

# Titley Group Neighbourhood Development Plan 2011-2031

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## Submission Version

A Report to Herefordshire Council on the Examination of the Titley  
Group Neighbourhood Plan

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## Executive Summary

My examination has concluded that the Titley Group Neighbourhood Area Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- All developments are to be encouraged, not required to incorporate renewable energy generation.
- Recognising that work/live units could be supported outside of settlement under Policy TG9.
- Allowing rural exception sites to incorporate a small element of market housing where it is necessary to deliver affordable housing.
- Retaining the settlement boundary as submitted, unless the residential development on the Balance Farm site is implemented, in which case the settlement boundary should incorporate that site.
- Allowing for the reuse of rural buildings and well-designed new buildings.
- Removal from the landscape policy, the elements relating to the preservation of sightlines to and from long-distance footpaths and protecting locally important features and views.
- Clarifying that the loss of irreplaceable habitats will only be allowed in exceptional circumstances and removing the necessity of the assessment of significant impacts on the natural environment.
- Modifying the historic environment policy to align with NPPF policy.

The referendum area does not need to be extended beyond the Plan area.

## Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities the opportunity to create the policies that will shape the places where they live and work. A neighbourhood plan provides the community with the ability to allocate land for particular purposes and to prepare the policies that will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the policies of the Herefordshire Core Strategy 2011- 2031, adopted in October 2015. Decision makers are required to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been undertaken under the supervision of Titley Group Parish Council. A Steering Group was appointed to undertake the Plan's preparations made up of parish councillors and members of the local community.
3. This report is the outcome of my examination of the Submission Version of the Titley Group Neighbourhood Plan. My report will make recommendations, based on my findings, on whether the Plan should go forward to a referendum. If the Plan then receives the support of over 50% of those voting at the referendum, the Plan will be "made" by Herefordshire Council.

## The Examiner's Role

4. I was appointed by Herefordshire Council in April 2023, with the agreement of Titley Group Parish Council, to conduct this examination.
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 44 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of my neighbourhood planning consultancy, John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Herefordshire Council and Titley Group Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
6. Under the terms of the neighbourhood planning legislation, I am required to make one of three possible recommendations:
  - That the Plan should proceed to referendum on the basis that it meets all the legal requirements.

- That the Plan should proceed to referendum, if modified.
  - That the Plan should not proceed to referendum on the basis that it does not meet all the legal requirements.
7. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Titley Group Neighbourhood Plan area.
  8. In examining the Plan, the Independent Examiner is expected to address the following questions:
    - Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
    - Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
    - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Town and Country Planning Act 1990 and been developed and submitted by a qualifying body?
  9. I am able to confirm that the Plan only relates to the development and use of land, covering the area designated by Herefordshire Council, for the Titley Group Neighbourhood Plan, on 14<sup>th</sup> July 2016.
  10. I can also confirm that it does specify the period over which the Plan has effect, namely the period from 2011 up to 2031 which coincides with the dates of the Herefordshire Local Plan Core Strategy.
  11. I can confirm that the Plan does not contain policies dealing with any “excluded development”.
  12. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
  13. I am satisfied that Titley Group Parish Council as a parish council can act as a qualifying body under the terms of the legislation.

### **The Examination Process**

14. The presumption is that the neighbourhood plan examination will proceed by way of the consideration of written evidence only. However, the Examiner can ask for a public hearing, in order to hear oral evidence on matters which he or she wishes to explore further or to give a person a fair chance to put forward a case.
15. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
16. I am satisfied that I can properly examine the Plan without the need for a hearing.
17. I carried out an unaccompanied visit to the Parish on 15<sup>th</sup> May 2023. Upon arrival in Titley, I visited the Balance Farm site and I was able to note its location on the

edge of the village. The gates were not locked and I took the opportunity to enter the site. I saw its relationship with the lodge to Eywood Park. I then re-joined the B4355 and then drove down the track to see the proposed housing allocation site and open space as well as the complex at Titley Court. Whilst driving through the village, I noted the village hall as well as The Stag Inn and the Church. I then proceeded to the north to see a number of settlements, including Knill, Rodd and Nash, off the B4362. I then proceeded eastwards through the parish to Stansbatch and then via Milton Cross to Staunton on Arrow where I then spent some time noting the allocation sites before returning to Titley through Horseway Head.

18. Following my site visit, I prepared a document seeking clarification on a number of matters, which I sent to both the Parish Council and Herefordshire Council, entitled "Initial Comments of the Independent Examiner", dated 18<sup>th</sup> May 2023. I received responses from Herefordshire Council on 26<sup>th</sup> May 2023 and from the Parish Council on 8<sup>th</sup> June 2023. The responses have been placed on the respective websites. Whilst preparing this report there have been matters of clarification which I have dealt with by email correspondence.
19. Upon my appointment I was informed that there had been an earlier version of the neighbourhood plan, which had been the subject of its own examination carried out by a colleague examiner, Ann Skippers, in 2019. She recommended that the plan should proceed to referendum subject to a number of modifications, one of which was to include the Balance Farm complex within the Titley settlement boundary. That plan was taken to referendum on 6<sup>th</sup> May 2021 and in response to the question "Do you want Herefordshire Council do use the neighbourhood plan for Titley Group to help decide planning applications in the neighbourhood area" the vote was 72.8% as "No". The plan was therefore not made.
20. Following the public rejection of the plan, the Parish Council proceeded to revise the plan, which has now been submitted to Herefordshire Council and is the subject of this examination.

