

Sutton St. Nicholas Parish Council

# **Sutton St. Nicholas Neighbourhood Development Plan**

## **Independent Examiner's Report**

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15 November 2016

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## Summary

I have been appointed as the independent examiner of the Sutton St. Nicholas Neighbourhood Development Plan.

The Plan takes a straightforward and refreshing approach to its presentation. It has a well-defined vision and associated objectives for the Parish. It is heartening to see good use of evidence available at HC level combined with information and evidence from the surveys carried out at a more local level. There is a recognition of, and thoughtful approach to, issues that will need addressing such as the capacity of the wastewater treatment works. There is a clarity of thought and purpose throughout the Plan.

As a result it is an exceptionally well-written Plan and its associated documentation is also of an excellent standard. Therefore there have been only a very few modifications which I have felt necessary to make which are intended to ensure that the basic conditions are met satisfactorily. All those involved with the preparation of the Plan are therefore to be congratulated on their achievement. This demonstrates that clarity of purpose and the development of and close attention to evidence results in a high quality plan and I commend it to others.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Herefordshire Council that the Sutton St. Nicholas Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI  
Ann Skippers Planning  
15 November 2016



## 1.0 Introduction

This is the report of the independent examiner into the Sutton St. Nicholas Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Herefordshire Council (HC) with the agreement of the Sutton St. Nicholas Parish Council, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

## 2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The examiner is required to check<sup>1</sup> whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

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<sup>1</sup> Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

The basic conditions<sup>2</sup> are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood 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 development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two basic conditions in addition to those set out in primary legislation and referred to in the paragraph above. These are:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site<sup>3</sup> or a European offshore marine site<sup>4</sup> either alone or in combination with other plans or projects, and
- Having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this is not applicable to this examination as it refers to orders).

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.<sup>5</sup>

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

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<sup>2</sup> Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

<sup>3</sup> As defined in the Conservation of Habitats and Species Regulations 2012

<sup>4</sup> As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>5</sup> The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Herefordshire Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

### **3.0 Neighbourhood plan preparation and the examination process**

A Consultation Statement has been submitted which ably meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012. It includes an interesting technique of including a number of tables which outline the activities undertaken. It is a comprehensive and well-written document and I commend it to others as an example of good practice.

The Plan has built on the earlier work on a Community Plan adopted in 2013 and indeed in many ways this earlier document provided the impetus for work to begin on the Plan which takes many of the Community Plan's themes and actions forward.

The annual Sutton Fete in July 2014 initiated community engagement. This was quickly followed by three drop-in sessions and then a household survey. A high response rate of 61% was achieved, no doubt at least in part as a result of volunteers delivering and collecting the questionnaire in person.

A Housing Site Assessment (HSA) has been prepared. As well as proactively contacting landowners and a meeting for them, a 'call for sites' was issued as well. The results of the HSA were presented to landowners in a meeting and publicly consulted upon at the Sutton Fete in July 2015 which included 'voting' for the suggested site allocations and settlement boundary.

There has been excellent feedback to the community through Sutton News, letter drops, publication of survey results and letter drops.

Pre-submission (Regulation 14) consultation took place between 7 December 2015 – 29 January 2016 sensibly allowing a little more time over the festive period. As well as the draft Plan being distributed to households and businesses, three drop-in sessions were held, posters displayed, an article put in the Sutton News and copies were available online and in the Hereford Centre. This resulted in a number of responses being received from both organisations and members of the public. As part of the review of the responses received, an addendum to the HSA was produced in respect of two additional sites at Upper House Farm known as land east of Upper House Farm and land at Upper House Farm which had been put forward as proposed housing allocations at this stage.

Submission (Regulation 16) consultation was carried out between 24 May – 5 July 2016. The Regulation 16 stage attracted a number of representations which I have considered

and taken into account in preparing my report. Some suggested additions or amendments to the Plan and its policies.

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).<sup>6</sup> PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.<sup>7</sup> Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further additions or amendments are required. On occasion I refer to a specific representation, but I have not felt it necessary to comment on each of them. I have focused on giving reasons for any recommendations I make.

