

# **Leintwardine Group**

## **Neighbourhood Development Plan 2011 – 2031**

### **Report of Examination      December 2016**

**Undertaken for Herefordshire Council, with the support of  
Leintwardine Group Parish Council, on the submission version  
of the Plan.**



#### **Independent Examiner:**

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## Summary

- I have undertaken the examination of the Leintwardine Group Neighbourhood Development Plan during November - December 2016, and detail the results of that examination in this report.
- Subject to the recommended modifications being made; the Plan meets the basic conditions and other legal requirements and I recommend it proceeds to referendum as modified.
- I recommend the referendum boundary is the designated neighbourhood plan area.

### Abbreviations used in the text of this report:

The Leintwardine Group Neighbourhood Development Plan is referred to as 'the Plan' or 'LGNDP'.

Leintwardine Group Parish Council is abbreviated to 'Group Parish'.

The National Planning Policy Framework is abbreviated to 'NPPF'.

National Planning Practice Guidance is abbreviated to 'NPPG'.

The Herefordshire Local Plan Core Strategy is abbreviated to the 'Local Plan'.

Local Planning Authority (Herefordshire Council) is abbreviated to 'LPA'.

**Acknowledgements:** My thanks to Local Authority and Parish Council staff for their assistance with this examination and timely responses to queries. My compliments to the local community volunteers and Leintwardine Group Parish Council, who have produced a concise, well-organised and locally relevant Plan.

## 1. Introduction and Background

### 1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowers 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) states that:

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need”.

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 the Leintwardine area that is the Leintwardine Group Parish Council (Group Parish), which includes the parish councils of Leintwardine, Burrington and Downton. Drawing up the Neighbourhood Plan was undertaken by a Steering Group that consisted of three parish councillors and seven additional parishioners.

### 1.2 Independent Examination

1.2.1 Once the Group Parish had prepared their neighbourhood plan, and consulted on it; they submitted it to Herefordshire Council, the Local Planning Authority (LPA). After publicising the plan with a further opportunity for comment, Herefordshire Council were required to appoint an Independent Examiner, with the agreement of the Group Parish 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 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 the Leintwardine area or Herefordshire, 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', as set out in section 1.3 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 and linked legislation:

- 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 and does not relate to land outside that designated neighbourhood area;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- Policies relate to the development and use of land.

The Leintwardine Group Neighbourhood Development Plan (the Plan) as modified complies with all of the above. The Neighbourhood Area was designated on the 13<sup>th</sup> October 2014 by Herefordshire Council. It specifies the period during which it has effect as 2011 – 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 developments or strategic infrastructure and policies relate to the development and use of land - with the exclusion of non-landuse policies as recommended.

1.2.5 I made an unaccompanied site visit to the Neighbourhood Area to familiarise myself with it, 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. I had

sufficient information before me to undertake the examination, and other people and organisations have had appropriate opportunities to make representations during the course of plan preparation.

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 matter in Section 4 at the end of this report.

### **1.3 The Basic Conditions**

1.3.1 The most significant role of the Independent Examiner is to consider whether a neighbourhood plan meets the “Basic Conditions.” These are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. In order to meet the Basic Conditions, the neighbourhood plan 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; and
- Be compatible with and not breach European Union (EU) obligations and human rights law.

1.3.2 Section 3 of this report considers whether the plan meets the Basic Conditions, and where necessary recommends modifications to the plan in order that it does meet them.

## 1.4 Planning Policy Context

1.4.1 The Development Plan for Herefordshire, not including documents relating to excluded mineral and waste development, is the Herefordshire Local Plan (Core Strategy) 2011-2031. It also includes some saved policies from the Herefordshire Unitary Development Plan (UDP), but these relate only to Hereford and the five market town centres, outside of the neighbourhood area; and mineral and waste development, which are excluded development.

