

**Weston-under-Penyard NDP Independent Examination
Delegated Decision Statement
7 December 2015**

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Weston Under Penyard Neighbourhood Area
Parish Council	Weston Under Penyard Parish Council
Submission	4 August 2015 to 16 September 2015
Examination Date	November 2015
Inspector Report Received	27 November 2015

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 Weston-under-Penyard Neighbourhood Plan has been amended taking into account the modifications, and that NDP may proceed to referendum.

2 Background

- 2.1 The Neighbourhood Area of Weston-under-Penyard was designated on 7 November 2013. The Neighbourhood Area follows the boundary of Weston-under-Penyard parish boundary. The Weston-under-Penyard NDP has been prepared by Weston-under-Penyard 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 November 2013.
- 2.2 The Plan was submitted to Herefordshire Council on 30 July 2015, and the consultation under Regulation 16 took place between the 4 August 2015 to 16 September 2015, where the Plan was publicised and representations invited.
- 2.3 On 3 November 2015 Mr Christopher Collison BA (Hons) MBA MRTPI MIED MCME IHBC was appointed by Herefordshire Council, with the consent of the Parish Council, to undertake the examination of the Weston-under-Penyard NDP and to prepare a report of the independent examination.
- 2.4 The examiner's report concludes that subject to making the minor modifications recommended by the examiner, the plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.
- 2.5 Having considered each of the recommendations made within the examiner's report and the reasons for them, Herefordshire Council (in accordance with the 1990 Act Schedule 4B paragraph 12) has decided to make the modifications to the draft plan referred to in Section 3 below to ensure that the draft plan meets the basic conditions set out in legislation.

3 Recommendations by the examiner

- 3.1 The table 1 below details the recommendations made by the examiner within his report along with the justification:

Policy	Modification recommended	Justification
Recommended Modification 1 Section 11	Transfer Section 11 'Neighbourhood Planning Projects' to a non-statutory annex to the Neighbourhood Plan	The project proposals do not form part of the NDP and as such will not be subject of a referendum. This modification will add clarity and accuracy to the NDP.
Recommended Modification 2 Policy H1	In Policy H1 delete "Plan"	Reduce the likelihood of confusion of the plan period and to aid clarity.
Recommended Modification 3 Policy HS1	In Policy HS1 <ul style="list-style-type: none">In the heading delete "Max" insert "Approximate"; and delete "houses" insert "dwellings"; and delete "7" after "Affordable homes"	The modification provides greater clarity and consistency with NPPF and will achieve the necessary flexibility required. Deleting Part i is due to lack

	<ul style="list-style-type: none"> • Insert “approximately” before “18” • In a) delete “all with Tree Preservation Orders in place prior to tree planting” • In d) after “play areas” insert “to a stated recognised standard of provision” • Delete part i) 	of justification of the timeframe chosen.
Recommended Modification 4 Policy HS2	In Policy HS2 <ul style="list-style-type: none"> • In the heading delete “Max” insert “Approximate”; and delete “houses” insert “dwellings”; and delete “15” after “Affordable homes” • Insert “approximately” before “37” • In a) delete “strengthening” insert “reinforcing” and insert “increasing the number of” before “trees” • In d) after “green space” insert “to a stated recognised standard of provision” • Delete part j 	The modification provides greater clarity and consistency with NPPF and will achieve the necessary flexibility required. Deleting Part j is due to lack of justification of the timeframe chosen.
Recommended Modification 5 Policy H2	In Policy H2 <ul style="list-style-type: none"> • In b) delete “controlled” insert “appropriate” • In h) delete “worthy” insert “capable” • Delete part k 	Modifications to add clarity and have regard for the presumption in favour of sustainable development. Deleting part ‘k’ The Neighbourhood Plan policy only permitting development on land which is within Flood Zone 1 is inconsistent with national policy.
Recommended Modification 6 Policy H3	In Policy H3 <ul style="list-style-type: none"> • After “sites of” delete “ten or more dwellings” and insert “11 new dwellings or more or 1-10 new dwellings with a total gross floorspace of more than 1,000 sq m” • Delete “take into account” insert “demonstrate they meet” • Delete “normally” • Delete “up to” • And continue “unless viability considerations can be shown to necessitate an alternative percentage of provision” 	Modification in respect of number of dwellings to reflect guidance. The term “ <i>should take into account local housing needs</i> ” is imprecise and does not provide the guidance for decision makers required by paragraph 17 of the Framework. The policy includes the word “ <i>normally</i> ”. This does not provide sufficient clarity for decision makers as required by paragraph 17 of the Framework.