One representation objects to the inclusion of land at Upper House Farm being used as a "building plot". As can be seen from my discussion of Policy 8 later on in this report it is not allocated as such although the proposed area of Local Green Space has been reduced, as another representation points out, from the pre-submission draft Plan which might have led to this comment.

Another representation suggests that the proposed Local Green Spaces are the result of interests of members of the Steering Group. I consider that matters of this nature go beyond my remit, but no doubt HC will wish to consider these matters and take any action deemed appropriate.

PPG explains<sup>8</sup> the general rule of thumb is that the examination will take the form of written representations,<sup>9</sup> but there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. After careful consideration of all the documentation and representations, I decided that neither circumstance applied and therefore it was not necessary to hold a hearing.

I made an unaccompanied site visit to Sutton St. Nicholas and the neighbourhood plan area on 12 August 2016.

Where I recommend modifications in this report they appear as bullet points in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in ***bold italics***.

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<sup>6</sup> PPG para 055 ref id 41-055-20140306

<sup>7</sup> *Ibid*

<sup>8</sup> *Ibid* para 056 ref id 41-056-20140306

<sup>9</sup> Schedule 4B (9) of the Town and Country Planning Act 1990

## 4.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

### Qualifying body

Sutton St. Nicholas Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

### Plan area

The Plan area is coterminous with the Parish administrative boundary. Herefordshire Council approved the designation of the area on 15 January 2014. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Parish and Plan area is clearly shown on page four of the Plan. This information is also helpfully confirmed in the Basic Conditions Statement (BCS).

### Plan period

The Plan covers the period 2011 – 2031. This is confirmed within the Plan itself as well as the BCS.

### Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also usefully confirmed in the BCS.

### Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be moved to a clearly differentiated and separate section or annex of the Plan or contained in a separate document. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.<sup>10</sup> Subject to any such recommendations, this requirement can be satisfactorily met.

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<sup>10</sup> PPG para 004 ref id 41-004-20140306



## 5.0 The basic conditions

### Regard to national policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.<sup>11</sup>

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.<sup>12</sup>

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at [planningguidance.communities.gov.uk](http://planningguidance.communities.gov.uk). The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to this in preparing this report.

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.<sup>13</sup>

PPG indicates that a policy should be clear and unambiguous<sup>14</sup> to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.<sup>15</sup>

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.<sup>16</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>17</sup>

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<sup>11</sup> NPPF paras 14, 16

<sup>12</sup> *Ibid* para 184

<sup>13</sup> *Ibid* para 17

<sup>14</sup> PPG para 041 ref id 41-041-20140306

<sup>15</sup> *Ibid*

<sup>16</sup> *Ibid* para 040 ref id 41-040-20160211

<sup>17</sup> *Ibid*

The BCS sets out how the Plan has responded to national policy and guidance through a table which sets out each of the core planning principles in the NPPF and discusses each with reference to the Plan and its policies.

### **Contribute to the achievement of sustainable development**

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole<sup>18</sup> constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.<sup>19</sup>

The BCS contains a section with a commentary that explains how the Plan will contribute to the achievement of sustainable development demonstrating how the Plan will achieve this through Table 2. The BCS also makes a valid point in referring to its general conformity with the CS which in itself sets out to pursue sustainable development.

### **General conformity with the strategic policies in the development plan**

The development plan consists of the Core Strategy 2011 – 2031 (CS) which was adopted on 16 October 2015 and various other documents including the saved policies of the Unitary Development Plan (UDP) (found in Appendix 1 of the CS). The most relevant document to this examination is the CS and I have taken all its policies to be 'strategic'.

Section 5 of the BCS contains a table that lists the Plan's policies with a helpful commentary about how the Plan generally conforms to the relevant policies of the CS it identifies.

