

Bishops Frome Parish Council

# **Bishops Frome Neighbourhood Plan**

## **Independent Examiner's Report**

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23 November 2017

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## Summary

I have been appointed as the independent examiner of the Bishops Frome Neighbourhood Development Plan.

The Parish has two main settlements of the village of Bishops Frome and Fromes Hill together with the hamlet of Halmonds Frome. The Parish lies in the valley of the River Frome some 4 miles south of Bromyard and about 9 miles north of Ledbury. Traditionally agricultural in nature, food and drink production remains important to the Parish.

The Plan builds on earlier work on a Parish Action Plan published in 2014 and the Plan describes itself as a natural extension of this work. The Plan has an eye catching front cover and contains a number of photographs making it locally distinctive. It is clearly and well presented with planning policies clearly defined and supported by helpful explanatory text. It is also clear there has been a constructive relationship and close liaison between the Parish Council and Herefordshire Council.

Although no site allocations are made for housing, the Plan defines settlement boundaries for its two main settlements and accommodates growth. It protects the landscape and natural and historic environments, but understands the need for sustainable development and in particular supports the rural economy.

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.

Further to consideration of the Plan and its policies I have recommended a relatively few number of modifications that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear enabling it to provide a practical framework for decision-making as required by national policy and guidance.

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 Bishops Frome Neighbourhood Development Plan can go forward to a referendum.

Ann Skippers MRTPI  
Ann Skippers Planning  
23 November 2017



## 1.0 Introduction

This is the report of the independent examiner into the Bishops Frome 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 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 additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and is:

- 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.

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.

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

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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

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 meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012.

After area designation in 2013, a Committee was formed to take the Plan forward. Publicity about the Plan's production has been achieved through posters, regular articles in the newsletter, a dedicated website and regular items at Parish Council meetings.

In the Summer of 2014, a questionnaire was designed and distributed to all residents over 16 with different versions for Bishops Frome and Fromes Hill. The questionnaire built on earlier work on a Parish Plan. Volunteers distributed questionnaires around the Parish and arranged collection accounting for the high response rate of 64%. Large print versions or assistance with completing the questionnaires was also offered. The questionnaire covers a range of issues and asks answers to be ranked and offers an opportunity for free text answers too. It asks for various areas to be ranked where housing could be built and asks for reasons for the first and last choice sites. It points out that illegible answers cannot be taken into account. It is, in my view, an excellent example of a well-designed and comprehensive questionnaire and it is clear that every effort was made to encourage responses.

Specific issues such as the definition of settlement boundaries and the vision and objectives were consulted upon in an open day which attracted 61 people.

Pre-submission (Regulation 14) consultation took place between 4 July – 15 August 2016. The draft Plan was available at the Community Shop and the Hop Pocket Craft Centre and a printed copy of the draft was circulated to every household in the Parish. A number of organisations such as the Environment Agency and other Parish Councils as well as the ward Councillor were also sent a copy of the draft Plan.

The Consultation Statement includes identification of the main issues arising from the consultation as well as an appendix summarising all comments received and how these were addressed. I found this approach to be most helpful.

Incidentally, Appendix 2 of the Consultation Statement is referred to as the Neighbourhood Area decision document in the Consultation Statement itself, but is the Questionnaire (which is referred to as Appendix 3 on the Consultation Statement). This is not a matter I need to suggest a modification on in order for the Plan to meet the basic conditions, but the Parish Council may like to add a note to this effect to the Consultation Statement. In addition, the maps referred to in the questionnaire could also have perhaps been included for completeness.

I consider that the consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was carried out between 24 May – 12 July 2017. The Regulation 16 stage resulted in ten representations which I have considered and taken into account in preparing my report.

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. In this regard I note that Welsh Water have requested the inclusion of a new policy. Whilst there is little doubt that this would be useful, there is no requirement for a neighbourhood plan to include any particular type of policies and this is not a modification I need to make in respect of my role. I note in any case that Policy BF10 does refer to the waste water treatment works.

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 did raise a number of questions with the Parish Council and HC. My list of questions is attached as Appendix 2. The questions and the responses to them are a matter of public record and available from HC or the Parish Council.

I made an unaccompanied site visit to familiarise myself with the Plan area on 7 November 2017.

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

Bishops Frome Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is met.