## **The Consultation Process**

21. The first examiner was satisfied as to the adequacy of the public consultation in respect of the preparation of that version of the neighbourhood plan. I consider my role is only to consider the consultation in respect to the latest version of the neighbourhood plan following the rejection at referendum.
22. Once the Parish Council decided to prepare a resubmission version of the neighbourhood plan, a Community Briefing took place in Titley Village Hall on 8<sup>th</sup> May 2022, which was attended by 31 people.
23. The new Pre-Submission version of the neighbourhood plan was the subject of its own Regulation 14 consultation which ran for a six-week period from the 29<sup>th</sup> August 2022 to 10<sup>th</sup> October 2022. This produced 15 responses which are set up in Table 5 in Section 9 of the Consultation Statement including the responses from the Steering Group.

24. I am satisfied that in view of the earlier work on the first iteration of the neighbourhood plan, the consultation arrangements in respect to the latest version of plan were both appropriate and proportionate.

### **Regulation 16 Consultation**

25. I have had regard, in carrying out this examination, to all the comments made during the period of this second Regulation 16 consultation, which took place over a six- week period, between 19<sup>th</sup> January 2023 and 2<sup>nd</sup> March 2023. This consultation was organised by Herefordshire Council, prior to the Plan being passed to me for its examination.

26. In total, 11 responses were received, from Herefordshire Council's Planning Dept, its Pollution section and the Councils' Transport Planning Team, The Coal Authority, The Environment Agency, Historic England, Natural England, Network Rail, NHS Herefordshire and Worcestershire Integrated Care Board, Natural Resources Wales and from a local resident.

27. I have carefully read all the correspondence and I will refer to the representations where relevant to my considerations and conclusions in respect of specific policies or the Plan as a whole.

### **The Basic Conditions**

28. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of "soundness". The Neighbourhood Plan is tested against what are known as the Basic Conditions as set down in legislation. It will be against these criteria that my examination must focus.

29. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -

- Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
- Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

## **Compliance with the Development Plan**

30. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Herefordshire Local Plan Core Strategy 2011- 2031 adopted in October 2015. Herefordshire Council has confirmed that for the basis of the basic conditions test, all the policies in the Core Strategy are strategic policies.
31. Titley is identified as one of the villages in the Kington Housing Market Area that is, according to Policy RA2 to be the focus for proportionate housing development. Staunton on Arrow is also identified as another settlement where proportionate housing growth is appropriate. The Kington Housing Market Area is required by Policy RA1 to deliver approximately 317 new dwellings. The policy gives indicative housing growth targets for neighbourhood plans, which for this HMA is 12% growth over the plan period. Policy RA3 deals with development policies outside settlement boundaries. Policy RA5 sets criteria for the use of rural buildings and Policy RA6 sets policy for the encouragement of the rural economy. Policy H2 addresses the criteria for rural exception sites. Landscape policy is found in Policy LD1 and biodiversity is addressed in Policy LD2 and historic assets are covered by Policy LD4.
32. Herefordshire Council has embarked on the preparation of the new Herefordshire Local Plan 2021- 2041. This plan is at an early stage and is not relevant in terms of the basic conditions test.
33. My overall conclusion is that the Neighbourhood Plan, apart from where I have noted in the commentary on individual policies, is in general conformity with these strategic policies in the Herefordshire Local Plan Core Strategy.

## **Compliance with European and Human Rights Legislation**

34. Herefordshire Council issued a Screening Opinion, in a report dated 4<sup>th</sup> March 2022, which concluded, after consulting the 3 statutory bodies, that a full strategic environmental assessment, as required by EU Directive 2001/42/EC, which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would be required.
35. The earlier version of the neighbourhood plan had been the subject of a Scoping Report dated February 2017 and an Environmental Report was produced which was the subject of public consultation as required by Regulation 13 of the Environmental Assessment of Plans and Programmes Regulation 2004 - the SEA Regs. The previous examiner was satisfied that the report was fit for purpose.
36. The Environmental Report has been updated, initially in a report also dated August 2022 to take account of the changes that the resubmitted neighbourhood plan proposed and this accompanied the Regulation 14 consultation and this was updated in December 2022. This new version was submitted as part of the



Regulation 15 submission and was available again as part of the Regulation 16 consultation.