### **European Union Obligations**

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG indicates that it is the responsibility of local planning authorities to ensure that the Plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive) when it takes the decision on a) whether the Plan should proceed to referendum and b) whether or not to make the Plan.<sup>20</sup>

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<sup>18</sup> NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

<sup>19</sup> *Ibid* para 7

<sup>20</sup> PPG para 031 ref id 11-031-20150209

## Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004.

An Environmental Report (ER) dated March 2016 has been submitted as an earlier screening opinion concluded that due to the range of environmental designations in and around the Parish there may be significant environmental effects and that a SEA would be required. The Parish falls within the catchment for the River Lugg, which is a European site; the River Wye Special Area of Conservation (SAC).

The ER confirms that an initial Scoping Report was prepared in July 2014 and sent to the statutory consultees from 14 July - 18 August 2014. Responses from Natural England and Historic England have been incorporated into the document at Appendix 3. The Scoping Report was updated in October 2014 as a result of this consultation.

The ER has undergone a period of consultation between 7 December 2015 – 29 January 2016 alongside the pre-submission version of the Plan. Responses from the statutory bodies are incorporated into the document at Appendices 6 and 7. Natural England<sup>21</sup> confirmed that the ER meets the requirements of the SEA Directive and Regulations and that they concurred with its conclusions.

The ER of March 2016 was published for consultation alongside the submission version of the Plan between 24 May – 5 July 2016. This included further assessment of Policy 1 which retained the same in words, but changes to the proposed settlement boundary were made, Policies 2, 3, 4 and 5 which were amended via some minor word changes and Policy 9 which was added as a new policy.

Policy 8 was also subject to a reduced Local Green Space but no changes to its wording were made. Two additional objectives were added to the Plan between the Regulation 14 and 16 stages. These changes do not appear to have been reassessed as part of the work on SEA. PPG states “The strategic environmental assessment should only focus on what is needed to assess the likely significant effects of the neighbourhood plan proposal. It should focus on the environmental impacts which are likely to be significant. It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the neighbourhood plan.”<sup>22</sup>

I am mindful of PPG advice<sup>23</sup> that indicates the ER will not necessarily have to be amended if the Plan is modified following consultation responses. PPG is quite clear

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<sup>21</sup> Letter from Natural England of 1 February 2016

<sup>22</sup> PPG para 030 ref id 11-030-20150209

<sup>23</sup> PPG para 041 ref id 11-041-20140306

that modifications to the ER should be considered only where appropriate and proportionate to the level of change. I do not consider that the changes made to the Plan were significant. This is because the reduction in area designated under Policy 8 would have been effectively assessed under Policies 2 and 3 and the two additional objectives would have a positive effect on the baseline objectives by their very nature. I consider that these amendments which were not reassessed are not so significant to require further environmental assessment work in line with the advice in PPG.

HC will monitor the outcomes from the Plan's policies.

The ER is a comprehensive document that deals with the issues appropriately for the content and level of detail in the Plan. This in line with PPG advice that confirms the SEA does not have to be done in any more detail or using more resources than is considered to be appropriate for the content and level of detail in the Plan.<sup>24</sup> In my view, it has been prepared in accordance with Regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004. Therefore EU obligations in respect of SEA have been satisfied.

### **Habitats Regulations Assessment**

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identified whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.<sup>25</sup> The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

An initial screening assessment in December 2013 found that a full HRA screening would be required as the River Wye (including the River Lugg) SAC runs through the Parish.

A HRA Screening Assessment was prepared in October 2015. The document concludes that the Plan will not have a likely significant effect on the River Wye SAC. Natural England confirmed their agreement that the Plan will not have a likely significant effect on the River Wye SAC.<sup>26</sup>

An Addendum dated March 2016 considered whether the conclusions of the earlier assessment were affected by the revision of the Plan as a result of consultation and in particular changes to the settlement boundary and four policies including the addition of a new policy. The document concludes, in line with the earlier assessment, that the Plan will not have a likely significant effect on the River Wye SAC.

