

**Brilley NDP Independent Examination
Delegated Decision Statement
9 March 2017**

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Brilley Neighbourhood Area
Parish Council	Brilley Parish Council
Submission	27 July 2016 to 7 September 2016
Examination Date	January 2017
Inspector Report Received	20 February 2017

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 Brilley 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 Brilley was designated on 14 May 2014. The Neighbourhood Area follows the boundary of Brilley parish boundary. The Brilley NDP has been prepared by Brilley 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 June 2014.
- 2.2 The Plan was submitted to Herefordshire Council on 18 July 2016, and the consultation under Regulation 16 took place between the 27 July 2016 to 7 September 2016, where the Plan was publicised and representations invited.
- 2.3 On 10 October 2016 Ms Rosemary Kidd BA(Hons) DipTp MRTPI was appointed by Herefordshire Council, with the consent of the Parish Council, to undertake the examination of the Brilley 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 his report along with the justification:

Policy	Modification recommended	Justification
Recommended Modification 1 Policy BR1	Recommendation 1: revise Policy BR1 as follows: Revise the first paragraph to refer to the Proposals Map. Revise paragraph 4 to read: "Proposals for new and improvements to existing community facilities will be supported, provided that:" Revise criterion f) to read "The proposal would not have an <i>unacceptable</i> adverse effect on....." Revise the final paragraph to read: "The	Interests of accuracy and clarity Gives the policy greater flexibility.

	school site (now part of the Village Hall and Green Community Facility) <i>shall be used to provide infrastructure to support social events, educational and recreational activities.</i> "	
Recommended Modification 2 Policy BR2	Recommendation 2: Delete Policy BR2, paragraphs 7.4 to 7.6 and delete the sites from Figure 3.	Interests of accuracy and clarity.
Recommended Modification 3 Policy BR3 Proposals maps Para 7.21	<p>Recommendation 3: Revise the first part of Policy BR3 as follows: <i>"At least 16 dwellings shall be delivered by 2031 through the development of the housing allocations, windfall development within the settlement boundaries and exceptionally through windfall development in the countryside.</i></p> <p><i>"The following sites are allocated for housing development as defined on the Brilley Village Proposals Map:</i></p> <p><i>"Site 1 Pentre Lane site (0.5ha), up to 4 dwellings</i> <i>"Site 2 Site west of Brunley Close, (0.73ha) for up to 5 dwellings</i></p> <p><i>"New housing development should be: criteria a) to e)."</i></p> <p>For the avoidance of doubt: No modifications are proposed to the remainder of Policy BR3.</p> <p>The Settlement Boundaries should be revised to include the allocated housing sites.</p> <p>The key to the Proposals Map should be revised to read "Housing Allocations". The housing allocations should be numbered.</p> <p>Paragraph 7.21 should be revised to delete "(though these figures have been deleted from the draft Plan following responses to the Regulation 14 consultation)".</p> <p>Add <i>"It is anticipated that additional dwellings will come forward as windfalls."</i> before the final sentence in paragraph 7.21.</p>	<p>Lack of evidence to justify local green spaces.</p> <p>No evidence has been provided as to why the green spaces are demonstrably special to the local community.</p> <p>Both sites are at some distance from the local community, it is considered that they do not satisfy the NPPF requirement that they be in reasonably close proximity to the community they serve.</p> <p>This reflects the relevant legislation Paragraph 77 of the NPPF.</p>