37. Herefordshire Council, as competent authority, in an initial screening report dated February 2017, screened the plan under the Conservation of Habitat and Species Regulations. This concluded that Habitat Regulation Assessment would be required as the plan was in the hydrological catchment of the River Lugg, which is part of the River Wye (including the River Lugg) SAC. That assessment concluded that the Plan “will not have a likely significant effect on the European site”
38. However, more up to date Natural England advice is that a Stage 2 Appropriate Assessment is required for all neighbourhood plans in this catchment. That assessment has been carried out and it identified the most significant issue in the catchment is water quality. The conclusion of the new Appropriate Assessment is that if the identified avoidance and mitigation measures, which include polices in this plan are put in place, there will not be a significant effect on the integrity of the River Wye (including the River Lugg) SAC.
39. I am satisfied that the basic conditions regarding compliance with European legislation, including the more recently introduced basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the Plan has no conflict with the Human Rights Act.

## **The Neighbourhood Plan: An Overview**

40. This is somewhat unusual examination in that it follows a community’s rejection of its own neighbourhood plan. It is one of the few neighbourhood plans to not achieve a positive vote at referendum. I understand that the Parish Council was unhappy with some of the last Examiner’s modifications that had been recommended to be made in order that the plan met the basic conditions. I understand that it did not wish to make the changes required to the plan for the referendum version to implement the examiner’s recommendation to allow the plan to move forward. I had not come across this before.
41. The examination stage is an important part of the neighbourhood plan process, in that Parliament, when giving community’s the ability to prepare their own planning policy for their area, nevertheless requires that it must be done in a way that recognises and supports the strategic policies as set out in the adopted Local Plan, as well as having regard to national policy and advice and it must deliver sustainable development as well as meeting other obligations. That is what is tested at examination.
42. The way that I have approached this examination, is to recognise, as a starting point, that the referendum version of the first version of the neighbourhood plan was confirmed by the Examiner, and subsequently by Herefordshire Council, as meeting the basic conditions and the legal tests. Notwithstanding that this is a new neighbourhood plan, submitted under its own right under Regulation 15, I do not feel that it is necessary for me to revisit the issues that have undergone examination and shown to meet the legal tests. I see my remit as looking at what

policies have changed in this version and to test whether the revised new policies meet the basic conditions. In some cases, the policies have been the subject to minor redrafting and some cases more significant changes. I also need to consider whether there has been any change of changes in circumstances since the last examination. An example of this is the revisions to the nutrients element of Policy TG14 in view of the latest Appropriate Assessment under the Habitat Regulations.

43. The Parish Council has sought to provide me with more justification for excluding the Balance Farm site from being included within the settlement boundary. I have given this new evidence due weight and the case would certainly be more compelling, if there was not planning permission for residential development on that site. I appreciate that the plan is seeking to protect the situation, if that permission were not to be taken forward. However, once the permission is lawfully implemented, then the argument for keeping a gap with Eywood Park completely disappears. I believe that the revised wording that I have proposed to Policy TG5, offers a pragmatic solution which reflects both the community's hope that the site remains undeveloped, but also recognises the consequences, if it is built upon.
44. My overall conclusion is that with the changes I have recommended, the new plan will deliver sustainable development and has regard to Secretary of State policy and advice.
45. The changes to the policies I am recommending may require some consequential amendments to the supporting text, so that the plan reads as a coherent document. I will leave it to the Parish Council/ Steering Group to work alongside Herefordshire Council's planners to make any required changes, when preparing the Referendum Version of the plan, which will have to be prepared alongside the Council's Decision Statement. That would equally apply to comments made in other Regulation 16 comments which could be updated, but which do not require formal recommendations for modification to meet the basic conditions .

## **The Neighbourhood Development Plan Policies**

### **Policy TG1: Sustainable development**

46. The original version of this policy was found to meet the basic conditions. The changes to the policy, quantifies the extent of any net biodiversity gain, to now be at least 10%. That is in line with the provisions brought in by the Environment Act 2020 which will take effect for major schemes later this year and should be implemented in full in 2024, for all but exempt development.
47. Herefordshire Council has questioned in its Regulation 16 comments, how this will be measured in advance of the national scheme. I consider that there is sufficient guidance available, particularly from Natural England who have published Biodiversity Matrix 4.0, which sets out how the net gain is to be measured. In the

absence of the final version of the full Government guidance, there is sufficient information available to allow an assessment as to whether the 10% net biodiversity gain has been achieved. I am reassured that this policy aspiration is appropriately balanced by the caveat “as relevant to the proposal.”

48. The policy introduces two new objectives regarding renewable energy generation and the use of sustainable and/ or recycled construction materials, both of which need to be balanced against other factors, in assessing whether the proposal constitutes “sustainable development”. The policy imposes a requirement, albeit caveated “unless it can be clearly demonstrated” to incorporate renewable energy generation.
49. In a Written Statement to the House of Commons, dated 25<sup>th</sup> March 2015, the Secretary of State stated that neighbourhood plans should not set “any additional technical standards or requirements relating to the construction, internal layout or performance of new dwellings.” In this case I consider the policy can be retained, if it *encourages* rather than *requires* the use of renewable and low carbon energy. That change in emphasis will remove the need to demonstrate if it is not achievable. With the proposed modification the policy would be consistent with both aspects of national policy.
50. The final objective is effectively acts as an encouragement to use sustainable and/ or recycled construction materials, through the caveat “wherever possible”. I consider that this is consistent with the NPPF’s aspirations to “encourage the reuse of existing resources”.