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<sup>24</sup> PPG para 030 ref id 11-030-20150209

<sup>25</sup> PPG para 047 ref id 11-047-20150209

<sup>26</sup> Letter from Natural England of 1 February 2016

As considered in the section above on SEA, some changes to the Plan were not reassessed as part of the HRA Addendum. As before I do not consider the changes to be of such significance as to invalidate the conclusions of the HRA.

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in primary legislation as detailed in section 2.0 of this report. In my view, requirements relating to Habitats Regulations Assessment have been met and the Plan complies with this basic condition.

### **Water Framework Directive**

The BCS explains that CS Policies SD3 and SD4 require development proposals to consider the Water Framework Directive (2000/60/EC). Policy 3 of the Plan supports these requirements at a local level. Therefore I consider the Plan is compatible with this Directive.

### **European Convention on Human Rights (ECHR)**

The BCS contains a short statement about fundamental rights and freedoms guaranteed under the ECHR and confirms the Plan complies with the Human Rights Act 1998. There is nothing in the Plan that leads me to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

## **6.0 Detailed comments on the Plan and its policies**

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. As a reminder, where I have suggested specific changes to the wording of the policies or new wording these appear in **bold italics**.

The Plan is very well presented. It starts off with a helpful contents page. This is followed by an introduction from the Chairman of the Parish Council. This will of course need some natural updating as the Plan progresses to the latter stages of the process. Policies are clearly differentiated in bold capital letters. Overall the Plan has a simple, but effective approach to its presentation.

### **1 Context**

This clearly worded section contains useful information about the planning context for the Plan and informative information about the Parish. It sets out how the Plan has developed.

## 2 Vision and objectives

The vision for Sutton St. Nicholas is:

“In 2031, Sutton St. Nicholas will be a sustainable and thriving local community, with the distinctive local environment of the village and surrounding countryside robustly and successfully safeguarded with new development in place to meet requirements for housing, jobs and local services.”

The vision is underpinned by eleven objectives. All relate to the development and use of land and are clearly articulated.

## 3 Settlement boundary

### Policy 1 Settlement Boundary

The CS explains that, where appropriate, settlement boundaries can be defined in neighbourhood plans for those settlements listed in CS Policy RA2. The CS states that outside such settlements new housing will be restricted to avoid unsustainable patterns of development and limited to those proposals meeting the criteria in CS Policy RA3 which include rural exception housing, replacement dwellings and the appropriate reuse of buildings.

The Plan takes the opportunity to review the settlement boundary for the village of Sutton St. Nicholas. The proposed boundary is clearly shown on the Village Policies Map.

The approach taken to the definition of the settlement boundary has been to include existing built up areas and the proposed site allocations subject of Policy 2. The rationale for the policy in this Plan area seems to me to be sensible. This supports the strategy in the CS and accommodates the minimum figures outlined in CS Policy RA1.

Policy 1 supports development within the boundary where it accords with other policies of the Plan. It applies CS Policy RA3 to residential development outside the boundary.

The policy is clearly worded and will provide the practical framework sought by national policy. It reflects the stance of national policy and the CS and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

## 4 Housing

### Policy 2 Delivering New Housing

The strategy for the rural areas in the CS<sup>27</sup> is positive growth. The strategy is based on seven housing market areas (HMA) and the Parish falls within the Hereford HMA which has an indicative housing growth target of 18% according to CS Policy RA1. The CS explains that this proportional growth target in CS Policy RA1 will form the basis for the minimum level of new housing to be accommodated in each neighbourhood plan across the County.

The main focus for development is within or adjacent to existing settlements listed in two figures, 4.14 and 4.15. CS Policy RA2 translates this into policy.

Sutton St. Nicholas is identified in Figure 4.14 as a settlement which will be the main focus of proportionate housing development. The Plan explains that the CS's indicative housing growth target equates to 72 new dwellings. Taking into account dwellings which have been built or have obtained permission since 2011 (the start of the Plan period) this means that a minimum of 39 dwellings are required.

Policy 2 sets out a minimum provision of 86 dwellings. It focuses this development on Sutton St. Nicholas village allocating two sites; land at The Lane and land adjacent to The Linnings and makes an allowance for windfalls.

