

Kings Caple NDP Independent Examination

Delegated Decision Statement

15 June 2017

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Kings Caple Neighbourhood Area
Parish Council	Kings Caple Parish Council
Submission	12 December 2016 to 6 February 2017
Examination Date	April 2017
Inspector Report Received	10 May 2017

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 Kings Caple 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 Kings Caple was designated on 16 November 2012. The Neighbourhood Area follows the Kings Caple parish boundary. The Kings Caple Neighbourhood Development Plan has been prepared by Kings Caple 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 2012.

- 2.2 The Plan was submitted to Herefordshire Council on 1 December 2016, and the consultation under Regulation 16 took place between the 12 December 2016 and 6 February 2017, where the Plan was publicised and representations invited.
- 2.3 In February 2016, John Slater BA (Hons), DMS, MRTPI was appointed by Herefordshire Council, with the consent of the Parish Council, to undertake the examination of the Kings Caple 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
Modification 1 Policies Map	That a comprehensive Proposals maps is produced including site allocations, a revised settlement boundary and other plan designation	To ensure that the intentions of the plan are clear particularly relating to site allocations
Modification 2 Policy E1	Replace the currently wording with; 'Development should not adversely impact upon the quality of the landscape, which is designated as an Area of Outstanding Natural Beauty and should seek to preserve and enhance the setting of Kings Caple within its landscape. Any development which is shown by an assessment of views to have an adverse effect upon the character and appearance of the landscape will be expected to fully mitigate its effects, before planning permission is granted.'	For clarity two draft policies (E1 and CH4) have been combined into a single policy dealing with impacts of development on the protected landscape.
Modification 3 Policy E2	Delete policy	Not necessary to differentiate between agricultural development from other types of development. Issue encompassed into revised Policy E1
Modification 4 Policy E3	Insert ' new as well as existing' after 'incorporate'	To ensure clarity
Modification 5 Policy E5	Insert 'where appropriate' after 'required'	To ensure clarity

	second sentence	
Modification 15 Policy H3	<p>Insert 'on allocated sites' after 'housing development'</p> <p>Delete 'in scale, form and type'</p> <p>In the second sentence insert 'on the allocated sites' after 'housing development'</p> <p>Delete 'Kings Caple' and insert at the end 'as shown in figure 8.11 and 8.12 of the Herefordshire Local Housing Market Assessment 2013 or such other document which updates the local needs assessment.'</p>	To ensure that the policy is achievable and make reference to the most up to date information
Modification 16 Policy H4	Delete 'and shared equity housing schemes'	To ensure that the policy is compliant with the intentions of policy H1 of the Core Strategy.
Modification 17 Policy H5	Delete policy	Policy is not compatible with the objectives of delivering sustainable development
Modification 18 Policy BD2	Delete policy	This policy is beyond matters covered by planning policy
Modification 19 Policy BD3	<p>Replace 'stories' with 'storeys'</p> <p>After 'Poulstone Lane' change 'houses' with 'dwellings'</p> <p>Replace 'story' with 'storey'</p> <p>Delete the final sentence and put in supporting text</p>	To ensure clarity in terminology
Modification 20 Policy BD6	<p>Insert 'significantly' before 'adversely'</p> <p>Remove all text after 'planning application'</p>	<p>To ensure that the policy expectations are realistic.</p> <p>To remove elements which are control by other legislation</p>
Modification 21 Policy BD7	Delete policy	To remove duplication covered with policy E1 and CH1
Modification 22 Policy EM1	<p>Replace the wording with;</p> <p>'All housing developments are to be provided with the necessary infrastructure and ducting to enable the property to be connected to a high-speed broadband network'</p>	To remove elements not in the remit of planning policy
Modification 23 Policy T1	Replace all text after PROW and insert 'will not be approved'	To remove matters covered by other legislation
Modification	Delete policy	Issues can be dealt

Modification 6 Policy E6	Delete policy	Policy is contrary to Secretary of State guidance issued on 25 March 2015. No local justification or evidence has been provided to support departure.
Modification 7 Policy CH1	Delete 'and landscape qualities' from the first sentence	Form of protection set out in policy is justified however landscape quality is protected within policy E1
Modification 8 Policy CH2	Delete policy	Policy does not add anything beyond Policy E1
Modification 9 Policy CH3	Delete policy	Policy is unclear, too vague and ambiguous as to which heritage assets and settings it is seeking to protect. There is a lack of evidence to support the policy
Modification 10 Policy CH4	Delete policy	Combined with Policy E1, therefore policy is superfluous
Modification 11 Policy SB1	Replace policy with; 'There will be a presumption in favour of new residential development on land within the settlement boundary as shown on the policies maps and any non-residential development must be compatible with the residential character of the surrounding development'	To ensure clarity and policy is written in a positive manner.
Modification 12 Policy SB2	Delete 'and not adjoining the boundary' Delete the second sentence of the policy	To ensure that the policy is in conformity with the Core Strategy and is relevant
Modification 13 Policy H1	Replace the policy with; 'The following 2 sites are allocated for new housing; <ul style="list-style-type: none"> KC11 – Field adjacent to the Homestead for approximately 15 dwellings KC03B – Land adjacent to Kings Caple Primary School for approximately 8 dwellings The settlement boundary to be shown on the policies map to be extended to show these two sites as falling within the settlement boundary.	To ensure the sites indicated are allocated for housing rather than a description as preferred sites. To include a logical extension of the settlement boundary to include the two site allocations
Modification 14 Policy H2	Remove 'or immediately adjacent to' from the first sentence Remove 'and not immediately adjacent to' in the	To ensure the policy does not conflict with Core Strategy Policy RA2 and RA3


24 Policy TT1		with by planning condition on development. The policy is not enforceable for completed development
Modification 25 Policy TT2	Delete policy	To remove over-onerous and unrealistic requirements.

4 Post Adoption SEA and HRA

- 4.1 The modifications made as a result of the Examiner's report, as outlined above in Section 3 of this document, have been considered in terms of any resultant changes to the Strategic Environmental Assessment and Habitat Regulations Assessment. None of the changes are considered to have a significant effect on the overall appraisals. The updated SEA and addendum to the HRA are available to accompany the final plan.

5 Decision

- 5.1 The Neighbourhood Planning (General) Regulations 2012 requires the local planning authority to outline what action to take in response to the recommendations that the examiner made in the report under paragraph 10 of Schedule 4A to the 1990 act (as applied by Section 38A of the 2004 Act) in relation to a neighbourhood development plan.
- 5.2 Herefordshire Council have considered each of the recommendations made in the examiner's report and the reasons for them and have decided to accept the modifications to the draft plan. The draft plan will be altered in line with Table 1 above in line with paragraph 12 (6) of Schedule 4B to the 1990 Act.
- 5.3 Following the modifications made, the Kings Capse Neighbourhood Development Plan will meet the basic conditions:
- Having regard to national policies and advice contained in guidance issues by the Secretary of State, it is appropriate to make the plan
 - The making of the neighbourhood plan contributes to the achievement of sustainable development
 - The making of the neighbourhood plan is in general conformity with the strategic policies contained in the Herefordshire Local Plan – Core Strategy
 - The making of the neighbourhood plan does not breach and is otherwise compatible with EU obligations and
 - The making of the neighbourhood plan is not likely to have a significant effect on a European site either alone or in combination with other plans and projects.
- 5.4 It is recommended that the Kings Capse 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 Examiner's conclusion that nothing has been suggested which would require an extension of the area beyond that designated on 16 November 2012.



Signed

Dated 15 / 6 / 2017

Richard Gabb
Programme Officer – Housing and Growth