in relation to a neighbourhood development plan. Herefordshire Council have considered each of the recommendations made in the examiner's report and the reasons for them and have decided to accept the modifications to the draft plan.
- 5.2 The draft plan will be altered in line with Table 1 above and also the points set out in paragraph 3.2, in line with paragraph 12 (6) of Schedule 4B to the 1990 Act.
- 5.3 Following the modifications made, the Much Birch Plan will meet the basic conditions:
- Having regard to national policies and advice contained in guidance issues by the Secretary of State, it is appropriate to make the plan
 - The making of the neighbourhood plan contributes to the achievement of sustainable development
 - The making of the neighbourhood plan is in general conformity with the strategic policies contained in the Herefordshire Local Plan – Core Strategy
 - The making of the neighbourhood plan does not breach and is otherwise compatible with EU obligations and
 - The making of the neighbourhood plan is not likely to have a significant effect on a European site either alone or in combination with other plans and projects.
- 5.4 It is recommended that the Much Birch Neighbourhood Plan progress to referendum. Herefordshire Council concur with examiners conclusion that nothing has been suggested which would require an extension of the area beyond that designed on 16 August 2016.



Signed

Dated 8 February 2021

Richard Ball
Director for Economy and Place