The two allocations have a potential for a total of approximately 38 dwellings. Windfalls are then estimated at 15 dwellings; the HSA recognises there is a need to exercise caution with windfall numbers. An allowance is made for 15; the settlement boundary includes two assessed sites, SSN8 and SSN9, which together the HSA indicates will be suitable for seven or so dwellings. Based on this and the information in the HSA including historic windfall rates, on balance the estimate of 15 is considered appropriate. I am also mindful that the overall figure indicated by Policy 2 is in excess of the indicative growth target in the CS and is expressed as a minimum.

Turning now to the two allocated sites, the HSA takes its starting point as HC's Strategic Housing Land Availability Assessment (SHLAA) of 2012. Most of the sites assessed as part of the neighbourhood planning process were also assessed in the SHLAA. Consultation and engagement on site assessment and selection has occurred via a variety of methods over a sustained period. In addition a further two sites came forward after a 'call for sites' and the pre-submission stage and were subsequently assessed. The assessments were undertaken by a planning consultant and used model forms supplied by HC as a basis for the analysis.

Whilst site assessments can always be more comprehensive and detailed, the HSA and its addendum provide an analysis appropriate to the scale and content of the Plan.

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<sup>27</sup> Core Strategy Section 4.8

The policy is clearly worded. It meets the basic conditions and no modifications to it are recommended.

### **Policy 3 Criteria for New Housing Development**

Policy 3 is a criteria-based policy that covers a multitude of issues. The criteria require dwellings types, sizes and tenures to meet local housing requirements, flood risk and water, waste and drainage matters, the effect on the River Wye SAC and River Lugg Site of Special Scientific Interest, layout, design and landscaping and site context matters and vehicular, pedestrian and cycle access. The policy includes a site-specific matter at one of the proposed allocations, land at The Lane.

The policy is clearly worded. It is preceded by supporting text that both explains and justifies the policy's stance. This includes reference to a number of supporting evidence documents.

In relation to land at The Lane both the policy and supporting text refer to the southern part of the site being kept free from development and I note the Environment Agency welcomes this.<sup>28</sup> However the EA also indicate that surface water flooding needs to be checked. I am satisfied that criterion 2 covers this point satisfactorily.

The Plan recognises, at paragraph 4.22, that the Moreton-on-Lugg wastewater treatment works is unable to accommodate flows from the proposed sites. If development progresses in advance of regulatory investment, the Plan indicates improvements may be developer funded. This is covered in criterion 3 satisfactorily.

The policy reflects the stance taken in national policy and guidance in relation to the provision of a wide choice of housing, approach to flood risk and drainage matters, the importance of good design, the conservation and enhancement of both the natural and historic environments and the promotion of sustainable transport. The Plan refers to a number of CS policies which this policy complements including H1, H3, SD1, SD3, SD4, OS1 and MT1. The policy will help to achieve sustainable development. As a result the policy meets the basic conditions and no modifications are recommended.

## **5 Jobs and Local Services**

### **Policy 4 Small-scale Employment**

There are a number of benefits that rural enterprise can bring to communities such as the provision of services and employment opportunities. This policy supports local business and enterprise which recognises the considerable support in the NPPF for

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<sup>28</sup> Representation from the Environment Agency of 5 July 2016



economic growth<sup>29</sup> which does not limit business and enterprise growth to the more built up areas and reflects CS Policy RA6.

There are three criteria. The first gives encouragement to the redevelopment and conversion of redundant rural buildings and homeworking in line with CS Policies RA5 and E3. The second and third criteria incorporate safeguards to ensure that development is appropriate to the rural character and nature of the Plan area.

The policy has regard to the NPPF particularly in relation to building a strong, competitive economy and supporting a prosperous rural economy. It is in general conformity with CS Policies RA5, RA6, E3 and E4. It will help to achieve sustainable development. It is clear in its intent and wording. As a result it meets the basic conditions and no modifications are suggested.