### Plan area

The Plan area is coterminous with the Parish Council administrative boundary. HC approved the designation of the area on 8 November 2013. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown on Map 1 on page 9 of the Plan.

### Plan period

Page 2 of the Plan states that it covers 2011 – 2031 to align with the CS and this is also confirmed in the Basic Conditions Statement. This requirement is therefore met.

### 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 helpfully confirmed in the Basic Conditions Statement.

### 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. Should 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 <https://www.gov.uk/government/collections/planning-practice-guidance>. The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to it 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*

## **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>

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

The development plan consists of the Herefordshire Local Plan 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). I have taken all the CS policies to be 'strategic'.

## **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>

## ***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 (the Regulations).

An Environmental Report (ER) dated May 2017 has been submitted as an earlier screening opinion of 14 October 2013 concluded that a SEA would be required. The River Wye (including the River Lugg) Special Area of Conservation (SAC) is some 11km

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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

away from the Parish, but part of the Parish falls within the hydrological catchment of the River Frome.

The ER confirms that a Scoping Report dated October 2014 was prepared and sent to the statutory consultees from 30 October – 4 December 2014. Two responses were received from Natural England (NE) and Historic England (HE).

A draft ER of June 2016 underwent a period of consultation from 4 July – 15 August 2016 alongside the pre-submission version of the Plan. NE's letter of 29 July 2016 confirmed that the ER meets the requirements and that they concurred with its conclusions.

The ER of May 2017 was published for consultation alongside the submission version of the Plan.

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

There are some discrepancies in the ER, for instance it states that none of the settlements in the Plan area are targeted for proportional levels of growth in CS Policies RA1 and RA2 which is incorrect. In addition it refers to no evidence that alternative options were considered on page 4, yet section 5.0 discusses assessing options and Table B2 details those options and that assessment.

Overall the ER is a comprehensive document and the detailed work contained in the appendices and recognition that there are no site allocations reassures me that the ER has dealt with the issues appropriately for the content and level of detail in the Plan. This in line with PPG advice which 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>21</sup> In my view, it has been prepared in accordance with Regulation 12 of the Regulations. 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) identifies 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>22</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 dated 14 October 2013 found that a full HRA screening assessment would be required.

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<sup>21</sup> PPG para 030 ref id 11-030-20150209

<sup>22</sup> *Ibid* para 047 ref id 11-047-20150209

A HRA Screening Assessment of June 2016 found that none of the draft policies in the Plan would be likely to have significant effects on the River Wye SAC. NE's letter of 29 July 2016 confirmed agreement to this conclusion.

An Addendum dated May 2017 considered whether the conclusions of the earlier assessment were affected by amendments to the Plan. The document concludes that the Plan will not have a likely significant effect on the River Wye SAC as a result of the changes made which included a new policy. These documents were consulted upon alongside the pre-submission Plan.

The Addendum concludes that the Plan will not have a likely significant effect on the River Wye SAC.

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.

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

The Basic Conditions Statement contains a statement on human rights. There is nothing in the Plan that leads me to conclude there is any breach of the fundamental rights and freedoms guaranteed under the ECHR or that the Plan is otherwise incompatible with it or does not comply with the Human Rights Act 1998.

## **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 suggest specific changes to the wording of the policies or new wording these appear in **bold italics**.

The Plan is generally well presented with policies which are clearly differentiated from supporting text. There is a useful contents page and list of maps at the start of the Plan.

### **1. Introduction**

This section contains useful information about the Plan. This section will need some natural updating as the Plan progresses through to adoption.

### **2. Development of the Neighbourhood Plan**

This section explains the evolution of the Plan and does so informatively and clearly.

### 3. Historical Origins and the Villages Today

Section 3 describes the Parish and its attributes, again setting out information succinctly. The section contains a number of photographs which give the Plan a really distinctive flavour.

### 4. Conformity with the NPPF and Local Plan

A short section setting the scene.

### 5. Key Issues Identified by Consultation

Seven key issues are identified and explained well in this section.

### 6. Vision and Objectives

The vision for the Plan is relatively long, but nevertheless clearly articulated and positive in its stance.

The vision is underpinned by one overall objective and eight specific objectives; all relate to the development and use of land. Objective 2 refers to “preferred sites” and in response to my query on this, the Parish Council kindly accept that this might lead to some confusion as there are no site allocations in the Plan. In the interests of clarity, I suggest this objective is modified.