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

1.4.3 During my examination of the LGNDP I have considered the following documents and online guidance:

- National Planning Policy Framework (NPPF) 2012
- National Planning Practice Guidance (NPPG) (online as amended)
- 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)
- Submission and Pre-submission versions of the Leintwardine Group Neighbourhood Development Plan
- The Basic Conditions Statement submitted with the LGNDP
- The Consultation Statement submitted with the LGNDP
- Environment Report (SEA) submitted with the LGNDP
- Habitats Regulations Assessment and Addendum
- Neighbourhood Area Designation (map)
- Herefordshire Local Plan (Core Strategy) 2011 - 2031 Adopted October 2015
- Saved policies and proposals map of the Herefordshire Unitary Development Plan
- Progression to Examination Decision Oct2016 Herefordshire Council
- Biodiversity SPG2004 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 The Neighbourhood Plan Area is situated in the most northern part of Herefordshire, bordering Shropshire and Wales. It is rural and agricultural in character, within a landscape characterised by hills and river valleys and two internationally important sites (SAC) for nature conservation; Downton Gorge and the River Clun. Settlement consists of the village of Leintwardine, which is designated a service village in the Local Plan, and smaller villages and hamlets such as Burrington and Downton - the other parish councils in the Group Parish. Herefordshire is a Unitary Authority, and therefore the Planning Authority as well as the Highway Authority.

2.1.2 An application for designation of the whole group parish as a neighbourhood planning area was made to Herefordshire Council by the Leintwardine Group Parish in August 2014 and approved by Herefordshire Council on the 13<sup>th</sup> October 2014.

2.1.3 The Group Parish oversaw work on the Leintwardine Group Neighbourhood Development Plan (LGNDP), and set up a steering group with wider involvement from the Community. The Consultation Statement sets out the nature and form of consultation prior to the formal Reg14 six week consultation. Publicity used during consultation included leaflets and flyers, posters and a Facebook page, as well as the Parish Council website.

2.1.4 Consultation began with an initial consultation aimed at establishing the key issues needs and aspirations of the community. This was done with a public meeting that attracted 15% of residents, the use of online media and work with existing special interest groups - including the Evergreens (older people), the Youth Group and Keep Fit groups. The next stage was a survey of opinion distributed to all residents over 11 years of age within the neighbourhood plan area, a questionnaire based on topics identified during the initial consultation. A response rate of 53% from adults was obtained, 17% from young people (11-17). This work was used both for the Parish Plan that was adopted towards the end of 2014 and the emerging LGNDP. The output and results from the survey is available online and included information on housing need. A formal housing needs survey was not undertaken, as the LPA had an evidence base that could be used, and opportunities for provision of affordable housing had mainly already been determined in planning applications.



2.1.5 A consultation event in May/June 2015 worked on developing a Vision and Objectives for the Plan, and outlined options for it. A stakeholder consultation by letter offered engagement in this event, or the option of writing comments directly to the Steering Group to all businesses and service providers. A call for sites for a variety of development options was made to landowners, businesses and statutory organisations, which resulted in 5 sites being offered.

2.1.6 As required by regulation 14 of the Neighbourhood Planning Regulations 2012; there was a formal consultation on the pre-submission Draft LGNDP. It ran from the 5<sup>th</sup> December 2015 to the 30<sup>th</sup> January 2016, longer than the required minimum of six weeks - good practice given the Christmas and New Year holidays in the consultation period. Copies of the draft Plan were available to view at the Medical Centre and Library or online. A copy of the plan could be requested either in electronic format or hardcopy. Publicity about the consultation was included in two publications delivered to each household in the Group Parish, as well as a facebook page, the Group Parish website and local noticeboards.

2.1.7 Representations were received from the LPA, several statutory consultees and residents during the consultation period. Amendments have been made to the plan as a result of these representations, detailed in a separate table linked to the Consultation Statement. A key change to the submission version of the LGNDP is due to planning permission granted on appeal on land not proposed for allocation for residential development in the pre-submission version of the plan. This permission has effectively provided the required housing for Leintwardine and so no further allocations are now proposed. This has impacted on other policies, as will be discussed in section 3 of this report. Although significant, I am satisfied that the changes to the pre-submission draft did not require a further formal six week consultation. There were no new allocations, and the change in circumstances justified the revised approach to housing policy.

2.1.8 I am therefore satisfied that due process has been followed during the consultation undertaken on the Plan. There were several events that attracted significant numbers of residents and gathered views and preferences that guided the drawing up of the plan. A coherent method of developing the vision and options, and then policy, was undertaken, with regular feedback and checking in with the community.

2.1.9 As required, the amended LGNDP, together with a Basic Conditions Statement, a Consultation Statement, the Environment Report, the Habitats Regulation Assessment and

a plan showing the neighbourhood area was submitted to Herefordshire Council on the 11<sup>th</sup> August 2016.