<p>Recommended Modification 4</p> <p>Policy BR4</p>	<p>Recommendation 4: Delete Policy BR4. Move paragraph 7.25 to the local evidence section of the introduction to the housing section.</p>	<p>It is considered that Policy BR4 is not in general conformity with the strategic policies. No evidence has been supplied to support and justify its application on the small site allocations proposed. It is recommended therefore that it be deleted.</p>
<p>Recommended Modification 5</p> <p>Policy BR5</p>	<p>Recommendation 5: Revise Policy BR5 as follows:</p> <p>Delete criterion b)</p> <p>Revise criterion c) to read “Does not have an unacceptable detrimental effect on...”.</p> <p>Revise criterion d) to read “Does not have an unacceptable detrimental effect on highway safety.”</p> <p>Revise criterion h) to read “... or suitable alternatives”.</p>	<p>Strengthen and clarification of policy</p> <p>Clarification of the text and to add more certainty</p> <p>Reflect the relevant legislation</p>
<p>Recommended Modification 6</p> <p>Policy BR7</p>	<p>Recommendation 6: Replace Policy BR7 with:</p> <p><i>“Development should not detract from the unlit environment of the Plan area. Security, outside lighting and floodlighting should be designed to be deflected downwards. Outside lighting and floodlighting should be switched off no later than 23.00. Security lighting should be switched on as required.”</i></p>	<p>For clarity, consistency and accuracy. Makes the policy easier to implement.</p>
<p>Recommended Modification 7</p> <p>Policy BR8</p>	<p>Recommendation 7: Delete Policy BR9.</p>	<p>Insufficient account of policy and guidance. Lack of supporting evidence for the policy to stand.</p>
<p>Recommended Modification 8</p> <p>Policy BR10</p>	<p>Recommendation 8: revise Policy BR10 as follows:</p> <p>Delete criteria c) and d) and the final paragraph of the policy (The Parish Council will....)</p>	<p>For clarity, consistency and accuracy. Ensure policy is deliverable.</p>
<p>Recommended Modification 9</p> <p>Policy BR11</p>	<p>Recommendation 9: revise Policy BR11 to read: <i>“The improvement and enhancement of the public rights of way network for walking and cycling will be supported.”</i></p> <p>Delete the final paragraph of the policy</p>	<p>Policy is too onerous and undeliverable, policy changes makes the policy implementable and deliverable.</p>

	and criteria a) and b).	
Recommended Modification 10 Policy BR12 /BR13	<p>Recommendation 10: amalgamate Policies BR12 and BR13 to read:</p> <p>“The development of new sites or buildings of an appropriate scale to serve the employment needs of the local area and the enlargement or improvement of existing business premises will be supported provided that the development satisfies the requirements of Policy BR5 and other policies of the development plan.”</p>	<p>Should be modified to reflect national policy and guidance. To add clarity to the policy as policies BR12 and BR13 overlap, policies to merge to avoid repetition.</p>
Recommended Modification 11 Policy BR14	<p>Recommendation 11: Revise Policy BR14 to read:</p> <p><i>“Development that contributes to the visitor economy and new visitor accommodation will be encouraged provided that it would not have a detrimental impact on the natural or heritage assets and the overall character and quality of the environment, in particular:</i></p> <p><i>f) it is of an acceptable scale for the proposed location;</i></p> <p><i>g) there is adequate existing screening for any new buildings to reduce the impact on the landscape;</i></p> <p><i>h) a satisfactory means of access and parking can be provided;</i></p> <p><i>i) it ensures that any likely significant effect on the River Wye Special Area of Conservation (SAC) is avoided or adequately mitigated; and</i></p> <p><i>j) it satisfies the requirements of Policy BR5 and other policies of the development plan.</i></p> <p>Retain the second part of the policy and criteria j) to l) renumbered.”</p> <p><i>The justification to the Policy should explain that any new residential accommodation associated with tourism development will be considered against Core Strategy Policy RA4 Agricultural, Forestry and Rural Enterprise Dwellings and will be subject to an occupancy condition.</i></p>	<p>Lack of evidence and framework provision.</p> <p>Parts of the policy is too onerous and undeliverable.</p> <p>Should be modified to reflect national policy and guidance.</p>

	<p><i>The terms of a Local Needs Connections Policy that is to be applied to proposals involving the change of holiday accommodation to residential use should be agreed with the local planning authority and included in the justification to the policy.</i></p>	
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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.

4 Decision

- 4.1 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.
- 4.2 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. 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.
- 4.3 Following the modifications made, the Brilley Neighbourhood 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.

4.4 It is recommended that the Brilley Neighbourhood Plan progresses to referendum. Consideration has been given as to whether the area should be extended beyond that of the neighbourhood area. Herefordshire Council concur with examiners conclusion that nothing has been suggested which would require an extension of the area beyond that designed on 14th May 2014.

A handwritten signature in blue ink, appearing to read 'Richard Gabb', with a horizontal line underneath.

Signed

Dated 9 March 2017

Richard Gabb
Programme Officer – Housing and Growth