

Aston Ingham Neighbourhood Plan

Submission Version 2022 – 2031

Report of Examination

March 2023

Undertaken for Herefordshire Council with the support of Aston Ingham Parish Council on the submission version of the plan.



Independent Examiner:

Liz Beth BA (Hons) MA Dip Design in the Built Environment MRTPI

Contents

Summary	3
1. Introduction and Background	4
1.1 Neighbourhood Development Plans.....	4
1.2 Independent Examination.....	4
1.3 Planning Policy Context.....	6
2. Plan Preparation and Consultation	7
2.1 Pre-submission Process and Consultation	7
2.2 Regulation 16 Consultation Responses.....	8
3. Compliance with the Basic Conditions Part 1	9
4. Compliance with the Basic Conditions Part 2: National Policy and the Development Plan.....	11
5. The Referendum Boundary.....	15

Abbreviations used in the text of this report:

The Aston Ingham Neighbourhood Development Plan is referred to as ‘the Plan’ or ‘AINP’.

Aston Ingham Parish Council is abbreviated to ‘Aston Ingham PC’.

Herefordshire Council is the Local Planning Authority, which is abbreviated to ‘LPA’.

The National Planning Policy Framework is abbreviated to ‘NPPF’.

The National Planning Practice Guidance is abbreviated to ‘NPPG’.

The Herefordshire Local Plan Core Strategy is abbreviated to ‘HCS’.

Regulations 14 and 16 are abbreviated to ‘Reg14’ and ‘Reg16’ respectively.

Summary

- I have undertaken the examination of the AINP during February and March 2023 and detail the results of that examination in this report.
- The Parish Council have undertaken the required consultation on this Plan, and it complies with legislative requirements. The Plan is a well-written document, with a good and proportionate evidence base. The HCS provides a comprehensive strategic policy framework.
- I have considered the comments made at the Regulation 16 Publicity Stage, and where relevant these have to an extent informed some of the recommended modifications.
- Subject to the modifications recommended, the Plan meets the basic conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

Acknowledgements: Thanks to Local Authority and qualifying body staff for their assistance with this examination. My compliments to the local community volunteers, Consultants and Aston Ingham Parish Council, who have produced a locally relevant and useful Plan.

1. Introduction and Background

1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowered local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF para 29) states that:

“neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can ... help to deliver sustainable development”.

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’, and in Aston Ingham that is the Aston Ingham Parish Council (PC). Drawing up the Neighbourhood Plan was undertaken by a steering group, working to the Parish Council.

1.2 Independent Examination

1.2.1 Once Aston Ingham PC had prepared their neighbourhood plan and consulted on it, they submitted it to Herefordshire Council. After publicising the plan with a further opportunity for comment, Herefordshire Council were required to appoint an Independent Examiner, with the agreement of Aston Ingham PC to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this Plan. I am a chartered Town Planner with over thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have recently concentrated on supporting groups producing neighbourhood plans. I have been appointed through the Neighbourhood Plan Independent Examiners Referral Service (NPIERS). I am independent of any local connections to Aston Ingham and Herefordshire Council, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 As the Independent Examiner I am required to produce this report and recommend either:

- (a) That the neighbourhood plan is submitted to a referendum without changes; or
- (b) That modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) That the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.2.4 The legal requirements are firstly that the Plan meets the 'Basic Conditions', which I consider in sections 3 and 4 below. The Plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

The Aston Ingham Neighbourhood Development Plan (AINP) complies with the requirements of Paragraph 8(1). The Neighbourhood Area was designated on the 12th July 2019 by Herefordshire Council. The plan does not relate to land outside the designated Neighbourhood Area. It specifies the period during which it has effect as 2022 – 2031 and has been submitted and prepared by a qualifying body and people working to that qualifying body. It does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure.

1.2.5 I made an unaccompanied site visit to Aston Ingham to familiarise myself with the area and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations, as I did not consider a hearing necessary.

1.2.6 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 5 at the end of this report.

1.3 Planning Policy Context

1.3.1 The Development Plan for Aston Ingham, not including documents relating to excluded mineral and waste development, is the Herefordshire Local Plan Core Strategy, (HCS) adopted October 2015. All policies in the HCS are considered strategic for the purposes of neighbourhood planning. A review of the HCS is underway, but this document has limited planning weight at present as it has not yet undergone formal consultation on firm policies and strategic allocations.