- **Modify the second sentence of Objective 2 to read: “*New housing development should be appropriate in terms of size, scale, design and sustainability and the ability of services and facilities to support them.*”**

### 7. Bishops Frome Neighbourhood Development Plan Policies

There is a strong recognition that the policies in the Plan have evolved from community engagement, but are designed to be complementary to the policies in the Core Strategy by adding a layer of local detail. This is to be welcomed.

#### ***Policy Area 1 – Character and Environment***

#### **Policy BF1 Protecting and Enhancing the Character of the Rural Landscape and Built Environment**

Policy BF1 is a criteria-based policy that sets out four principles which new development is expected to accord with. All of the criteria relate to rural character, biodiversity,

landscape, trees, hedgerows and woodlands, water courses and flood plains and historic buildings and landscape.

The approach of the policy is appropriate for this rural Parish which has the River Frome and its valley as what is described in the Plan as its “spine”, areas of ancient woodland, a number of wildlife sites and historic groupings of farm buildings. It reflects the NPPF in seeking to conserve and enhance both the natural environment and the historic environment. It takes a local approach to CS Policies SS6, LD1 and LD2 in particular.

In order for the policy to more fully take the stance of the NPPF in relation to biodiversity<sup>23</sup> into account, modifications are recommended to criteria (b) and (c).

- **Add the words “*where possible*” after “Protect the existing ecological biodiversity of sites and...” in criterion (b)**
- **Add the words “, *and where possible enhance*, “ after the “Protect...” in criterion (c)**

### ***Policy Area 2 – New Housing Development***

The strategy for the rural areas in the CS<sup>24</sup> is positive growth. The strategy is based on seven housing market areas (HMA) and the Parish falls within the Ledbury HMA which has an indicative housing growth target of 14% according to CS Policy RA1. The CS explains that this indicative 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. Bishops Frome and Fromes Hill are identified in Figure 4.14 as settlements which will be the main focus of proportionate housing development.

The Plan explains that this equates to a minimum of 48 dwellings and that between 2011 and 2014 this minimum figure has been reached and exceeded through a combination of completed or consented schemes. Further dwellings have subsequently been completed or granted permission equating to a further 26 homes.

The Plan takes the opportunity to identify a new settlement boundary for Bishops Frome and for the first time a settlement boundary for Fromes Hill. These are shown clearly on Maps 2 and 3 respectively. This approach is in line with the CS.

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<sup>23</sup> NPPF para 109

<sup>24</sup> Core Strategy Section 4.8

## Policy BF2 The Scale of New Housing

Policy BF2 is positively worded supporting a minimum of 55 new homes to meet local needs and to contribute to the wider housing market over the Plan period. It seeks to deliver growth through recognising existing commitments, windfall development and development in the countryside and subject to CS Policy RA3. It defines and references the settlement boundaries for Bishops Frome and Fromes Hill. I saw at my site visit that both settlement boundaries had been defined appropriately.

HC have helpfully confirmed that the settlement boundaries take existing commitments into account and that the policy meets proportional growth requirements.

The policy is clearly and precisely worded and adds clarity to the delivery of new housing within the Parish. As a result it takes account of national policy and guidance, also generally conforms to the CS's housing strategy and Policies RA1, RA2 and RA3 in particular and will help to achieve sustainable development. It therefore meets the basic conditions.

There is a typographical error to correct in the policy.

- **Correct typographical error in the policy: "suuply" should be "supply"**

## Policy BF3 New Housing Development in Bishops Frome and Fromes Hill

This policy supports new housing development in line with the approach in the CS and particularly CS Policies RA2, H3 and SD1.

It has seven criteria. All are clearly worded. However, three require further thought.