#### ***Recommendation***

***In 6., replace “requiring” with “encouraging” and omitting all text after “energy generation”***

#### **Policy TG2: Housing needs and requirement**

51. The original version of this policy was deemed to meet basic conditions. The changes to the policy now proposed, no longer refer to the requirements of the Herefordshire Local Plan Core Strategy as *minimum* requirements. Policy RA2 of the Core Strategy refers to *minimum* growth targets for each rural housing market area. It goes on to say in the supporting text that NDPs will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet various targets by indicative indicating levels of suitable and available capacity. As these are expressed as minimum growth targets, I do not believe it would be necessary to include *minimum*, as the requirements of the Core Strategy are themselves, minimum requirements.
52. I note the typographical errors in the policy – there is no “No3” and this can be rectified by renumbering, and in No 6, the designation should be “of Titley” not “Title” as a Rural Settlement. I consider that it will be clearer if the policy refers to designation “under Section 157 of the Housing Act 1985”.
53. The policy, in the second requirement, clarifies that it supports “new housing within settlement boundaries” rather than “settlements”. That approach is at variance with Core Strategy Policy RA2 which refers to sustainable housing growth being supported in “*or adjacent*” to identified settlements. I have given

this matter careful consideration, particularly in relation to the question of the basic condition test as to whether the plan is in general conformity with the strategic policies in the adopted local plan. The Local Plan does not seek to draw settlement boundaries. The Titley Group Parish and its community has chosen to use settlement boundaries as a policy instrument, in order to shape development in the two key settlements in the parish. Once settlement boundaries are adopted, by implication, development adjacent to but outside that settlement boundary will be treated as countryside and if I were to include “adjacent to”, I fear that it would undermine the whole approach being advocated by the neighbourhood plan.

54. Subject to the development boundary being drawn in a way that reflects the existing pattern of development in the settlement, I do not consider that this approach will undermine the ability of the plan to meet the housing expectations as set by the Core Strategy. The boundary will need to be kept under review to reflect consents granted over the plan period or if the housing requirements change through, for example, changes at local plan level indicating additional housing allocations will be required.
55. The policy now includes support for live/work units but only within settlement boundaries. However Policy TG9 also permits them in locations away from the two settlements and so I will recommend a modification, so there are no contradictions within the plan.
56. The policy recognises that residential development may take place outside of the settlement boundaries, but they may not necessarily be in accordance with exception policies, for example, agricultural workers accommodation would be policy compliant.
57. The expectation of the policy is that affordable housing allowed under this policy should be available in perpetuity, as affordable, is not deliverable by way of a planning policy, unless it is situated on a rural exception site. A neighbourhood plan policy cannot remove a tenant’s legal rights to buy their own homes under Right to Buy legislation. I will recommend this aspect of the policy be removed as Policy TG3 deals with the issue appropriately in the context of rural exception sites.

### ***Recommendations***

#### ***Renumber the policy***

***In 4., to be renumbered 3. - at the end of the first sentence, insert “or where the development is in accordance with Policy TG9”***

***In 6., to be renumbered 5. - change “Title” to “Titley” and after “settlement” insert “under Section 157 of the Housing Act 1985”***

***In the final paragraph, delete “exception” in the penultimate sentence and delete the last sentence.***

### **Policy TG3: Rural exception housing**

58. The only changes from the previous version, is that the policy no longer acknowledges that a small proportion of market housing may be required to deliver the affordable housing on exception sites. The possibility of encouraging economic viability is specifically acknowledged in paragraph 78 of the NPPF. In

the absence of that flexibility, it could mean that local needs housing may not be capable of being delivered. I will therefore be recommending that this part of the policy be reinstated.

59. I have noted the concerns of Herefordshire Council requirement regarding proposals needing to be *consultation* with the Parish Council in terms of the sizing, design and location of any rural exception site. I consider that is a reasonable request, which is not unusual in such policies, bearing in mind the constraints on residential development in areas where new housing would not ordinarily be permitted but which could be supported through an expression of local support.

#### **Recommendation**

***Add at the end of the policy “Such a scheme may include a small proportion of market housing if it can be shown to be necessary for the delivery of the scheme as affordable housing.”***

#### **Policy TG4: Land at the Titley Farm**

60. The mixed-use allocation was a feature of the first iteration of the neighbourhood plan and the last examiner’s modifications were incorporated into the final version of that plan.
61. There have been minor revisions to the wording of the policy in this particular version.
62. Firstly there is a typographical error in the allocation, which is “for a mixed-use scheme”. I can correct that omission.
63. The policy now allows the possibility of self-build units being built by now saying they “may” be included. I have no concerns regarding the changes as possibilities for self build already covered by Policy TG2.
64. The second change relate to conformity with “Herefordshire design guidance”. I do not consider a decision maker or an applicant would know what guidance they were being directed to. I have clarified this with the Parish Council who has confirmed the document is the “Herefordshire Highways Guide for New Development”.
65. I do not necessarily share Herefordshire Council’s concerns regarding the proposed density, especially as the need is for smaller dwellings in the parish.
66. On the question of orientation, I do not see that the two aspirations within the policy, for the development to front onto the open space and to maximise solar gain would necessarily be mutually exclusive.