1.3.2 The National Planning Policy Framework 2021 (NPPF) sets out government planning policy for England, and the National Planning Practice Guidance (NPPG) website offers guidance on how this policy should be implemented.

1.3.3 During my examination of the AINP I have considered the following documents:

- National Planning Policy Framework (NPPF) 2021
- National Planning Practice Guidance 2014 and as updated
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning Regulations 2012 (as amended)
- Environment Act 2021 and SI 2022/1266
- Submission version of the Aston Ingham Neighbourhood Development Plan (AINP)
- The Basic Conditions Statement submitted with the AINP
- The Consultation Statement submitted with the AINP
- The SEA Environmental Report for the AINP
- The HRA Appropriate Assessment Report for the AINP
- Neighbourhood Area Designation (map)
- Housing Site Assessment DJN Planning Ltd July 2021 for Aston Ingham PC
- Herefordshire Local Plan Core Strategy 2011 – 2031: Adopted October 2015
- Guidance Note 20: Guide to Settlement Boundaries June 2015 Herefordshire Council
- Representations received during the publicity period (reg16 consultation)

2. Plan Preparation and Consultation

2.1 Pre-submission Process and Consultation

2.1.1 Aston Ingham is a small rural village to the south west of Newent the largest nearby settlement approximately 6km away. The wider parish is rural with scattered farms and dwellings; mixed farming, orchards and woodland being the predominant landuse. There was a population of just under 400 people in 2011, which is estimated to have increased to 473 by 2020.

2.1.2 A Steering Group, made up of Parish Councillors and volunteers from the local community took responsibility for drawing up the AINP, working with a planning consultant. Minutes of meetings were made available on the website. Earlier consultation on a Parish Plan informed work on the AINP, plans for an open day event were thwarted by the pandemic, but an online consultation process was substituted.

2.1.3 The Consultation Statement sets out the nature and form of consultation prior to the formal Reg14 six week consultation. After the online consultation a questionnaire was circulated to residents and all people aged 16 and over were invited to complete it. A response rate of 65% and professional analysis of the results gave very useful information to guide the AINP.

2.1.4 A call for sites was actioned in March/April 2021, and advertised locally. Independent assessment of the offered sites, resulted in two being presented as options in a drop-in event at the Village Hall. A clear preference was indicated for the site at Ellsmere, which has been allocated in the AINP to meet the indicated housing requirement in the parish.

2.1.5 As required by regulation 14 of the Neighbourhood Planning Regulations 2012, the formal consultation for six weeks on the pre-submission Aston Ingham Draft Neighbourhood Plan ran from the 3rd May 2022 to the 15th June 2022. The draft Plan, Environmental Reports, comments form and explanatory flyer with contact details for queries were posted on the parish website. Hard copies were offered at several locations in the village. Statutory bodies were notified of the consultation by letter or email, as were other stakeholders as listed in the Consultation Statement. The Annual Parish Meeting occurred during the Reg14 consultation, and included a question and answer session on the draft Plan.

2.1.6 Representations were received during the Reg14 consultation from eight residents, four sections of Herefordshire Council and ten statutory bodies, four of whom had no specific comment to make on the AINP. Several amendments have been made to the Plan as a result of constructive

suggestions for changes, and are detailed in the Consultation Statement. I am satisfied that due process has been followed during the consultation undertaken on the Plan. The Consultation Statement details all consultation activities, and the record of comments and objections received during the Reg14 consultation shows that these were properly considered, and where appropriate resulted in amendments to the plan to accommodate points raised.

2.1.7 As required, the amended plan, together with a Basic Conditions Statement, a Consultation Statement, Environmental Reports and a plan showing the neighbourhood area was submitted to Herefordshire Council on the 26th October 2022.

2.2 Regulation 16 Consultation Responses

2.2.1 Herefordshire Council undertook the Reg 16 consultation and publicity on the AINP for six weeks, from the 3rd November to the 15th December 2022. Thirteen representations were received during this consultation, one from a local resident, two from sections of Herefordshire Council and ten from statutory consultees, three of whom had no specific comments to make on this Plan but offered general guidance. Issues raised in these responses that are pertinent to my consideration of whether the Plan meets the basic conditions are considered in sections 3 and 4 of this report below.