Criterion (d) seeks to ensure that the development does not harm the living conditions of existing residents from noise, dust or other nuisance. This is unlikely given that the policy relates to residential development. The second half of the criterion then refers to the effect on new residential development from existing industrial or commercial uses. This is a difficult argument to promote as it is the new development that should be compatible with existing development; not the other way round. Therefore this principle, however laudable in its intent, does not reflect the NPPF's stance that planning policies should ensure that new development is appropriate for its location to prevent unacceptable risks from pollution.<sup>25</sup>

Criterion (e) seeks a mix of dwelling types on developments of four or more units taking its lead from CS Policy H3 which seeks a range and mix of housing units and particularly refers to sites of more than 50 dwellings. There is little doubt that the intent accords

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<sup>25</sup> NPPF para 120

with the CS and the NPPF<sup>26</sup> and will help to achieve particularly the social dimension of sustainable development. However, it may well be that it does not prove possible to achieve this on some sites because of site-specific characteristics and/or viability and deliverability. There is no need to cross reference the CS policy concerned. Lastly, there is no obvious rationale for the threshold of four. Therefore a modification is recommended to address these concerns.

Criterion (g) refers to heritage assets rightly seeking to ensure development does not adversely affect them. The NPPF recognises that heritage assets are an irreplaceable resource, but advocates conserving them in a manner appropriate to their significance.<sup>27</sup> To take better account of the NPPF, a modification is therefore recommended.

Subject to these modifications, the policy will take account of national policy and guidance, generally conform with the CS and help to achieve sustainable development.

- **Delete the words “...and that the amenity of all new residential development is not adversely affected by existing industrial or commercial uses.” from criterion (d) of the policy**
- **Change criterion (e) of the policy to read: “Where it is demonstrably viable and desirable, developments should provide a mix of dwelling types.”**
- **Add the words “the significance of” after “...have an adverse impact on...” in criterion (g) of the policy**

#### **Policy BF4 Design and Materials**

This policy seeks to achieve development that will respect and enhance the character of Bishops Frome and Fromes Hill. Its five criteria are clearly worded and are generally sufficiently flexible through the inclusion of phrases such as “where appropriate”.

However, I agree with the representation from HC that criterion (a) may inadvertently restrict innovative design and in so doing would not accord with the NPPF. Therefore a modification is recommended to address this.

In relation to criterion (c) whilst an argument could be made that there is not enough precision as it refers to “sufficient” and “adequate” parking and amenity space, this can be dealt with on a case by case basis given the particular characteristics of the settlements concerned.

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<sup>26</sup> NPPF para 50

<sup>27</sup> *Ibid* para 126

The policy reflects one of the twelve core planning principles in the NPPF<sup>28</sup> to always seek to secure high quality design and the NPPF's stance on planning for good design,<sup>29</sup> generally conforms to the CS and will help to achieve sustainable development subject to the modification recommended.

- **Add the words “or respect” after “Properties and extensions reflect...” in criterion (a) of the policy**

### ***Policy Area 3 – The Local Economy, Business and Tourism***

#### **Policy BF5 Business Enterprise**

The preamble to the policy explains that although there has been a decline in the traditional agricultural activities in the area, there is a strong tradition of food and drink production. Bishops Cleeve is home to a Technology Park and the Hop Pocket Craft Centre boasts a number of shops and draws visitors from a wide area.

Policy BF5 supports the expansion of existing businesses and new businesses in the villages and in redundant farm buildings subject to three criteria. The three criteria relate to scale, amenity, transport impacts and the effect on landscape and tranquility. The last part of the policy supports high speed broadband.

It is a clearly worded policy. It will help to achieve sustainable development and is in line with national policy's support for the rural economy and the general thrust of CS Policies SS5, RA5, RA6 and E1. However, it refers to “farm” buildings and neither the NPPF or CS Policy RA5 limit the reuse of buildings to farm buildings but instead refer to rural buildings. With this modification, the policy will meet the basic conditions.

- **Replace the word “farm” in the first sentence of the policy with “rural”**
- **Replace the word “farm” in the supporting text on page 34 of the Plan with “rural”**

### ***Policy Area 4 – Community Facilities***

#### **Policy BF6 Retention and Improvement of Community Facilities**

Policy BF6 has four elements to it. The first and second elements seek to protect existing community facilities of which there are many in the Parish including a village hall, post office, shop and café unless alternative equivalent facilities can be provided.

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<sup>28</sup> NPPF para 17

<sup>29</sup> *Ibid* section 7

The NPPF<sup>30</sup> promotes the retention of and development of local services and community facilities. Amongst other things, CS Policy SC1 protects, retains and enhances existing social and community infrastructure. It retains existing facilities unless an appropriate alternative is available or can be provided or it can be shown the facility is no longer required, viable or is no longer fit for purpose. Where appropriate this includes vacant facilities that have been marketed without success. The supporting text to the CS policy explains that where a business is no longer viable, an alternative community use should be considered first of all and to show this evidence of marketing for at least 12 months should be provided. The first and second elements of the policy are therefore in line with the NPPF and generally conform to CS Policy SC1, but as there is no reference to the facility no longer being required as there is in CS Policy SC1, this should be added in the interests of completeness and providing a practical framework.