#### **Recommendations**

***In the first sentence after “allocated for” insert “a mixed use”***

***In 5., replace “Council’s design guidance” with “Highways Guide for New Development”***

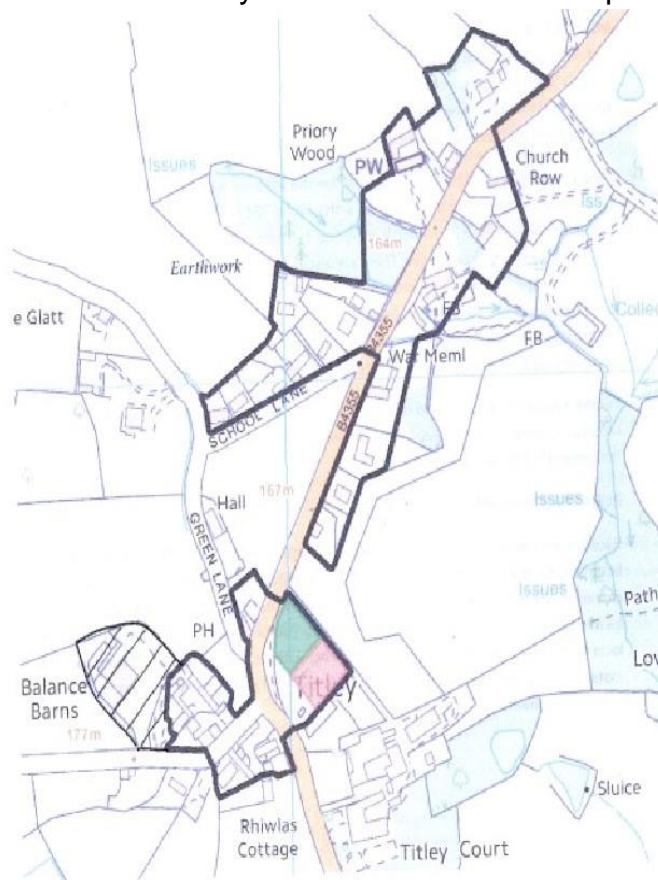
## Policy TG5: Titley settlement boundary

67. This has proved to be the most controversial aspect of the neighbourhood plan. In particular, the inclusion/exclusion of the Balance Farm site is the key dividing line between the Parish Council/the community and Herefordshire Council.
68. The previous examiner proposed the modification to include the site of the permitted 5-unit residential scheme at Balance Farm into the settlement boundary. It has been put to me that the inclusion of the site within the boundary was a major factor in the community's rejection, at the referendum, of the first iteration of the plan. Whilst one can only speculate on how and why people voted in the way they did, I am confident that the Parish Council would have been given some feedback during the Community Briefings on the current version of the plan. I understand that the Parish Council declined to support the post examination version of the first plan.
69. In its letter to me, upon the commencement of this examination, dated 28<sup>th</sup> April 2023, the Parish Council made it clear that the community had consistently objected to the development of Balance Farm. The stated grounds, set out in the justification, included access, impact on registered park and gardens and landscape.
70. In terms of the planning status of the development at Balance Farm, I understand the outline planning permission, reference P/60581/O, was granted in 2016. Legally, that constitutes the grant of planning permission, with subsequent matters reserved for future approval- these are known as reserved matters. There was an application for the approval of the reserved matters relating to the access arrangements, as required by conditions 3 and 4 of the outline permission. That application was refused by the Planning Committee at Herefordshire Council on the grounds of the inadequacy of the site entrance's visibility as well as the impact of additional traffic on the junction of Eywood Lane with the B4355.
71. At the appeal stage, the inspector concluded that it was only open to her to consider the site access, rather than the impact of the traffic generated by the development on a nearby junction, which was a consideration when it had been granted planning permission. In allowing the appeal, she also made an award of costs against Herefordshire Council on the grounds of the unreasonableness of its decision to refuse permission for the site access details. I cannot disagree with the logic of the decision taken by the Inspector, as the principle of the development comprising 5 houses had already been established through the grant of the outline permission, which would have taken into consideration the traffic generation from the site, both on the junction and the wider network.
72. A second reserved matters application was submitted in 2019, covering the remaining reserved matters, but that application had, until recently, been held up due to the need to resolve issues regarding nutrient credits. I have been informed that these matters have now been satisfactorily resolved and the application is proposed to be shortly reported to the Herefordshire Planning Committee. I understand that the application is likely to be the subject of a positive officer recommendation. However, the outcome of that reserved matters application and

the discharge of other conditions, cannot be pre-judged at this stage. However, I have been assured that the 2016 planning permission remains extant.

