

**Eardisley Group NDP Independent Examination
Delegated Decision Statement
18 January 2016**

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Eardisley Group Neighbourhood Area
Parish Council	Eardisley Group Parish Council
Submission	15 May 2015 to 26 June 2015
Examination Date	December 2015
Inspector Report Received	14 January 2016

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 Eardisley Group 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 Eardisley Group was designated on 10 April 2013. The Neighbourhood Area follows the Eardisley Group parish boundary. The Eardisley Group NDP has been prepared by Eardisley Group 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 February 2013.
- 2.2 The Plan was submitted to Herefordshire Council on 5 May 2015, and the consultation under Regulation 16 took place between the 15 May 2015 to 26 June 2015, where the Plan was publicised and representations invited.
- 2.3 Within December 2015 Ann Skippers BSc (Hons) Dip Mgmt (Open) PGC(TLHE)(Open) MRTPI FHEA FRSA AoU was appointed by Herefordshire Council, with the consent of the Parish Council, to undertake the examination of the Eardisley Group 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
Modification 1 Contents page	Ensure that headings within contents page correctly reflects with headings in the Plan.	Interests of accuracy and clarity
Modification 2 Introduction	Consider the addition of fuller explanation about the requirements for the Plan in the Introduction	Provide clarity and completeness
Modification 3 Section 5	Within first paragraph update reference from emerging Core Strategy to reflect that it has now been adopted	Provide accuracy
Modification 4 Policy SD1	The following modifications are therefore recommended: <ul style="list-style-type: none">Delete the word "overriding" in the first paragraph	To ensure it fully reflects the thrust of national policy and guidance.

	<ul style="list-style-type: none"> • Add the words “<i>Where appropriate</i>” at the start of the last sentence in criterion b) • Add at the start of the last sentence in criterion c) which begins “In addition...”, “<i>Development should be directed to areas with the lowest probability of flooding. In addition existing and new properties...</i>” • Delete “...in particular to reduce the speed of vehicles and the effect of heavy goods traffic upon local amenity and property...” from criterion d), but include this as a community aspiration if so desired • Add the words “<i>unless there is no reasonable prospect of a specific site being used for that purpose</i>” after the words “...the retention of employment land...” in criterion e) • Update any references to the Core Strategy throughout the Plan as necessary • Correct typo in the “Legal Framework and Evidence” section on page 11 – “Planning Practise Guidance” should be “Planning Practice Guidance” 	<p>Encourage flexibility within the policy.</p> <p>Utilise the sequential test as detailed in the NPPF for flooding.</p>
<p>Modification 5 Policy E1</p>	<p>The following modification is therefore recommended: Replace criterion a) with “<i>New development will not be permitted in Flood Zones 2 and 3 unless there are no other options and the proposal is in accordance with national policy and guidance. In these cases satisfactory mitigation measures must be provided, including off-site provision as necessary. Any development that would result in increased flood risk to properties elsewhere will not be permitted.</i>”</p>	<p>Modification generalising the reference is suggested to ensure the policy stands the test of time should the NPPF be modified or superseded.</p>
<p>Modification 6 Policy E2</p>	<p>The following modifications are therefore recommended:</p> <ul style="list-style-type: none"> • Replace the words “which contribute” in criterion a) with “<i>make an important contribution to the character of the villages within the Plan area.</i>” • Change “conserve and enhance” in criterion b) to “<i>preserve or enhance</i>” • Reword criterion c) to read: “<i>Not adversely affect views and vistas valued by the communities and identified in Appendix 1 of the Plan. These views and vistas include, but are not limited to views</i>” 	<p>Remove ambiguity regarding views and vistas.</p> <p>Reflect the relevant legislation</p> <p>Improve clarity of the policy</p>