The third element of the policy is interestingly worded as it seeks to give the community an opportunity to consider the community right to bid if services are “threatened with loss of viability”. The Community Right to Bid allows communities and parish councils to nominate buildings or land for listing by the local authority as an asset of community value. If the assets come up for sale, the community can ‘pause’ the sale and take up to six months to find the funding required to buy the asset. I have considered whether this is a development and use of land policy and have concluded it is not as it refers to a community aspiration. It also can, as I understand it, only apply to assets of community value.

The last element of the policy supports new community uses subject to their effect on neighbours and the transport network.

Subject to these modifications, the policy will meet the basic conditions.

- **Add to the end of paragraph two: “*or the facility is no longer required.*”**
- **Delete the third paragraph from the policy**

### ***Policy Area 5 – Open Space and Recreation***

#### **Policy BF7 Retention and Improvement of Open Space and Recreation**

This policy seeks to designate six areas of Local Green Space (LGS) in Bishops Cleeve. Secondly, it indicates that opportunities will be taken to improve existing facilities and provide new open space including through developer contributions and the Community Infrastructure Levy. Lastly, it proposes a new area of recreational open space in Fromes Hill which does not currently have any such area and identifies an area of search on Map 5.

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<sup>30</sup> NPPF para 28

Taking each of those elements in turn, the NPPF explains that LGSs are green areas of particular importance to local communities.<sup>31</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.

The proposed LGSs are the green space in the centre of Bishops Frome around the Village Centre, the Community Garden in Summerpool, the green area opposite Mudwalls Cottage, the green area adjacent to Broadfield Close, the Old Cricket Ground and the Sports Field. Each area is shown clearly on Map 4 on page 39 of the Plan. I visited all six areas on my site visit.

1. **Green space in the centre of Bishops Frome around the Village Centre** is an important green area with trees in the heart of the village which contributes to its distinctive character and a sense of place.
2. **Community Garden in Summerpool** is a ‘hidden’ garden area close to the village centre which offers a special and tranquil area for the community.
3. **Green area opposite Mudwalls Cottage** is located on a bend in the road and is an open, grassed area with some trees and shrubs that forms an integral part of the setting of nearby housing and makes a wider contribution to the character and appearance and feel of the village on the main route through it.
4. **Green area adjacent to Broadfield Close** is an open grassed area which provides a wide verge entrance to Broadfield Close. It is an integral part of this development contributing to its setting and adds to the character and amenity of the village.
5. **Old Cricket Ground** is an open area with mature trees and a play area together with seating to enjoy the views available from this land.
6. **Sports Field** is a playing field currently laid out as football pitches. It is a well-defined area with a changing room/pavilion building on it.

In my view, the proposed LGSs meet the criteria in the NPPF satisfactorily. The policy helpfully references Map 4. The notation on Map 4 refers to “Protected Open Space” and it is suggested that this is amended to LGS for the avoidance of doubt and to ensure the Map ties in with the policy.

The second element of the policy is clearly worded and reflects national policy and guidance and CS Policies OS1 and OS2.

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<sup>31</sup> NPPF paras 76, 77 and 78

The third element of the policy proposes a new recreational open space in Fromes Hill and indicates an area of search is shown on Map 5. However, the notation on Map 5 refers to “Protected Open Space”. In response to my query about this, the Parish Council kindly acknowledges this might be confusing. I consider the wording of the policy is clear; the area shown on Map 5 is an area of search for a new open space. The notation should be changed to align with this in the interests of clarity.

- **Change the notation on Map 4 from “Protected Open Space (BF7)” to “Local Green Space (BF7)”**
- **Change the notation on Map 5 from “Protected Open Space (BF7)” to “Area of Search for new recreational open space (BF7)”**
- **Make any necessary consequential changes to other maps including the Policies Maps**

### ***Policy Area 6 – Rights of Way***

#### **Policy BF8 Rights of Way**

This short policy seeks to improve access to the countryside by protecting and enhancing rights of way. It is clearly worded and is in line with national policy and guidance and in general conformity with the CS and particularly CS policies SS4, MT1 and E4 and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

### ***Policy Area 7 – Traffic and Transportation***

#### **Policy BF9 Traffic and Transportation**

The preamble to the policy explains that transport and traffic related issues are a major concern to the community. The long distance cycle route, the National Byway, runs through the Parish.