73. That development, if all the remaining matters are finally approved and it is implemented, will effectively take the edge of Titley's development up to the boundary of Eywood Park. The submitted plans show the substantial cypress hedge being proposed for retention. Following my site visit, I observed the hedge effectively provides a visual barrier between the Balance Farm site and the historic parkland beyond. It also, in my view, it will ensure that there will no significant adverse impact on the wider landscape, arising from the building of five dwellings and garages.
74. I have therefore come to the conclusion that if the Balance Farm planning permission has all its reserved matters approved and other conditions discharged, and subsequently that development is implemented, then the reality is that this development will now form the western edge of Titley village.
75. Herefordshire Council maintain its view that the settlement boundary should take in the permitted planning application site at Balance Farm. However, I do recognise the strength of feeling locally on this development, which is reflected by the position consistently taken by the Parish Council. One of the strengths of the neighbourhood plan system is it gives the community the ability to "shape and direct development so long as it is consistent with strategic policy". I place significant weight on the previous referendum result, which apparently, was driven, even in part, by the plan's modification which included the Balance Farm site within the settlement boundary. I also recognise that the latest version of the neighbourhood plan, provides greater justification for retaining the settlement boundary, without the inclusion of the Balance Farm site. Most importantly, I place particular importance to the objective, set out in paragraph 5.15, that the plan is seeking to preserve the separation between the village and the boundary to the Eywood Park parkland **"should the permission for any reason remain unimplemented"**.
76. Once that permission has been implemented, then the case for maintaining the site as a gap, disappear. Until that time there is the possibility, albeit an unlikely one, that there remains a gap between the converted farm building at Balance Barns and the boundary with Eywood Park, apart from the large agricultural building that stands on the site. However as soon as the development does take place, then the planning case for leaving the site outside the settlement boundary disappears, as it will be a new residential enclave, notwithstanding the resentment felt within the community about the original decision to grant planning permission.
77. I will be therefore proposing, what may be considered as a "hybrid" solution, but which is based on arrangements I have seen used in other neighbourhood plans, where development may or may not take place on the edge of a settlement, such as on "reserve sites" which falls outside a settlement boundary, but would only be developed if circumstances require it's development. Under that scenario, the plan policy can allow the site to be treated as falling within the settlement

boundary. Should the residential scheme of 5 units is commenced, it would, in my opinion, be unreasonable and unjustifiable to treat it as a development in the countryside, as it is patently adjacent to the rest of the village. I propose the Balance Farm should be crossed hatched as per the attached plan so that it will be outside the settlement boundary unless the site is developed in which case it



will be deemed to be included within the settlement boundary.

78. I appreciate that there could be residual concerns within the community, that the developed site's inclusion within the settlement boundary establishes the principle of residential development, which could resurrect concerns about increased traffic using the junction with the B4355. My judgement is that under that scenario, planning permission could justifiably be refused, if it can be demonstrated that the additional traffic movements would have an adverse impact on highway safety, notwithstanding the fact that it the site lies within the settlement boundary. The previous appeal decision related to the 5 extra homes on the Balance Farm site, would be an important consideration/ precedent.
79. Herefordshire Council has raised the issue of whether Titley Court should be included within the settlement boundary but I do not see that there has been a change in circumstances since the previous examination that would lead to a change in the settlement boundary apart from the planning application for one of the barn structures. I understand that is supported both by the Parish Council and Herefordshire Council which is essentially a replacement building. I do not believe the consideration of the neighbourhood plan requires the "resolution to approve" to be revisited as feared by a local resident in his Regulation 16 representation.



### **Recommendation**

**After “heritage assets” insert “. The area shown as hatched within Table 4 will be deemed to be within the settlement boundary if a residential development which has been granted planning permission (including outline planning permission where all reserved matters have been approved) and all pre commencement conditions have been discharged, has been commenced on site.”**

### **Policy TG6: Land opposite Old Court Cottages/Newton, Stanton on Arrow**

80. Again this policy is close to that which was included in the first iteration of the plan. It differs by referring to “green space” rather “communal open space”. I do fear that “green space” without definition or clarification could be misinterpreted, for example, as green infrastructure. The NPPF defines “green infrastructure” in its glossary, but it could be promoted, for example, as part of the biodiversity net gain for the new housing. I consider that it may be clearer as to the intention of the policy to refer to “recreational green space” as used in paragraph 6.8 of the supporting text.
81. The policy now requires that proposals need to mitigate any harm to heritage assets. The policy also specifies that dwellings should be constructed of materials that reflect local vernacular, and goes further by specifying stone and timber under slate roofs, unless an alternative is justified.
82. I did identify that the plan as submitted this version differs from that which was taken to referendum under the first iteration. The site does not extend so far to the rear as originally shown and I needed to understand the reason for the difference. Finally, I received the answer. The plan that was presented at referendum was prepared by Herefordshire Council rather than by the Parish Council, as at that stage, it no longer supporting the plan, following the examiners modifications and so was not involved in the preparation of the Referendum Version of the plan. The Post Examination version included a drafting error in terms of the north east boundary alignment, that had not been picked up. I am assured that the plan that is now presented, reflects the agreed boundary between the Parish Council and the landowner. I do not consider the reduction in the site area will materially affect the capacity of the site to deliver the housing proposed.
83. I am satisfied that the changes to this policy do not raise any fundamental issues regarding the basic conditions.