Policy H4	No modification	This policy meets the basic conditions
Recommended Modification 7 Policy H5	In Policy H5 <ul style="list-style-type: none"> Delete the introductory text and part a) and the list designation "b)". After "tenure types" insert "of affordable housing provision" 	This policy presents an alternative wording to a matter dealt with in Policy H3. Therefore the modification recommends removing the overlap and achieving clarity for decision makers.
Policy H6	No modification	This policy meets the basic conditions
Policy H7	No modification	This policy meets the basic conditions
Policy D1	No modification	This policy meets the basic conditions
Policy D2	No modification	This policy meets the basic conditions
Recommended modification 8 Policy SD1	Delete Policy SD1	The policy fails to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. This policy does not meet the basic conditions. There should be a re-numbering of policies in this section following this change.
Recommended modification 9 Policy SD2	In Policy SD2 <ul style="list-style-type: none"> Delete "be resisted vigorously" insert "only be supported where it is clearly demonstrated they are no longer fit for purpose or viable, or that an equivalent alternative facility is available within the Parish" Continue the final paragraph "subject to viability considerations as set out in paragraph 173 of the Framework." 	Modification to represent a balanced approach of the framework and to provide greater flexibility.
Recommended modification 10 Policy ST1	In Policy ST1 <ul style="list-style-type: none"> In d) after "developments but" insert ", subject to viability," In f) after "designed to" insert "not have adverse effect and subject to viability" 	To aid clarification within the policy and to ensure it is in line with the framework.

Policy SB1	No modification	This policy meets the basic conditions
Policy SB2	No modification	This policy meets the basic conditions
Policy SB3	No modification	This policy meets the basic conditions
Policy SB4	No modification	This policy meets the basic conditions
Policy SE1	No modification	This policy meets the basic conditions
Recommended modification 11 Policy SE2	In Policy SE2 <ul style="list-style-type: none"> • Delete a) • Replace b) with “Development proposals should demonstrate that negative impacts to the significance, including impacts to the setting, of heritage assets, including those listed in Appendix A, have been either avoided or minimised. Where the harm of any residual impacts of a proposed scheme is not justified by the public benefits that would be provided, it will not be supported.” 	Criterion a) includes the term “surrounding countryside”. This element of the policy is not sufficiently precise to provide decision makers with a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. It is also not sufficiently aligned with national policy in relation to presumption in favour of sustainable development. The policy does not reflect the need to weigh the public benefit of schemes against unavoidable harm to the significance of heritage assets as set out in the Framework.
Recommended modification 12 Policy SE3	Delineate the Local Green Space areas designated in Policy SE3 on the Weston under Penyard Village Policies Map	Given the significance of the designation of land as local green space it is important to have the precise area marked on a map.
Policy SE4	No modification	This policy meets the basic conditions
Policy SE5	No modification	This policy meets the basic conditions
Recommended modification 13 Policy SE6	In Policy SE6 delete part e)	Ensure consistency with national policy.
Recommended modification 14	Identified errors that are typographical in nature or arising from updates should be corrected. Modification of general text will be necessary to achieve consistency with the modified policies	To ensure clarity and consistency throughout the plan.

3.2 In accordance to recommended modification 14, to correct errors (1990 Act, Schedule 4B, paragraph 10 (3) (e)) throughout the Plan, these errors are typographical in nature or arising from updates. The modifications recommended as follows:

- Check for confusion between Wye Valley AONB and Wye Valley Woodland SAC in accordance with the Natural England Regulation 16 representation
- Page 13 Policy H6 add “Rural” to title
- Policy HS1 f line 2 delete “of”
- Policy HS1 h delete “for any site”
- Policy HS2 h delete “for any site”
- Policy H2 standardise approach to use of capital letters for “settlement boundary” and “parish”
- Policy H6 delete “be” from last line
- Policy ST1 new paragraph after parish
- Policy ST1 commence lettering of points with “There will be safe”
- Policy SE5 delete underlining and substitute (e) for (d)
- Policy SE6 after “serve” delete “the” and insert “any”
- Policies Map add boundaries of Local Green Space designations
- Environmental Report change reference to Callow and Haywood in paragraph 4 of the non-technical summary
- A number of consequential modifications to the general text of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to 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 and also the points set out in paragraph 3.2, in line with paragraph 12 (6) of Schedule 4B to the 1990 Act.

5.3 Following the modifications made, the Weston-under-Penyard Neighbourhood Plan will meet the basic conditions:

- Having regard to national policies and advice contained in guidance issues by the Secretary of State, it is appropriate to make the plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the Herefordshire Local Plan – Core Strategy
- The making of the neighbourhood plan does not breach and is otherwise compatible with EU obligations and
- The making of the neighbourhood plan is not likely to have a significant effect on a European site either alone or in combination with other plans and projects.

5.4 It is recommended that the Weston-under-Penyard Neighbourhood Plan progresses to referendum. Consideration has been given as to whether the area should be extended beyond that of the neighbourhood area. Herefordshire Council concur with examiners conclusion that nothing has been suggested which would require an extension of the area beyond that designed on 7 November 2013.



Signed:

Dated: 15 December 2015

Richard Gabb
Programme Officer – Housing and Growth