Policy BF9 begins by promoting measure to improve pedestrian safety and reduce obstructions caused by on-street parking. Whilst this is an understandable aim, the removal or reduction of obstructions is not a development and use of land matter. As a result this part of the policy needs to be deleted.

Similar to the first element, the fourth element seeks to support measures to reduce traffic speed. This is a traffic management issue rather than a development and use of land matter. This element therefore needs to be deleted from the policy.

The other elements of the policy are clearly worded and will ensure that any new development has an acceptable impact on the transport network and that sustainable transport modes and routes such as the National Byway are promoted in line with national policy and guidance and the CS in particular CS Policy MT1. This will help to achieve sustainable development.

There are typographical errors in the policy that should be corrected.

Subject to these modifications the policy will meet the basic conditions.

- **Delete the words “and reduce obstructions caused by on-street parking” from the first paragraph of the policy**
- **Delete the fourth paragraph of the policy which begins “Proposals to restrict traffic speeds...” in its entirety**
- **Correct “throuhout” to “throughout” and “Bisops” to “Bishops” in paragraph three of the policy**

### ***Policy Area 8 – Flood Risk, Drainage and Waste Water***

#### **Policy BF10 Prevention of Flooding and Improvement of Water Quality**

There is little doubt that consideration of flood risk will proactively help to meet one of the challenges of climate change. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.<sup>32</sup> It advocates a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property.<sup>33</sup> The NPPF sets out the circumstances in which a site-specific flood risk assessment will be required.<sup>34</sup>

Policy BF10 seeks to help to address flood risk, encourage sustainable drainage systems and improve water quality. It is clearly worded.

However, the first element of Policy BF10 states that “development in flood risk zones 2 and 3 should be subject to the sequential test”. PPG indicates that development in flood zone 1 does not usually need the sequential test to be applied, but that information and local circumstances may generate the need to do this.<sup>35</sup> PPG continues that the sequential test does not need to be applied to development on sites allocated in development plans through the sequential test or for minor development or some

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<sup>32</sup> NPPF para 100

<sup>33</sup> *Ibid*

<sup>34</sup> *Ibid* para 103

<sup>35</sup> PPG para 033 ref id 7-033-20140306

changes of use.<sup>36</sup> So the first part of the policy gives an incorrect impression in both the language it uses and what it seeks and as a result requires modification. It also refers to the 2009 Strategic Flood Risk Assessment and so to ensure the policy will stand the test of time, a modification is recommended to address this.

With the modification suggested, the policy will take account of national policy and guidance, generally conform to the CS and in particular CS policies SD3 and SD4 and will help to achieve sustainable development.

- **Reword the first paragraph of the policy to read: “Development should embrace the principles of sustainable water management. Proposals must address flood risk appropriately and will be subject to the sequential test and, where needed, the exceptions test in line with national policy and Core Strategy Policy SD3 and have regard to the latest Strategic Flood Risk Assessment and local information on flooding.”**

## **Policy Area 9 – Renewable Energy**

### **Policy BF11 Renewable Energy**

This policy supports renewable energy schemes subject to various safeguards that relate to their scale, effect on residential amenity and impact on landscape character and the natural and historic environment. It resists large scale wind or solar power generation in the Parish. The supporting text explains the rationale behind the policy in this Parish.

One of the core planning principles in the NPPF is to support the transition to a low carbon future and the NPPF<sup>37</sup> states that planning plays a key role in supporting the delivery of renewable energy. HC confirms general conformity with CS Policy SD2. The policy therefore meets the basic conditions and no modifications are recommended.

## **8. Compatibility with the Strategic Environmental Assessment**

This section explains the relationship between the Plan and the SEA.

## **9. Delivery and Implementation**

This is a helpful section explaining how the Plan will be delivered. It also explains that monitoring of the Plan is to be carried out. Whilst this is not a requirement of neighbourhood planning, I consider this to be good practice and it is to be welcomed.