3. Compliance with the Basic Conditions Part 1

3.1 General legislative requirements of the 1990 Town and Country Planning Act (TCPA) other than the Basic Conditions are set out in paragraph 1.2.4 above. The same section of this report considers that the AINP has complied with these requirements. What this examination must now consider is whether the Plan complies with the Basic Conditions, which state it must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations and comply with human rights law; and
- Not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (*prescribed basic condition since December 2018*).

3.2 Table 2 in The Basic Conditions Statement sets out how the Plan promotes the social, economic and environmental goals of sustainable development. The vision for the Plan encompasses all three aspects positively and I accept that the Plan does contribute to sustainable development in line with the Basic Conditions.

3.3 It is a requirement of the Basic Conditions that a neighbourhood plan is compatible with and does not breach European Union (EU) obligations, which are still incorporated into UK law. The relevant legislation is the Environmental Assessment of Plans and Programmes Regulations 2004. An initial screening exercise determined that the AINP would need Strategic Environmental Assessment (SEA) and an Appropriate Assessment under the Habitats Regulations.

3.4 Consequently, an Environmental Report and Habitat Regulations Assessment (HRA) Report have been submitted with the AINP as both were required. Aston Ingham Parish is within the catchment of the River Wye and the Wye Valley and Forest of Dean Bat Sites Special Area of Conservation (SAC) are 1.6km away. The Environmental Report states that:

“The NDP has been prepared in conjunction with a formal process of environmental appraisal in accordance with the SEA Directive, whose requirements have been met”.

3.5 The HRA Report has considered the site allocations and policies for likely significant effect on the European sites (SACs), particularly with regard to water quality. The Report notes in the Executive Summary that:

“The results of this Appropriate Assessment indicate that there will not be an adverse effect on the integrity of the River Wye (including River Lugg) SAC and Wye Valley and Forest of Dean Bat sites SAC when the mitigation and avoidance measures have been taken into account”.

I accept that with regard to the SEA and HRA Appropriate Assessment the requirements of EU legislation have been complied with, and this Basic Condition met.

3.6 The AINP in my view complies with Human Rights Legislation. It has not been challenged with regard to this, and the consultation statement showed that the need to consult with a wide cross-section of the community was appreciated and implemented.

4. Compliance with the Basic Conditions Part 2: National Policy and the Development Plan

4.1 The final and most complex aspect of the Basic Conditions to consider is whether the AINP meets the requirements as regards national policy and the development plan. This means firstly that the Plan must have regard to national policy and guidance, which for this neighbourhood plan is the NPPF 2021 and the NPPG. Secondly the Plan must be in general conformity with the strategic policies of the development plan. The phrase 'general conformity' allows for some flexibility. If I determine that the Plan as submitted does not comply with the Basic Conditions, I may recommend modifications that would rectify the non-compliance.

4.2 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards national policy and the development plan. If not, then modifications required to bring the plan into conformity are recommended.

Modifications are boxed in this report, with text to *remain in italics*, new text **highlighted in Bold** and text to be deleted ~~shown but struck through~~. Instructions for alterations are underlined.

4.3 The AINP is a well presented document, easy to follow and read. Policies are tailored to local requirements, with explanation including plans and figures to the point and informative. Community Actions have been clearly separated from the land-use plan, and set out useful guidelines for potential future development contributions.

4.4 **Policy AST1 Landscape:** This policy looks to protect the existing landscape and its characteristics. As part of that work, ten key views have been identified and their attributes supported with photographic and other evidence. The first sentence of the third paragraph of the policy does not however pay due regard to government policy concerning proportionality in demands made of future development (NPPG ID: 41-005-20190509). It is not reasonable to expect that any development however minor that can be seen from a view point provides a Landscape and Visual Impact Assessment with the development proposal. This needs to be amended to apply only to those developments that would have a significant visual impact on the view in order to be reasonable and proportionate. In order that Policy AST1 complies with the Basic Conditions and has paid due regard to government policy and guidance, I recommend it is amended as shown in Modification 1 below.

