

## Breinton NDP Independent Examination

### Delegated Decision Statement

**2 September**

### Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Breinton Neighbourhood Area
Parish Council	Breinton Parish Council
Submission	8 March to 19 April 2016
Examination Date	July / August 2016
Inspector Report Received	23 August 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 Breinton Neighbourhood Development Plan has been amended taking into account the modifications, and that NDP may proceed to referendum.

#### **2 Background**

- 2.1 The Neighbourhood Area of Breinton was designated on 28 January 2014. The Neighbourhood Area follows the Breinton parish boundary. The Breinton Neighbourhood Development Plan has been prepared by Breinton 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 January 2014.
- 2.2 The Plan was submitted to Herefordshire Council on 26 February 2016, and the consultation under Regulation 16 took place between the 8 March to 19 April 2016, where the Plan was publicised and representations invited.

- 2.3 In June 2016, Richard High BA MA MRTPI was appointed by Herefordshire Council, with the consent of the Parish Council, to undertake the examination of the Breinton 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 her report along with the justification:

Policy	Modification recommended	Justification
Modification 1 Policy B1	Modify the first part of Policy B1 to read  "Housing development that will make a proportionate contribution to the provision for new housing in the Hereford Rural Housing Market Area defined in Core Strategy Policy RA1 will be supported within, or adjoining, the defined rural settlements of Breinton Common (Figure 17) and Lower Breinton (Figure 18) when the development:"	To include reference to the strategic policy background and cross reference to the Core Strategy policy to ensure clarity
Modification 2 Policy B1	Criteria a: delete 'significant' and insert 'substantial'  Criteria b: at the beginning insert 'where appropriate'  Criteria d: at the beginning insert 'maintains or'	To add clarity to policy meaning  To add clarity regarding the reuse of previously developed land where appropriate given the potential limited supply within the parish  Remove unduly onerous requirements
Modification 3 Policy B2	After 'within' insert 'or adjacent to' in the first line  Insert new criteria c, d and e to read;  'c; it would not allow any further westward expansion of the ribbon development or any substantial incursion into open countryside to the south that would not be sustainable;  d; it would not significantly constrain options	Policy was more restrictive that Policy RA2 of the Core Strategy will no clear justification for a more restrictive policy at Kings Acre Road. Examiner was not satisfied that the proportionate levels of development envisaged could be met with the submitted wording.

	for the route of the Hereford Relief Road;  e; it would comply with the requirements of Policy RA2 of the Core Strategy'	Acknowledge the current constraints regarding the Hereford Relief Road corridor
Modification 4  Background / Justification to Policy B2	Delete 'Being 'ribbon development' this area is not identified as a settlement under Policy RA2 of the Core Strategy'  And replace with 'Kings Acre Road was originally regarded as ribbon development related to the Hereford Fringe by Herefordshire Council and was not regarded as a settlement under Policy RA2 of the Core Strategy. However the proportionate figure of 72 dwellings for Breinton related to the whole of the existing housing stock of Breinton including Kings Acre Road and a settlement boundary has been define for Kings Acre Road'  Insert a new paragraph after the second paragraph to read:  'The corridor being protected for the proposed Hereford Relief Road covers a large part of the existing settlement of Kings Acre Road and the adjoining countryside and this represents a substantial constraint on potential development until decisions have been taken on whether the road is to be built and if so its preferred route'	Policy was more restrictive that Policy RA2 of the Core Strategy will no clear justification for a more restrictive policy at Kings Acre Road. Examiner was not satisfied that the proportionate levels of development envisaged could be met with the submitted wording. Acknowledge the current constraints regarding the Hereford Relief Road corridor
Modification 5  Policy B3	In the third line after 'of the Core Strategy' start a new paragraph with a space separating it from the preceding text  In criteria B after 'The proposal' insert 'is closely related to existing housing and..'  Delete criteria d	To clearly separate the two parts of the policy regarding housing in the countryside and exception sites.  To be in conformity with para 55 of NPPF  To add clarity to the policy regarding as the term 'reasonable access' is not clear
Modification 6  Policy B4	Delete criteria a  Add 'and community assets' after 'housing' within the policy header	To ensure conformity with para 51 of the NPPF and the presumption in favour of development
Modification 7  Policy B5	Insert a full stop after 'the parish' and delete 'including Lifetime Homes'	To comply with the Ministerial Statement (25 March 2015) regarding the setting of local technical standards for construction, internal layout or performance'
Modification 8	Delete 'Developers should also meet the Lifetime Homes standard, and produce	To comply with the Ministerial Statement (25