	<p><i>of Eardisley from Bollingham Hill; Hay Bluff and the Black Mountain; listed buildings and buildings of local interest.”</i></p> <ul style="list-style-type: none"> • Reword paragraph 7.2.5 to read: <i>“Reference should be made to evidence documents available on the Group website and which will be kept up to date during the Plan period.”</i> or similar • Paragraphs 7.2.7, 7.2.8 and 7.2.9 should be moved to a separate appendix or document as community aspirations or deleted from the Plan 	
Modification 7 Policy E3	<p>The following modifications are therefore recommended:</p> <ul style="list-style-type: none"> • Delete the first paragraph of Policy E3 and the accompanying three criteria a) to c) and replace the text with: <i>“All proposals for new development are encouraged to address the requirements of Herefordshire Local Plan Core Strategy Policy SS7 at the neighbourhood level by utilising physical measures associated with buildings that include the orientation of buildings, the provision of energy and water conservation measures and renewable energy infrastructure.”</i> or similar • Delete the last sentence of the policy which reads: <i>“Developer support for such projects will also be encouraged as part of their package of measures.”</i> • Consequential amendments to the supporting statements will of course be needed 	<p>The Government has created a new approach to setting technical standards for new housing development. A Written Ministerial Statement (WMS) 25 made it clear that neighbourhood plans cannot set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.</p>
Modification 8 Policy E4	<p>The following modifications are therefore recommended:</p> <ul style="list-style-type: none"> • Change the reference in criterion b) to the Proposals Map to Policies Map or vice versa and make it clear there are three such maps for each of the villages • Reword criterion b) to read: <i>“Protecting four Local Green Spaces in Eardisley and Winforton shown on the Policies Maps for those villages together with the open space identified on the Eardisley Policies Map.”</i> • Add the words <i>“Where appropriate”</i> at the start of criterion e) before <i>“Requiring proposals...”</i> 	<p>In the interests of completeness and accuracy</p>

	<ul style="list-style-type: none"> • Modify the Eardisley Policies Map to exclude Mill Cottage and its curtilage from the Local Green Space • Alter the key for the Policies Maps from “Protected Open Space and Green Space (E4)” to “<i>Local Green Spaces (E4)</i>” • Alter the key on the Eardisley Policies Map from “Safeguarded Open Space and Allotments” to “<i>Open Space (E4)</i>” • Show the full extent of the Conservation Area boundary on the Eardisley Policies Map 	
Modification 9 Policy C1	<p>The following modifications are therefore recommended:</p> <ul style="list-style-type: none"> • Delete the second paragraph of the policy which begins “Proposals for services and facilities...” to end of this paragraph • Reword paragraph three of the policy to read: “<i>Proposals that would result in the loss of a local service or facility or an Asset of Community Value will be strongly resisted unless it is demonstrated that the use is no longer viable or a replacement facility of an equivalent or better standard is provided.</i>” • Delete paragraph 8.1.7 	<p>Paragraph 8.1.7 does not relate to the policy.</p> <p>Allow more flexibility to the policy</p>
Modification 10 Policy H1	<p>The following modifications are therefore recommended:</p> <ul style="list-style-type: none"> • Change “12” to “11” in criterion a) • change the “12” to “11” in paragraph 8.2.3 in relation to the figure for Winforton • Update the reference to the “Herefordshire Local Market Assessment 2012” in paragraph 8.2.5 to “<i>Herefordshire Local Housing Market Assessment 2012 Update (dated November 2013 or any successor evidence)</i>” 	<p>Update reference and ensure policy is future proofed</p>
Modification 11 Policy H2	<p>The following modifications are therefore recommended:</p> <ul style="list-style-type: none"> • Ensure that the titles of the maps are consistent throughout the Plan i.e. if the policy refers to Village Inset Maps ensure there is a map of this name or use the title Policies Map as appropriate • Add to the end of criterion c) “as shown on the Whitney-on- 	<p>For clarity and accuracy.</p>

	<p>Wye Policies Map” bearing in mind the previous recommendation on consistency on map titles</p> <ul style="list-style-type: none"> • Ensure that the map reference is consistent with the language used in paragraph 8.2.9 	
Modification 12 Policy H3	<p>The following modifications are therefore recommended:</p> <ul style="list-style-type: none"> • Reword criterion a) to read: “<i>On sites of more than 10 dwellings with a maximum combined gross floor space of more than 1000 square metres, developers will normally be required to meet a target of 35% affordable housing provision.</i>” • Update the reference to the “Herefordshire Local Market Assessment 2012” in paragraph 8.2.16 to “<i>Herefordshire Local Housing Market Assessment 2012 Update (dated November 2013) or any successor evidence</i>” 	To help with clarity and provision of a practical framework for decision making, and to ensure it is future proofed.
Modification 13 Policy H4	<p>The following modifications are therefore recommended:</p> <ul style="list-style-type: none"> • Add “<i>and as shown on the Eardisley Policies Map</i>” to the first sentence of the policy • Identify the three sites specifically on the Eardisley Policies Map • Make each of the Policies Maps within the Plan bigger • Replace the words “should not exceed 15 dwellings” in criterion c) i) with “<i>should be approximately 15 dwellings</i>” • Reword criterion iv) “Density of development is consistent with that...” in criterion d) iv) to “<i>The density of development respects the density and context of the Eardisley Conservation Area.</i>” • Delete vi) from criterion d) 	<p>Useful to refer to the map within the policy.</p> <p>To add clarity to the policy.</p>
Modification 14 Policy H5	<p>The following modifications are therefore recommended:</p> <ul style="list-style-type: none"> • Add “<i>and as shown on the Winforton Policies Map</i>” to the first sentence of the policy • Identify the two sites explicitly on the Winforton Policies Map • Delete criterion v) from criterion c) 	Useful for Policies maps to be cross-referenced within policy
Modification 15 Policy H6	<ul style="list-style-type: none"> • Change the phrase “in the vicinity of Millhalf” in criterion a) to refer to the designation on the Whitney Policies Map, but change the notation from “proposed housing 	To add clarity and to avoid the policy being open for interpretation.