Modification 1: The third paragraph of Policy AST1 to be amended as follows:

*“... Where a development proposal within the Neighbourhood Area **would have a significant visual impact on** ~~lies within sight of one of~~ the key views (KV) listed below and shown on Plan 4 and the accompanying photographs, a Landscape and Visual Impact Assessment or similar study should be provided to demonstrate that the levels of effects are acceptable, and that the scheme has been sited and designed sensitively and appropriately reflecting, respecting, and where possible, enhancing its landscape context: ...”*

4.5 Policy AST2 Biodiversity: In January 2023 a section of the Environment Act 2021 came into force that requires as a general principle biodiversity to be conserved and enhanced [SI 2022/1266 reg 2(a)]. The first paragraph of Policy AST2 as currently worded has not given the duty to enhance due regard with reference to this new principle. The second paragraph statement concerning potential harm to a nationally designated Site of Special Scientific Interest states something that is understood as normal planning practice. In my opinion, the recent policy change to require enhancement as a norm, has altered requirements with regard to potential harm to an SSSI. I find the statement is contrary to the principle to enhance as is it anticipating reduction of biodiversity in certain circumstances being acceptable without consideration of enhancement potential. In order that Policy AST2 complies with national legislation and policy I recommend that it is amended as shown in Modification 2.

Modification 2: The first paragraph of Policy AST2 to be amended as follows:

“Development proposals should protect, conserve and ~~where possible~~ enhance the biodiversity of the Neighbourhood Area. ...

The second paragraph of Policy AST2 to be deleted.

4.6 Policy AST3 Building design: Complies with the Basic Conditions.

4.7 Policy AST4 Aston Ingham village settlement boundary: The settlement boundary has been drawn up using criteria in the LPA's guidance note and Policy AST4 complies with the Basic Conditions.

4.8 Policy AST5 Land at Ellsmere, Aston Ingham: This policy allocates a site for residential development and public open space. The area for residential development is within the settlement boundary. The Consultation Statement (page 5) details consultation and the Call for Sites that supports this allocation, and the evidence document produced by independent consultants 'Housing Site Assessment' July 2021 sets out the process that led to the allocation. The policy complies with the Basic Conditions.

4.10 Policy AST6 Housing mix: Complies with the Basic Conditions.

4.11 Policy AST7 Householder development: Complies with the Basic Conditions.

4.12 Policy AST8 Community facilities: There is a requirement in the NPPF for policy to be clear (para 16d). Although the wording of the policy is quite acceptable, there is no plan showing the location of the facilities listed for protection. As the Plan will be read and used by people without detailed local knowledge the location of the community facilities needs to be indicated on a plan. In order that the required policy clarity is provided, and the Basic Conditions with regard to compliance with government policy is met, I recommend Policy AST8 is amended as shown in Modification 3.

<p>Modification 3: <u>A plan is to be provided showing the location of the 5 community facilities listed in Policy AST8.</u></p>

4.13 **Policy AST9 Communications infrastructure:** Complies with the Basic Conditions.

4.14 **Policy AST10 Renewable and low carbon energy:** The policy has effectively designated the neighbourhood area as suitable for a restricted range of wind energy development appropriate to its rural setting and landscape character. It thus complies with the Written Ministerial Statement of June 2015 regarding onshore wind, and complies with the Basic Conditions.

4.15 **Policy AST11 Surface water and flood risk:** Complies with the Basic Conditions.

4.16 **Policy AST12 Small-scale employment:** Complies with the Basic Conditions.

4.17 **Policy AST13 Agricultural and forestry development:** This policy is also impacted by the recent enabling of the duty to enhance biodiversity, quoted above in this report's discussion about Policy AST2 (page 12). Clause 5 of this policy has not considered the duty to enhance biodiversity. In order that due regard is given to government policy, and the Basic Conditions complied with, I recommend that Policy AST13 is amended as shown in Modification 4.

Modification 4: Clause 5 of Policy AST13 to be amended as follows:

5. biodiversity is conserved and enhanced and *there are no unacceptable impacts on ~~biodiversity~~ heritage assets or the utility and enjoyment of public rights of way. The provision of safe off-road active travel links within developments is encouraged; and*

5. The Referendum Boundary

5.1 The Aston Ingham Neighbourhood Development Plan 2022 – 2031 has no policy or proposals that have a significant enough impact beyond the designated Neighbourhood Plan Boundary that would require the referendum boundary to extend beyond the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the AINP shall be the boundary of the designated Neighbourhood Area for the Plan.