2.1.10 As required by the Neighbourhood Planning Regulations 2012, Herefordshire Council undertook the Regulation 16 consultation and publicity on the LGNDP for six weeks after submission of the Plan; from the 23<sup>rd</sup> August 2016 to the 4<sup>th</sup> October 2016. The representations received during this consultation are discussed below, and where relevant have informed discussion of the plan and any required modifications required in section 3 of this report.

## **2.2 Regulation 16 Consultation**

2.2.1 Fourteen representations were received during this consultation. Five came from differing sections of the local authority; where these challenged policies as not conforming with the basic conditions, the comment has been dealt with in section 3 of this report within the discussion of the relevant policy. My thanks for this assistance.

2.2.2 Eight representations came from Statutory Consultees and CPRE acknowledged receipt but made no comment. Historic England congratulated the plan as an exemplary approach to the historic environment. The others offered no specific comments, but gave general advice.

### 3. Compliance with Legislation and the Basic Conditions.

3.1 The Basic Conditions the LGNDP needs to comply with are as follows:

- The LGNDP must comply with national policies and advice contained in guidance issued by the Secretary of State;
- It must contribute to the achievement of sustainable development;
- It must be in general conformity with the strategic policies of the development plan for the area; and
- be compatible with and not breach European Union (EU) obligations and human rights law.

3.2 The Basic Conditions Statement explains how the LGNDP promotes the social, economic and environmental goals of sustainable development in some detail. The vision of the LGNDP speaks of sustainable new development being part of the future, and Policy LG1 promotes sustainable development. With the modifications to policy recommended below, I accept that the LGNDP contributes to the achievement of sustainable development.

3.3.1 The LGNDP required an Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) to be undertaken due to the environmental sensitivities of the neighbourhood plan area. These environmental requirements in EU law are the main EU Directives that neighbourhood plans need to comply with.

3.3.2 A draft Scoping Report was sent to four statutory bodies for consultation in the summer of 2015. Besides the usual consultees of Historic England, Natural England and the Environment Agency; Natural Resources Wales was consulted due to the proximity of Wales to the neighbourhood plan boundary. Natural England required some widening of the scope of the assessment, and a full HRA screen. A draft SEA was consulted on from the 5<sup>th</sup> December 2015 – 30<sup>th</sup> January 2016 at the LGNDP Reg14 Consultation. There were no amendments requested as a result of this consultation.

3.3.3 The documents dealing with each of these directives; an Environmental Report and HRA Report and Addendum produced by Herefordshire Council, have been accepted by the relevant national bodies as meeting the requirements of the European Directive and national legislation as regards SEA and HRA. They assess potential environmental impacts from the policies as acceptable. The LPA have accepted their duty to monitor developments in the neighbourhood plan area and check there is no change to this over time.

3.4 The LGNDP, as modified by this examination report, 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 and stakeholders was appreciated.

### 3.5 Compliance with Legislation, National Policy and the Development Plan.

3.5.1 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards a) local planning policy and b) national policy, legislation and advice. Modifications required to bring the plan into conformity with these aspects of the Basic Conditions are highlighted in Bold.

3.5.2 The LPA have stated in their 'Progression to Examination Decision Document' that:  
 "any outstanding issues regarding policy wording can be addressed as part of the examination process."

The examination process is required to recommend modifications to policy wording and other aspects of the plan only as far as they are needed to ensure the plan meets the basic conditions. There is a requirement that policy be clear (NPPF154 and NPPG) but some comments in the Reg16 responses offer helpful suggestions regarding policy wording that are not required to meet the basic conditions. It is open to the LPA to include these, where they agree the improvement, in their Reg18 decision notice; which I would commend them to do - ideally with the agreement of the qualifying body.

3.5.3 Section 2 of the Plan sets out the vision and objectives of the plan together with a strategic policy promoting sustainable development. In sections 3 - 7 policies under the headings of Natural and Historic Environment, Transport, Housing, Local Enterprise and Community Infrastructure follow. The policies in these sections flow well from the objectives and the LGNDP is following a consistent path from vision to policies. As is usual, it is the policies that mainly require modification in order to meet the Basic Conditions. The Policies, and where relevant their justifications, are assessed below in terms of their compliance or otherwise with the Basic Conditions. Comments made during the Reg16 consultation are also considered here, where an assertion has been made that the Basic Conditions have not been met. Modifications are recommended, that in my opinion, are needed in order that the Plan meets the Basic Conditions.