### **Recommendation**

**That reference to “Green Space” throughout the policy should be replaced by “recreational green space”.**

### **Policy TG 7: Small sites at Staunton-on-Arrow**

84. This policy again is slightly amended, by now referring to “sympathetically designed small housing development”. Responding to the comments of

Herefordshire Council the Parish Council have agreed to replace that wording with “small scale housing”: I will support that modification.

85. I do not see that by the supporting text referring to “the optimum form of development being only individual dwellings” would not rule out a greater number of units, so long as the scheme met the criteria set out in the policy. Additional requirements regarding construction materials reflecting the local vernacular, again, are appropriate.

#### ***Recommendation***

***Delete “sympathetically designed”***

#### **Policy TG8: Staunton-on -Arrow settlement boundary**

86. The only change in Staunton-on -Arrow’s settlement boundary between the first version that went to referendum and the current plan, relates to the revised alignment of the site allocation now set by Policy TG 6.
87. The previous examiner accepted the policy wording and the line of having two settlement boundaries, notwithstanding the concerns of Herefordshire Council. I have no grounds for coming to a different conclusion.
88. The issue of materials raises no issues of compliance with basic conditions.

#### **Policy TG9: Economic development in Titley Group**

89. The first part of the policy is identical to the previous version, apart from the inclusion of the impact on biodiversity which is now introduced as a policy consideration.
90. The policy in requirement 1, refers only to the “reusable of rural buildings, which merit preservation by virtue of their current character and/or contributions to the local environment”. The previous version related to both reuse of “rural buildings” and also “well designed new buildings”. That version reflects the approach advocated by the Secretary of State, in paragraph 84 of the NPPF. I cannot see any justification why, within this part of Herefordshire, planning policy should take a different stance, say to the conversion of a redundant modern agricultural building.
91. As such, I do not consider that the more restrictive approach, now being proposed, is in general conformity with Core Strategy Policy RA5 which deals with reuse rural buildings which does not restrict the conversion to only buildings which merit preservation but rather requires them only to be of permanent and substantial construction. The proposed policy could lead to further dereliction of buildings which could still usefully play a role in developing the rural economy.
92. I will propose that the policy be modified back to that proposed in the referendum version of the neighbourhood plan’s first iteration.
93. Again, I cannot see the justification for restricting diversification of existing “farm, forestry and other land use based rural businesses” to having to be “proportionate”. I consider the text in Core Strategy Policy RA6 establishes the correct test, namely that it is “of a scale that would be commensurate with its location and setting”.

94. In this case, I see no need for a separate materials requirement as these are already set by Policy TG6, which applies to all development including commercial development.

#### ***Recommendations***

***Replace 1. With “the reuse of rural buildings and well-designed new buildings for business use and the provision of live/ work units and”***  
***In 4., delete “ proportionate” and after “ rural businesses” insert “ that are of a scale commensurate with its location and setting.”***  
***Delete the final paragraph.***

#### **Policy TG10: Infrastructure**

95. The only change to this policy is that the policy supports infrastructure for “local home and business use”. I do not consider that this has any implications in terms of the basic conditions.

#### **Policy TG11: Renewable energy**

96. Again, there is only one slight variation to the earlier policy and that is the introduction of the consideration of the impact, both individual and cumulative, on the landscape, as well as on the natural and historic environment. I have no concerns regarding this change.

#### **Policy TG12: Community facilities**

97. This policy is identical to the earlier version, which was determined by the examiner as meeting the basic conditions. No modifications are necessary.

#### **Policy TG13: Landscape**

98. This is the new policy. I share the concerns of Herefordshire Council as to particularly the clarity of the second requirement. That requires the sightlines to and from Offa’s Dyke, the Mortimer Trail, Herefordshire Trail, Titley Loop and Eywood Lane to be preserved. However the plan does not identify any viewpoints or sightlines that are expected to be protected. With linear routes, it would be impossible for a decision maker to know whether a proposal has to consider the effect on views to and from any of these footpaths. Similarly, applicants would not know whether they are required to demonstrate whether their proposals will be visible from any of the routes. Accordingly, I will be recommending that this element of the policy be removed as the requirements could not be used with confidence in a development management setting.
99. I consider that these failings equally apply to the protection of locally important features and views element of the policy. However, the views to and from them are not identified, for example, by a zone or cone of visibility, which are commonly used in neighbourhood plans to identify views of particular value.