### **Policy 5 Local Community Facilities**

National policy promotes the retention and development of local services and community facilities<sup>30</sup> as does CS Policy SC1. Policy 5 protects and supports community facilities. It particularly encourages the provision of a village shop which is much sought by the community. The policy sets out priorities for the use of developer contributions which include play areas, walking and cycling routes for the benefit of the community and which reflect needs identified through the neighbourhood planning process.

The policy takes account of national policy and guidance, is in general conformity with the relevant policies of the CS and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

## **6 Open Spaces and the Environment**

### **Policy 6 Landscape**

The landscape characteristics and setting of the village are described well in the preceding text to the policy and refer to evidence documents that have assessed the countryside around the village. The policy then takes its lead from CS Policy LD1 by ensuring the character of the landscape and its key attributes, including the open countryside setting of the village, are taken into account and influence new development. It resists proposals that would adversely impact upon the landscape character. It seeks to ensure that any landscaping included within schemes is appropriate and consolidates the particular attributes of the area.

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<sup>29</sup> NPPF Section 3

<sup>30</sup> *Ibid*

Policy 6 is worded clearly and well. It takes account of national policy, reflects CS Policy LD1 and will help to achieve sustainable development. It meets the basic conditions and there is therefore no need for me to recommend any modifications to it or its explanatory text.

### **Policy 7 Building Design**

The preamble to this policy explains the rationale behind it which is to ensure that proposals are of a high quality design which reflect and respect local distinctiveness. The policy is worded simply and clearly emphasising the need to ensure that the distinctive character of the village and its rural hinterland are protected and enhanced. It therefore ties in strongly with the NPPF's aim for neighbourhood plans to set out the quality of development that will be expected for the area.<sup>31</sup> It provides a more local interpretation of CS Policy SD1. It will help to achieve sustainable development. It meets the basic conditions and no modifications are recommended.

### **Policy 8 Open Spaces**

Policy 8 addresses two types of open space; it seeks to designate two areas of Local Green Space (LGS) and to protect three areas of public open space.

The NPPF explains that LGSs are green areas of particular importance to local communities.<sup>32</sup> The effect of such a designation is that new development will be ruled out other than in very special circumstances. Identifying such areas should be consistent with local planning of sustainable development and complement investment. The NPPF makes it clear that this designation will not be appropriate for most green areas or open space. Further guidance about LGSs is given in PPG.

Two LGSs are proposed to be designated in this policy. Both are clearly shown on the Village Policies Map. I saw both areas on my site visit. In my view both proposed LGS meet the criteria in the NPPF satisfactorily. Both are in close proximity to the community they serve, both are of historic significance in terms of their use and in relation to the development and layout of the village. Both add to the setting, character, appearance and feel of the village. As a result both are local in character. Neither are extensive tracts of land.

The owners of one of the proposed LGSs, west of Upper House Farm object to the designation<sup>33</sup>; one concern relates to the use of land as it forms part of a working farm, the other its development potential. I note that the area proposed for LGS designation has been reduced post Regulation 14 consultation. In addition paragraph 6.12 of the

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<sup>31</sup> NPPF para 58

<sup>32</sup> *Ibid* paras 76, 77 and 78

<sup>33</sup> Representation from R.I. and T.J.G. Williams dated 1 July 2016

Plan clearly states that designation is without prejudice to the continued agricultural use of the land.

PPG<sup>34</sup> indicates that designation can be considered where there is no public access. PPG advises that designation in itself does not confer any rights of public access over what exists at present. Whilst the designation gives any LGS protection consistent with Green Belt, it does not place any new restrictions or obligations on landowners.

The area also falls within the Conservation Area and so I have also considered whether any additional benefit is to be gained from LGS designation. I consider that it will give extra protection to an area that is at the heart of the village and is significant to the overall character and feel of the village.