*The format of the modifications is that text in bold is to be added; text shown struck-through is to be removed; and italicised text is context quotes from the original text that remains.*

3.5.4.1 **Policy LG1 - Promoting a Sustainable Community:** Point c) of this policy has been criticised in the Reg16 comments for not complying with the NPPF requirement for positive planning (NPPF para 157). The policy is overall promoting sustainable development however, and within this there will be restrictions on development not considered sustainable, so this criticism is not accepted.

3.5.4.2 The same comment during the Reg16 consultation also requested greater clarity of intention in point b) of the policy and that the final paragraph should, for reasons of planning fact be rewritten. I find the intent in point b) clear and implementation will be made with due regard to legal and other limits. However the final paragraph is not clear; any development proposal in the Plan area will be covered by the policies in it, and the wider development plan and national policy. Discussion of mitigation seems to suggest that these will be ‘benefits’, which is not accurate. For the clarity and accuracy required for the policy to meet the basic conditions therefore, I recommend the following modification:

**Modification 1:** the final paragraph of Policy LG1 to read as follows:

*Development proposals must comply with the policies in this Neighbourhood Plan and*  
~~Where this Plan does not cover a proposal, any decision should reflect, where possible,~~  
*the community’s sustainable development priorities set out in this policy.*  
~~above and policies within Herefordshire Core Strategy, in particular Policy SS1.~~  
*Where there are overriding material considerations that indicate these policies should not be followed then compensatory or mitigation measures will be sought as part of the development proposal to ensure priorities set out in this policy are still met.*

3.5.5.1 **Policy LG2 - Protecting Heritage Assets:** Points a) c) and e) in this policy have all been criticised as not being phrased positively and so not complying with the NPPF, although the same comment at Reg16 accepts that the policy provides overall a “good basis for considering the effects of developments on heritage assets”. Again the overall positive aim of preserving valuable historic features will require some restrictions, but point c) could easily be phrased more positively, and does need the word “similar” removed for clarity.

3.5.5.2 Paragraph (para) 135 of the NPPF does not require remains being preserved in-situ. Para 137 of the NPPF could be said to encourage it, but neither ‘require it’, as currently

stated in point b) of this policy, and reference to this needs to be removed. The support in para 137 of the NPPF for development to reveal and enhance heritage assets significance should be mentioned in the justification, not the policy. Paragraph 3.3 of the Plan text suggests itself as an option for this text to be inserted.

3.5.5.3 For reasons of clarity and accuracy required to meet the basic conditions and have regard to the NPPF, I recommend the following modifications:

**Modification 2:** Policy 2; points b) and c) to read as follows:

**b)** *Requiring appropriate development proposals elsewhere to be accompanied by full archaeological investigations and in the event of significant and / or extensive remains being found they should be preserved in-situ wherever possible. ~~in accordance with paragraph 135 of the National Planning Policy Framework~~*

**c)** *Requiring ~~resisting~~ development to protect and enhance where possible ~~that adversely affects~~ features and ~~or~~ the setting of Listed Buildings and other ~~similar~~ heritage assets.*

**Modification 3:** Insert additional text in para 3.3 of the text to explain the support of the NPPF for preserving found heritage remains.

### 3.5.6 Policy LG3 - Retaining the Natural Environment and Landscape:

This policy complies with the Basic Conditions.

**3.5.7 Policy LG4 - Development within Leintwardine Conservation Area:** Point b) of this policy identifies important views from and into the Conservation Area, but strays from this intent when it specifies that this will protect the village from “inappropriate forms of development”. This is unduly negative, and thus contrary to the NPPF, due to its potential application to all development. In order that the policy complies with the basic conditions, I recommend that point b) is modified as follows:

**Modification 4:** Policy LG4 point b) to read as follows:

*b) The Conservation Area setting and views into and from the village should be preserved, in particular from the south and east, which reinforce the compact nature of the village ~~by protecting them from inappropriate forms of development~~. The most important views and settings are:.....*

**3.5.8 Policy LG5 - Design Appearance:** This policy requires two minor changes for clarity; point b) wording needs to be clearer as to intent and in point g) the Leintwardine Village Design Statement should be identified in the text, not with a footnote and its relevance be clearer. I recommend the following modifications in order that the policy meets the NPPF requirements for clarity:

**Modification 5:** Policy LG5 points b) and g) to read as follows:

*b) ~~With regard to New innovative design or features, these will not necessarily be resisted but~~ should be of high quality and fit sensitively within the particular village frontage and street scene;*

.....