	<p>site" on the Policies Map to "<i>Millhalf</i>" or see alternative option in the text above</p> <ul style="list-style-type: none"> • Describe the length of the proposed frontage along Duck Street in words as well as relying on the line on the Policies Map by adding the distance of this line from the nearest house in the supporting text • Ensure that the 'one plot deep' referred to in paragraph 8.2.9 is also inserted in the supporting statements for this policy 	
Modification 16 Policy H7	<p>The following modifications are therefore recommended:</p> <ul style="list-style-type: none"> • Delete criteria c), d), g), j) • Reconsider the supporting statements • Delete paragraph 8.2.33 	<p>Paragraph 8.2.33 is more akin to a policy but has not been consulted as policy.</p> <p>Supporting statements could be more positively worded.</p> <p>Some of the criteria are unnecessary</p>
Modification 17 Policy J1	<p>Add "<i>where appropriate</i>" after "Requiring new development proposals..." in criterion c)</p>	<p>Make the policy more flexible</p>
Modification 18 Policy J3	<ul style="list-style-type: none"> • Add "<i>to ensure the most effective use of land</i>" after "or elsewhere on brownfield sites..." in criterion a) • Reword criterion d) to read as follows: "<i>Resist proposals for change of use of existing business premises and sites away from employment activity unless it can be satisfactorily demonstrated that there is no reasonable prospect of a site being used for that purpose or any other suitable employment use. This evidence will include appropriate and active marketing of at least 12 months for a change of use of a Class B employment use.</i>" • Remove italics from paragraph 9.1.7 • Remove notations of "Safeguarded Employment Land (J1, J2, J3) from all three Policies Maps or change that notation to "<i>Employment Land (J3)</i>" • Show the whole extent of the "Employment Land" designations on the relevant maps if retained 	<p>Take better account of national policy and guidance and to provide a practical framework.</p>
Modification 19 Policy MD1	<p>The following modifications are therefore recommended:</p>	<p>To add clarity to the map and policy</p>

	<ul style="list-style-type: none"> • Delete the words “As an exception to Policy J3,” from the start of the policy • Add the words “<i>subject to viability considerations</i>” after “occupying no less than 1.0 ha” in criterion d) • Remove the “Employment Land” designation from this site and extend the MD1 notation to wash over the two individual buildings on the northern side of the road • Change the title of the policy to “<i>The Old Sawmills Site</i>” or similar 	
Modification 20 Risk assessment	Remove or update this section	To bring the plan up to date in the process
Modification 21 Other matters	Ensure the four Policies Maps are appropriately located within the Plan document	Maps are an important part of the plan and therefore should be included in the plan themselves.

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

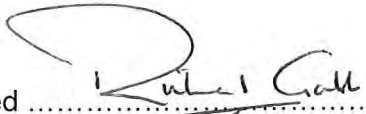
5.1 The Neighbourhood Planning (General) Regulations 2012 requires the local planning authority to outline what action to take in response to the recommendations that the examiner made in the report under paragraph 10 of Schedule 4A to the 1990 act (as applied by Section 38A of the 2004 Act) in relation to a neighbourhood development plan.

5.2 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 in line with paragraph 12 (6) of Schedule 4B to the 1990 Act.

5.3 Following the modifications made, the Eardisley Group 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.

5.4 It is recommended that the Eardisley Group 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 10 April 2013.

Signed 

Dated 22/1/2016

Richard Gabb
Programme Officer – Housing and Growth