Turning now to the protection of the three areas of public open space, all are clearly identified on the Village Policies Map. One area forms part of the setting of the village hall, one is a play area at Orchard Lane and the third area is an open space clearly used for walking and recreation at Millway/Willowrise. The policy seeks to protect all three areas. The NPPF<sup>35</sup> indicates that open spaces should not be built on unless there is an assessment that shows it is surplus to requirements or the loss would be replaced by equivalent or better provision in a suitable location or it is replaced by alternative sports provision the needs for which clearly outweigh the loss. This stance on the loss of open space is reflected in CS Policy OS3. Little evidence to support a blanket or unqualified protection of these open spaces has been put forward. Therefore this element of the policy requires a little more flexibility to ensure it meets the basic conditions in relation to national policy and guidance, general conformity with CS Policy OS3 and to help achieve sustainable development.

The policy is clearly worded identifying the LGS by name. Public open spaces are identified in paragraph 6.14 of the Plan which cross-references the Village Policies Map. There is therefore a clear link between the three areas of open space and the policy but in order to 'belt and braces' the policy, consideration could be given to inserting a cross-reference to the Village Policies Map in the policy.

In relation to LGS, the policy reflects the language of the NPPF in referring to "very special circumstances".

- **Add at the end of the last sentence of Policy 8: "*...unless it can be satisfactorily demonstrated that the open space is surplus to requirements, is replaced by equivalent or better provision in terms of quantity and quality in a suitable location or the development is for alternative sports or recreational provision, the needs for which clearly outweigh the loss.*"**
- **Add a new sentence at the end of the policy that reads: "*The Local Green Spaces and public open spaces covered by this policy are shown on the Village Policies Map.*"**

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<sup>34</sup> PPG para 017 ref id 37-017-20140306

<sup>35</sup> NPPF para 74

## **Policy 9 Green Infrastructure**

As the Plan indicates Policy 9 is designed to complement CS Policy LD3 which seeks to protect and enhance green infrastructure. At this local level, the policy provides a practical framework for proposals to consider and address green infrastructure issues. The policy takes account of national policy and guidance, complements the relevant CS policies and will help to achieve sustainable development. It therefore meets the basic conditions and it is not necessary for me to recommend any modifications.

## **7 Delivering the Plan**

This short section sets out how the Plan will be implemented by indicating some of the actions that the Parish Council will undertake including working with other organisations such as HC. Some of the actions are therefore not development and use of land issues. However, it will be clear that this is the case to any reader taking a common sense approach and therefore I do not propose to make any modifications in this respect as I consider this is sufficiently apparent as to not cause ambiguity or confusion.

## **Appendices A and B**

Both Appendix A and Appendix B provide useful contextual information signposting users of the Plan to other important documents and the evidence base used to support the development of the Plan and its policies. The appendices contain a lot of information in a clear and succinct way.

## **7.0 Conclusions and recommendations**

I am satisfied that the Sutton St. Nicholas Neighbourhood Development Plan, subject to the very few modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report. It is a well-written Plan that is properly and fully supported by its accompanying documentation.

I am therefore pleased to recommend to Herefordshire Council that, subject to the modifications proposed in this report, the Sutton St. Nicholas Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Sutton St. Nicholas Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the Plan should proceed to a referendum based on the Sutton

St. Nicholas Neighbourhood Plan area as approved by Herefordshire Council on 15 January 2014.

*Ann Skippers* MRTPI  
Ann Skippers Planning  
15 November 2016

## **Appendix 1**

### **List of key documents specific to this examination**

Sutton St. Nicholas Neighbourhood Development Plan 2011 - 2031 Submission draft  
May 2016 'Shape Sutton Now'

Sutton St. Nicholas Policies Map

Sutton St. Nicholas Village Policies Map

Basic Conditions Statement May 2016

Consultation Statement May 2016 and the documents referred to in it

Strategic Environmental Assessment Scoping Reports July 2014 and October 2014

Environmental Report March 2016

Habitats Regulations Assessment October 2015

Habitats Regulations Assessment Addendum March 2016

Housing Site Assessment June 2015 and its Addendum of April 2016

Various evidence documents and other information on [www.suttonstnicholas.co.uk](http://www.suttonstnicholas.co.uk)  
including the Community Plan

Herefordshire Core Strategy 2011-2031 October 2015 and Appendices

**List ends**

## Appendix 2

### Questions of clarification to HC and the Parish Council

#### Sutton St. Nicholas Neighbourhood Plan Examination

#### Questions of clarification from the Examiner to the Parish Council and HC

Having completed my initial review of the Neighbourhood Plan (the Plan) and the evidence submitted in support of it, I would be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information.