*g) Within Leintwardine, ~~generally~~ comply with the **Leintwardine Village Design Statement**.*

**3.5.9.1 Policy LG6 - Sustainable Design:** The Ministerial Statement of March 2015 removed the power of Neighbourhood Plans to require building standards that exceeded or went beyond current building regulations. It is acceptable to have an aspirational policy regarding sustainable design in a neighbourhood plan, but not acceptable to require measures beyond those dealt with by other legislation. In order to comply with this government advice, the wording and tone of the introductory paragraph needs to be modified.

**3.5.9.2** The offsite measures in point f) would only be reasonable to require of new development where they were needed to make that development acceptable. Thus the phrase “where opportunities exist” is too wide-ranging as it does not pay due regard to the



reasonable requirements of a development proposal. The language used in point j) needs to be less colloquial and refer to 'evidence' of contamination, not 'belief'.

3.5.9.3 The link between working from home and residential amenity with regard to excessive on-street parking is not immediately apparent, and I recommend that the following additional text, kindly provided by the qualifying body, is inserted in the Plan for clarity and explanation of point k) of this policy:

**Modification 6:** insert the following new paragraph after para 3.24 in the text:

**Leintwardine's location is such that working from home is undertaken by many residents and support for this is important. However, the intensity of use associated with a home based enterprises can adversely affect residential amenity, particularly that of neighbouring properties. Adverse effects most often arise from the amount of traffic generated by the enterprise and/or the number and size of vehicles either based at or visiting the enterprise. Residential roads and parking arrangements are not usually planned to accommodate such traffic. Consequently this issue needs to be considered in determining whether an enterprise is in an appropriate location. Developments that make provision for working from home should consider how the design and location of parking might support working from home while mitigating the effects on residential amenity.**

3.5.9.4 I further recommend modifications to the policy in order to comply with the basic conditions, as detailed in para 3.5.9.1-2 above, as follows:

**Modification 7:** Policy LG6, the first paragraph and points f) and j) to read:

*An integrated approach to achieve a high standard of sustainable design will be required to, in particular, achieve the maximum possible reduction in the carbon footprint of any development. Development proposals ~~should~~ **are encouraged to contain a co-ordinated package of design measures which, in addition to regulatory requirements, include:***

.....

*f) **Assisting offsite measures such as supporting infrastructure to promote sustainable travel and enabling a sustainable drainage system to serve a wider range of properties where appropriate; ~~opportunities exist;~~***

.....

j) *Where there is good reason and evidence to believe indicate that contamination of land may exist on any site, including through agricultural processes, ensuring an assessment is carried out to establish the extent and nature of the contamination, and effective measures taken to ensure potential occupiers, and the wider environment, are not put at unacceptable risk;*

### 3.5.10 Policy LG7 - Highways and Transport Infrastructure:

This policy complies with the Basic Conditions.

3.5.11.1 **Policy LG8 - Highway Requirements:** The policy requires all paragraphs to be complied with, and so for clarity point f) should end with 'and'. Point b) is requiring something that is not legally reasonable, where it suggests that a development proposal should also solve pre-existing parking problems.

3.5.11.2 In order that the policy complies with the basic conditions, the following Modification is recommended:

**Modification 8:** Policy LG8 points b) and f) to read as follows:

b) *Proposals would not result in on-street parking but should provide adequate parking for residents and visitors, and preferably include proposals that would reduce any on-street parking that may exist within the area concerned;*

.....

f) *There is no adverse effect upon the highway, Public Rights of Way network or adjacent properties as a consequence of storm water drainage flowing along any roads or parking areas; and*

### 3.5.12 Policy LG9 – New Homes in Leintwardine:

This policy complies with the Basic Conditions.