100. Similarly, the plan does not define the location and importantly the extent of the features of local importance. I therefore do not believe that this element of the policy complies with Secretary of State advice that neighbourhood plan policies should be “drafted with sufficient clarity that the decision-making can apply to be consistency and with confidence when determining planning applications.”
101. I was surprised that the non-visual impact of proposed development is included within, what is, a landscape policy. However, in view of the fact that these matters are already covered by requirement 5 of Policy TG16, this policy is effectively duplicating policy which would already be applied.
102. Finally, in terms of the clarity of drafting so the policy reads as a coherent statement of policy, I will propose that requirement 1 and 5 be amalgamated.

#### **Recommendation**

***Replace the policy with “Development proposals should protect and enhance the valued landscape by designing, siting and locating development in ways that secure a positive landscape and visual impact and where harm to the landscape cannot be avoided, it must be fully mitigated through sympathetic landscape planting.”***

#### **Policy TG14: Natural environment**

103. This is a comprehensive policy designed to protect and enhance the natural environment. It applies to “development proposals”. However there will be some development where it would not be necessary to, for example, provide a 10% gain, especially in terms of “exempt development”. Similarly they would not be necessary to apply it to changes of use. I will therefore propose to introduce a caveat “where appropriate” to provide a degree of flexibility.
104. The Secretary of State’s approach is to protect irreplaceable habitats “except in exceptional circumstances”. In order to meet the basic conditions test in terms of having regard to Secretary of State policy, I will propose that this element of policy be deleted.
105. I do have concerns as to what is expected by way of assessment, in terms of what are described as significant impacts on the natural environment. As drafted, I do not believe the policy could be effectively used in a development management context. For example, how would an applicant know what will be judged to be a significant impact, arising from their development. Similarly the issue arises as to what matters are to be covered under the heading “natural environment”. Much of this assessment work will already be covered by the net biodiversity plan which will be required to be submitted upon the Environment Act provisions coming into force in the next few months. I will therefore be proposing this element of the policy be deleted.
106. Apart from that, I consider the policy is an appropriate response to the issue of the development being required not to worsen the nutrients issues on the SAC.

#### **Recommendations**

***After “development proposals should” insert “where appropriate,”  
At the end of 2. insert “Their loss will not be allowed except in exceptional circumstances”***

### **Delete 4 and renumber**

#### **Policy TG15: Historic environment**

107. This policy is now more onerous and restrictive than the previous version of the policy. I do have a number of concerns. Firstly, any consideration of an impact should, in accordance with national policy, have regard to the significance of the asset. This criterion needs to be incorporated into the policy. Also the policy needs to differentiate between how an assessment of impact on non-designated heritage assets, in line with NPPF, is undertaken and the impact on designated heritage assets. This was correctly set out in the referendum version of the last iteration.
108. The final element needs to differentiate between development which leads to *substantial harm* to the heritage asset and those that lead to *less than substantial harm*. The balance suggested in the policy, where scheme benefits would outweigh harm, would only apply where there is less than substantial harm otherwise the tests need to reflect paragraph 201 of the Framework.
109. The policy also needs to make clear that it is *public* benefits of the scheme saying that should be considered.
110. I will make appropriate modifications to ensure that the policy has regard to Secretary of State policy.

#### **Recommendations**

***After “Titley Group” insert “. In considering the impact of proposed development on heritage assets, account should be taken of their significance (including any contribution made to their setting” in accordance with the National Planning Policy Framework and Herefordshire Local Plan Core Strategy Policy LD 4”***

***At the end of 1. insert “For non-designated heritage assets including parks, gardens and archaeological sites, balancing the scale of any harm or loss against their significance”.***

***Replace 4. with “Development proposals that result in substantial harm to or the total loss of significance to a designated heritage asset will not be allowed unless the tests set out in paragraph 202 of the National Planning Policy Framework (or its equivalent provision) are met. Development which leads to less than substantial harm will be assessed by weighing the identified harm against the public benefits of the proposal.”***

#### **Policy TG16: Design and access**

111. Again this policy does not depart significantly from the earlier version. Although there is a rewording of the access requirements, that has no significant implications in terms of my assessment of the basic conditions. It includes requirements relating to materials to reflect the local vernacular but the policy does accept departures, where it is justified. I consider the policy meets basic conditions.

## The Referendum Area

112. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Titley Group Neighbourhood Plan as designated by Herefordshire Council on 14<sup>th</sup> July 2016 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

## Summary

113. I congratulate Titley Group Parish Council on resubmitting the plan following the rejection of the first iteration of the plan by the community at referendum.

114. The Parish Council has taken the opportunity to amend some of the policy wording and this examination has concentrated on the changes that have been proposed as the previous version of the neighbourhood plan had been recommended by the Examiner, Ann Skippers that, with modifications, that version of the neighbourhood plan met the basic conditions and other legal requirements. These modifications were subsequently accepted by Herefordshire Council as the way the plan met basic conditions.

115. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

116. I am therefore delighted to recommend to Herefordshire Council that the new Titley Group Neighbourhood Development Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI, FRGS.

John Slater Planning Ltd

7<sup>th</sup> July 2023