Please ensure that your answers are as brief as possible and factual in nature. Please do not send or direct me to evidence that is not already publicly available.

1. A number of questions in relation to the Strategic Environmental Assessment (SEA) and Habitats Regulation Assessment (HRA):
  - a) Paragraph 4.1 of the HRA of October 2015 refers to an initial screening of May 2014, but paragraph 4.2 refers to December 2013. The screening opinion of December 2013 is attached at Appendix 1 to the HRA October 2015. Please confirm whether or not the May 2014 reference should be December 2013 or explain this apparent anomaly
  - b) If the screening is December 2013 this would seem to predate the area designation; please confirm whether this is the case and whether any implications arise from this
  - c) The Scoping Report in Appendix 2 of the Environmental Report is dated October 2014, but the Report explains the Scoping Report was sent to the statutory consultees in July/August of that year. There is a July 2014 Scoping Report on HC's website but this is wrongly labeled as October 2014. Please explain the two different dated reports; was the latter one revised following on from the consultation period?
  - d) The HRA Addendum at paragraph 1.2 refers to an earlier HRA report of June 2015; should the date be October 2015? Or please explain the sequence of events
  - e) Changes to the Plan made after the Regulation 14 consultation period are listed in Table 7 of the Consultation Statement and referred to in paragraph 6.9 of the Environmental Report. The changes therefore appear to be Policy 1 – no change to the wording but a revised settlement boundary, Policies 2, 3, 4 and 5 – minor wording changes, Policy 8 – reduction in extent of one of the areas proposed as Local Green Space and a new Policy 9. Have I correctly summarised the changes? If not, please outline the changes made
  - f) If I am right in my summary of the changes made after Regulation 14,

changes to Policy 8 in terms of the reduction in one of the Local Green Spaces appear not to have been reassessed in either the Environmental Report or the HRA Addendum – is this correct?

- g) The Plan now has 11 objectives rather than the nine assessed for the SEA/HRA. Please confirm the stage of the neighbourhood planning process that two additional objectives were introduced in the Plan  
In relation to queries f) and g) above, in the Environmental Report Tasks B1, B2, B3 and B4 are dated October 2015 and then Tasks B2 and B3 have been redone following post Regulation 14 amendments, but do not seem to include changes to Policy 8 or the two additional objectives? Is this correct?
- h) Neither the Environment Agency, Natural England nor Historic England appear to have commented on the ER of March 2016, but have had an opportunity to do so at Regulation 16; are both of these statements correct?
2. In relation to Policy 8, are the areas of public open space to be protected only those indicated in paragraph 6.14 and the Village Proposals Map or was it the intention the policy would apply more generally?
  3. The Consultation Statement refers to a response rate of 68% for the household questionnaire but Appendix A3.1 and other documents refer to a 61% response rate. Which is correct please?
  4. Please provide me with a copy of the Housing Site Assessment Addendum (electronically or a link will be fine). I understand that two additional sites came forward after Regulation 14 stage and both have been assessed in this addendum; is this right?
  5. Please provide me with the Full Results Report of the Household Questionnaire and the Comments Listing referred to in paragraph 5.3 of the Consultation Statement (electronically or a link will be fine).
  6. Please provide me with any evidence based documents about the Conservation Area such as a description of it or a Conservation Area Appraisal.

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this list of clarification questions is a public document and that your answers will also be in the public domain. Both my questions and your responses should be placed on the Councils' websites as appropriate.

With many thanks

Ann Skippers  
31 October 2016