**3.5.13.1 Policy LG10 - Leintwardine Settlement Boundary:** This policy defines a settlement boundary which is based on a previous boundary definition in the now superseded Herefordshire Unitary Development Plan (UDP). The adopted Local Plan encourages neighbourhood development plans to define settlements in Policy RA3. Policy RA2 (1) of the Local Plan requires new housing provision and sites to be provided within or adjacent to the built up area. Both the LPA and the wider community have not raised any concerns with the revised boundary as defined in this Plan or the policy, but there is a general requirement for any modifications to a previously agreed settlement boundary to be justified with reference to the circumstances and evidence that supports the modification. I struggled to find this justification within the text of the Plan, and have sought clarification from the qualifying body on the matter, for which help I am grateful. NPPG allows that evidence requirements for neighbourhood plans need to be proportionate to their local remit and community-based nature, but there does need to be explanations and justification given for a revision to a settlement boundary, and so to comply with the basic conditions including having regard to government advice in NPPG, revisions to the boundary need to have some justification and discussion.

3.5.13.2 The settlement boundary for Leintwardine has been changed from the previous boundary in the UDP in terms of the following considerations:

- Local Green Space (or Open Space as per the discussion below) has been excluded from the settlement definition where it is adjacent to the boundary;
- New residential development outside of the previous UDP boundary has been included - this includes Plough Farm (new dwelling) to the north west; the Certificate of Lawful Development (CLD) curtilage of Wheatstone House to the north east of Leintwardine, and an area of new housing off Rosemary to the south east of the village.

These changes are sensible alterations, and with a brief justification added to the text comply with the basic conditions.

3.5.13.3 One outline planning permission for residential development (committed site) has been included within the boundary, one has been excluded. The treatment of both these sites needs to be consistent. As no development has started on either, they could be left outside the boundary, with the designation as committed sites making it clear they will become part of the settlement when development commences. I would recommend this solution, but either is possible - the important thing is that treatment of both sites is consistent.

3.5.13.4 Beyond these changes, which I feel have been justified, I have concerns about the wider extension of the settlement boundary to include all outbuildings of Plough Farm, which is not consistent with the way the boundary is drawn around the village elsewhere. I recommend that the boundary is extended to include the new Plough Farm Dwelling, but does not include the wider farm curtilage. It would follow the western and northern boundary of the new Plough Farm and then extend in a northerly direction to include the western and northern boundary of the new surgery, with the committed site outside the boundary but immediately adjacent to it. The boundary would then cross the A4113 and extend around the curtilage shown in the recent Certificate of Lawful Development for Wheatstone House; but would not be used to allocate further land here for a possible site - that is not the role of a settlement boundary. Paragraph 5.6 of the text of the Plan points out that future development for local need can be accommodated with the exception site policy in the Local Plan (Policy H2).

3.5.13.5 The boundary has also changed on the western edge, from just below the parkland/field adjacent to High Street south to just above Mill Lane where it turns up to Seedley House. The change proposes to exclude a part of the scheduled ancient monument, but still leave significant plots to dwellings on high street - presumably for historic plot boundary reasons, but this has not been explained. In the absence of an explanation, I recommend that the boundary here is retained as it was in the Herefordshire UDP. There is a natural boundary in the form of field and property boundaries with mature trees along most of the UDP boundary, and while the UDP boundary is not tight to the built form, neither is the proposed alteration.

3.5.13.6 Point g) for clarity should remove the words “in particularly”. I recommend the following modifications to the policy and justification in order that the requirement for clarity and proportionate evidence justifying policy is met and the basic conditions complied with.

**Modification 9: An additional paragraph after 5.6 should be inserted in the justification text explaining the origin of the settlement boundary, and reasons for alterations to this boundary. This text to include the inclusion of new residential development since the previous boundary was drawn, the exclusion of Local Green Space and Open Space adjacent to the boundary and that committed sites have been excluded (or alternatively both included).**

**Modification 10:** The boundary on the Leintwardine Policies Map to be revised as discussed above.

**Modification 11:** Policy LG10 point g) should be altered to read:

*g) Proposals will in particular be supported where:*

*i) They result in the enhancement of Leintwardine Conservation Area;*

*ii) They involve custom built and/or self-build houses affording a housing opportunity to someone with a local connection where proposals comply with other relevant policies contained within this plan.*

**3.5.14.1 Policy LG11 - Housing Sites in Leintwardine:** In the pre-submission version of the Plan this policy set out design criteria for development of an allocated site. Events overtook that plan however, due to planning permissions granted for housing sites, and allocations within this Plan were no longer required. The policy is now requiring detailed design details for sites that already have the benefit of an outline planning permission. Many of the requirements are actually covered in other policies in the plan, and some of the requirements are matters for the highway authority not planning policy. Points m) and o) are beyond the scope of any planning policy, as they aim to pre-determine a potential future planning application (point m) and set a time limit with bonds on an existing permission.