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<sup>36</sup> PPG para 033 ref id 7-033-20140306

<sup>37</sup> NPPF Section 10

## Appendix 1 Core Strategy Policy Relevant to the Neighbourhood Plan

Appendix 1 contains a list of CS policies considered to be particularly relevant to the Plan and it is referred to earlier in the Plan. It is important to ensure that readers are not given the impression that other CS policies might not be of as much or any importance and so to avoid this, in the interests of providing a practical framework, I suggest a paragraph is added.

- **Add a paragraph at the start of the appendix that reads: *“All of the policies in the Core Strategy should be considered. However, the following policies are considered to be of particular relevance to this neighbourhood plan.”***

## Glossary

A helpful glossary is included. However, definitions should align with those in the NPPF and the CS as appropriate. Therefore the following modifications are recommended to ensure that the Plan takes account of the NPPF and is in general conformity with the CS.

- **Affordable Housing – remove the references to gross earnings and mortgages**
- **Brownfield Land – add at the end: *“This term refers to both land or premises. It excludes land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.”***
- **Flood Risk Zones – delete the word “Risk” as the correct term is “Flood Zone” and add the word “river” to the definition of Flood Zone 3**
- **Village Envelope – delete the words “limited infilling” and replace with *“development”***

## Maps

Whilst there is arguably no need to reproduce the maps here again, they will require modification in line with earlier recommendations in this report if they are retained.

- **Ensure any recommendations for modifications to the Maps made earlier in this report are actioned in respect of the maps reproduced here**

## 7.0 Conclusions and recommendations

I am satisfied that the Bishops Frome Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Herefordshire Council that, subject to the modifications proposed in this report, the Bishops Frome 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 Bishops Frome 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 Bishops Frome Neighbourhood Plan area as approved by Herefordshire Council on 8 November 2013.

*Ann Skippers* MRTPI

Ann Skippers Planning  
23 November 2017

## **Appendix 1 List of key documents specific to this examination**

Bishops Frome Neighbourhood Plan Submission Draft April 2017 V3

Consultation Statement April 2017

Basic Conditions Statement (undated)

Environmental Report May 2017

Habitats Regulations Assessment June 2016

Habitats Regulations Assessment Addendum May 2017

Bishops Frome Policies Map

Fromes Hill Policies Map

Herefordshire Core Strategy 2011-2031 October 2015 and Appendices

Saved Policies of the Unitary Development Plan 2007

**List ends**

## **Appendix 2 Request for further information and questions from examiner to the Parish Council and HC**

### **Bishops Frome Neighbourhood Plan Examination**

#### **Request for further information and questions from the Examiner to the Parish Council and Herefordshire Council (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 request further information.

1. Objective 2 makes reference to “preferred sites” and earlier drafts of the Plan included site-specific information whereas Policies BF2 and BF3 now refer to housing numbers and settlement boundaries and the Plan does not make any site allocations. I would be grateful for your views on whether this reference to “preferred sites” in this part of the objective still remains valid or whether it should be changed? And if changed, what should the revised wording be?
2. Policy BF7 proposes six areas of Local Green Space. Please direct me to any further information or evidence that supports the proposed designations noting that any evidence provided to me should already be in the public domain.
3. Policy BF7 also proposes a new recreational open space in Fromes Hill. It refers to an “area of search” identified on Map 5. Map 5 however identifies an area which is notated as “protected open space”. Please could this be clarified; is it the intention of the policy to designate the area shown on Map 5 as a Local Green Space or as a protected open space or is this the area of search? Please also provide me with any further information or evidence that supports this part of the policy noting that this should already be in the public domain.
4. Appendix 4 of the Consultation Statement contains the results from the questionnaires. Have the responses from the two questionnaires (one for Bishops Frome and one for Fromes Hill) been collated together in this appendix? I hasten to add I am just interested to know whether the appendix covers the results of both questionnaires; I have assumed it does.
5. The pre-submission (Regulation 14) consultation period seems to have run to 15 August 2016 (from HC’s website), but the Consultation Statement refers to 19 August. Please confirm which date is correct.

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 questions and request for information is a public document and the answers and any associated documents will also be in the public domain. Both my questions and the responses should be placed on

the Councils' websites as appropriate.

With many thanks.

Ann Skippers, Examiner  
27 October 2017