Supporting text to Policy B5	homes that meet or exceed the prevailing standard for sustainable homes'	March 2015) regarding the setting of local technical standards for construction, internal layout or performance'
Modification 9 Policy B6	Delete criteria c	To comply with the Ministerial Statement (25 March 2015) regarding the setting of local technical standards for construction, internal layout or performance'
Modification 10 Policy B7	Criteria a; insert 'in a suitable location' after '...that development'	Clarify the definitions within the policy and ensure compatibility with the presumption in favour of development
Modification 11 Fig 20a	Increase the scale sufficiently to show the space that is designed in Green Lane ie the boundaries on both sides	Ensure the area is clearly defined
Modification 12 Policy B9	Delete the 6 <sup>th</sup> bullet 'Wye Valley Walk'  In the last paragraph amend the wording after 'or include' to read 'appropriate mitigation to offset, any adverse impact'	Does not meet the requirements of para 77 of the NPPF  To ensure clarity within the policy wording
Modification 13 Policy B10	Reword the first sentence to read 'The quiet and rural character of the existing routes shown of Figure 1, excluding the A438 will be protected'  Reword criteria o to read 'Any road should be designed and developed to minimise adverse impacts or physical damage to habitats, water quality in the River Wye SAC, residential amenity, business interests, the significance and setting of heritage assets and the historic character of the wider landscape as a result of noise pollution and vibration, light pollution, air pollution or flood risk. Where harmful effects cannot be entirely avoided proposal should include measures to mitigate the harm within the parish.	To avoid ambiguity with the legal status of Quiet Lanes.  To ensure clarity in phraseology
Modification 14 Policy B11	In the second para delete 'biodiversity poor habitat (such as species poor hedge)' and insert in its place 'the network (for example a limited stretch of hedgerow)'	To ensure compatibility with the presumption in favour of development
Modification 15 Policy B14	Reword the beginning of Policy B14 to read 'All development proposals will be expected to provide landscape impact analysis proportionate to the scale of the development and its impact, which will demonstrate..'  In the second part of the Policy delete 'and should not break the skyline'	To remove over onerous requirement on all development proposals with regards to para 193 of the NPPF  Remove unduly prescriptive text in accordance with para 60 of the NPPF

Modification 16  Policy B16	Delete Figure 15 and replace with Figure 1 from the NDP 'Identification of important public views'  Modify the first line of Policy B16 to read 'Development which detracts significantly from the qualities of the following views as defined in Breinton Neighbourhood Development Plan 2011-2031 Identification of Important Public Views will not be permitted'	To ensure the plan is at a scale which the numbers can be read.  To ensure policy wording is clear and does not preclude development
Modification 17  Policy B17	Delete Policy B17  Retain the heading 'Local Heritage Assets' and the first and second sentences of the supporting text and modify the third sentence to read 'national policies set out in the NPPF will be applied to conserve and enhance these assets, thereby retaining the historical richness of the area for future generations'	To remove oversimplified policy which does not reflect section 12 of the NPPF or comply with PPG guidance on locally distinctive policies.


#### **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 Breinton Neighbourhood Development 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 Breinton Neighbourhood Development 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 Examiner's conclusion that nothing has been suggested which would require an extension of the area beyond that designated on 28 January 2014.

  
Signed .....  
Dated ..... 7<sup>th</sup> September 2016 .....

**Richard Gabb**  
**Programme Officer – Housing and Growth**