**3.5.14.2** The policy is not now relevant or appropriate, as planning permissions on the sites have been granted. It is overly prescriptive in contravention of the NPPF (para 59) and in several points requires actions that are beyond the remit of planning. It does not therefore comply with the basic conditions and I recommend that the policy is deleted.

**Modification 12:** Policy LG11 should be deleted, and subsequent policies re-numbered.

**3.5.15.1 Policy LG12 - Supporting Local Enterprise:** This policy point d) has been challenged as contrary to current LPA policy on contributions, although this position has not been consistently held by the LPA in comment to the Reg16 Consultation. The qualifier “Where appropriate” offers flexibility to any the application of the policy, such that any

potential conflict can be accommodated and avoided. Thus I consider point d) to comply with the basic conditions.

3.5.15.2 Point f) is currently not clear in intent, and I recommend that to comply with the basic conditions it needs to be clarified.

**Modification 13:** Policy LG12 point f) to be reworded as follows:

f) In relation to the conversion of rural buildings to employment uses, where the building involved contributes to the character of the parish, ~~the~~ **the existing external appearance, setting and form** should be retained, ~~in particular by the form of the conversion and avoiding~~ unacceptable external storage and paraphernalia **avoided**;

3.5.16 **Policy LG13 - Renewable Energy:** The last sentence of this policy states that multiple wind turbines will not be supported. This is not acceptable, as it is pre-determining any future planning application. The general presumption in favour of sustainable development (NPPF para15) means that any application must be given due consideration. In order that the policy complies with the basic conditions therefore I recommend that this sentence is deleted.

**Modification 14:** Policy LG13 to end after point e) and final sentence to be deleted.

### 3.5.17 **Policy LG14 - Broadband Infrastructure:**

This policy complies with the Basic Conditions.

### 3.5.18 **Policy LG15 - Protection and Enhancement of Services and Facilities:**

This policy complies with the Basic Conditions.

**3.5.19.1 Policy LG16 - Safeguarding Local Green Space:** This policy is designating Local Green Space, a power given to neighbourhood plans in the NPPF (paras 76-77). The NPPF however is clear that the designation is not appropriate for most green areas or open space, but in the Plan all areas of open space in Leintwardine are designated as Local Green Space. I have visited each designation, and considered the justification for each in the Plan, and recommend that in order to comply with the NPPF and the basic conditions the Children's play areas and the Primary School Playing Field are excluded from the policy. They are not 'special' in the sense the NPPF requires, but both are open space, so I am recommending that they are added to Policy LG17 for protection as open space below.

**3.5.19.2** The area comprising part of the parkland at Seedley House adjacent to High Street I accept is special in terms of its historic and potential archaeological importance, as well as being an important visual separation from the old village and land included within the conservation area by reason of its historic significance. The Bridge Green is a small but visually very important setting for the historic bridge, a delightful entrance to the village and a space for informal recreation that offers unique views of the River. The cemetery is historic and a good example of its kind, which also contributes significantly to the visual separation of the old village and more recent development.

**Modification 15:** Policy LG16 to exclude children's play areas and the school field from the designated Local Green Space list and remove the repeated justification from the cemetery for clarity:

- The area comprising part of the parkland at Seedley House adjacent to High Street
- Leintwardine Bridge Green
- ~~Children's play areas at Rosemary, The Griffins and Roman Close~~
- Leintwardine cemetery ~~which also contributes to the separation between the old village and more recent 20th/21st century development.~~
- ~~Leintwardine Primary School Playing Field.~~

**Modification 16:** The Leintwardine proposals map to be amended to show only the designated Local Green Space as modified and a new designation of 'areas of open space' (see below).

**3.5.20 Policy LG17 - Provision of Local Sports Area:** The Policy is articulating a community aspiration, which in a neighbourhood plan is valid. However given that I am recommending the removal of two areas of open space from Policy LG16, I am also recommending that this policy be expanded to include formally recognising the school playing field and children’s play areas as open space. In this way these sites continue to be protected as important areas of open space despite not qualifying for a Local Green Space designation.

**Modification 17:** The title of Policy LG17 to be altered to “**Open Space and Provision of Local Sports Area**”. The policy to include the following extra first paragraph:

**Existing open space is to be protected for community use and any development on it will be expected to retain and where possible improve that use. The following sites are designated as Open Space:**

- **Leintwardine Primary School Playing Field**
- **Children’s play area at Rosemary**
- **Children’s play area at the Griftins**
- **Children’s play area at Roman Close**

.....

**3.5.21.1 Policy LG18 - Use of Community Infrastructure Levy:** The policy is referring to a forthcoming Community Infrastructure Levy (CIL) Charging Schedule from the LPA which is however not yet adopted, and currently on hold I understand. It is not possible to have a policy based on future events, which, at the time of writing, may not happen. The more relevant development contributions at this time are s106 agreements. The policy quotes from the CIL regulations (para 59) as regards what contributions can fund, but this list goes beyond what is normally possible to require from s106 payments, which need to be more closely linked to needs arising from the proposed development. The list of potential projects in para 7.6 of the text is reasonable within the context of the qualifying body’s share of CIL



at some future date, but would need to be directly relevant to any development proposal should s106 contributions be required.

3.5.21.2 The Policy needs to be framed within current possibilities, and for this reason modifications are recommended to comply with the basic conditions, including changing the title of the policy.

**Modification 18:** Policy LG18 is to be revised as follows:

*Policy LG18: ~~Use of~~ **Developer Contributions and future Community Infrastructure Levy (CIL)***

***Where** appropriate new development within Leintwardine Group Parish should contribute towards **necessary community infrastructure** ~~the provision, improvement, replacement, operation or maintenance of community facilities and infrastructure~~ in order to address the demands that such development places on the area and to support the social dimension of sustainable development. Contributions ~~should~~ **to be made through Section 106 Agreements, and if and when available, CIL or other agreements developer contribution mechanisms** that may be available ~~at the time~~ during the period of the Plan.*

3.5.22 **Modification 19: Leintwardine Group Policies Map:** For the clarity and accuracy required by the basic conditions, I recommend the following amendments to this figure:

The map needs to show the River Clun SAC as a brown line within the plan area. The key shows “LWS and Sites of Importance for Nature Conservation” as brown cross-hatching, but this is barely showing up on the map at present and is not clear.

3.5.23 Alterations to the **Leintwardine Policies Map** have been detailed in modifications 10 and 16 above.

3.5.24 **Section 8: Delivering the Plan** is a well-presented and detailed delivery plan. **However in para 8.2 the last sentence will now need to be deleted**, as it refers to a policy that is contrary to the basic conditions and has been recommended for deletion on account of this. Para 8.6 of this section makes clear the views of the community as regards the planning permission at Rosemary, but the logic here is flawed, in that even if the

permission were to lapse; it could be re-applied for and granted at a future date. However there is no basic conditions issue here, and the Group Parish may choose to review the plan at any time.

3.5.25 **Appendix 2:** This appendix has included text attempting to make it clear that these policies are not for land-use planning purposes, but this does not significantly reduce the confusion presenting these proposed actions as policies causes. To comply with the requirement in the NPPG that actions dealing with non-land-use matters should be clearly identified, the Appendix needs to be more clearly differentiated from the policy document that precedes it. In order that this appendix complies with the basic conditions therefore, I recommend the following modifications to the text and headings:

**Modification 20:** The title and introductory text of Appendix 2 to be changed as follows:

*Appendix 2: ~~Non-Statutory Enabling Actions Policy~~*

*The following ~~policies are not for the purposes of land-use planning but~~ indications of actions to be pursued by Leintwardine Group Parish Council to support the growth that this Neighbourhood Plan proposes and to address community needs in terms of facilities, services and key infrastructure.*

~~LG(NS)19~~ *Enabling Associated Measures*

.....

~~LG(NS)20~~ *Parish Projects*

.....

~~LG(NS)21~~ *Assets of Community Value*

.....

3.5.26 With the above modifications to the Leintwardine Group Neighbourhood Development Plan, I am happy to recommend that the Plan proceed to referendum.

#### **4. The Referendum Boundary**

4.1 The Leintwardine Group Parish Neighbourhood Development Plan as modified has no policy or proposals with 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 Leintwardine Group Parish Neighbourhood Development Plan 2011 - 2031 shall be the boundary of the designated Neighbourhood Plan Area for the Plan.