

# **Orleton and Richards Castle Neighbourhood Development Plan 2011-2031**

## **Independent Examiner's Report**

March 2017

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## **Contents**

Summary

1. Introduction
2. Appointment of the independent examiner
3. The role of the independent examiner
4. Compliance with matters other than the basic conditions
5. The examination process
6. Consultation
7. Compliance with basic conditions
8. Neighbourhood Plan policies
9. Conclusions and recommendations

Appendix 1 Background Documents

## **Summary**

I have been appointed by Herefordshire Council to carry out an independent examination of the Orleton and Richards Castle Neighbourhood Development Plan.

The examination was carried out between January and March 2017 and was undertaken by considering all the documents submitted to me, including the written representations. I visited the neighbourhood plan area on 24 February 2017.

The plan is based on very extensive community engagement and provides a distinctive set of policies, relevant to the needs of the community.

Subject to a number of modifications set out in this report, I conclude that the Orleton and Richards Castle Neighbourhood Plan meets the Basic Conditions and I am pleased to recommend that it should proceed to referendum.

I recommend that the referendum should be held in the Neighbourhood Plan area.

Barbara Maksymiw

Independent Examiner

20 March 2017

## **1. Introduction**

1. Neighbourhood planning is a relatively new process, introduced by the Localism Act 2011, which enables local communities to develop planning policies to guide development in their area and help to shape the places where they live and work.

2. The parishes of Orleton and Richards Castle cover a large rural area at the northern end of Herefordshire, with the market towns of Leominster lying five miles to the south and Ludlow two miles to the north.

3. There are distinct differences in the landscape of the two parishes, with low lying meadows to the east and south east and high wooded hills to the north and west, with the Orleton and Richards Castle road roughly marking the boundary between the two areas. The Group Parish is largely rural in character, though the BBC's transmission Station at Woofferton makes a striking impression on the easternmost boundary with its masts and transmission infrastructure. However, this is no longer a major employer and agriculture remains the main sector in terms of land use.

4. Both settlements are small, historic villages and have a limited range of services, including a primary school at Orleton. Residents mostly travel to nearby towns for work, although working from home is an alternative for some.

5. Orleton has an extensive Conservation Area, reflecting both its setting and its particular character and appearance. It is well hidden from the A4361 which runs along its western edge. The historic core, situated on the north facing slopes and the flatter parts of the floodplain, is characterised by interconnecting lanes and parkland development. This extends in to the west of the village. More recent 20th century development lies to the north of the historic core and as peripheral development to the east along the main village streets.

6. Richards Castle is a smaller settlement and lies astride the B4361 Leominster to Ludlow Road. The remains of the imposing Castle, which is a Scheduled Ancient Monument, overlooks the village from the west. The village comprises a historic core and more recent development to the west.

7. The purpose of this report is to assess whether the Orleton and Richards Castle Neighbourhood Development Plan complies with the relevant legislation and meets the Basic Conditions, which such plans are required to meet. Where necessary, the report makes recommendations about changes or

modifications to the plan to ensure that it meets the legislative requirements.

8. The report also makes a recommendation about whether the Neighbourhood Plan should proceed to the referendum stage. If there is a positive recommendation at referendum, the Neighbourhood Plan can be “made” by Herefordshire Council and so become part of the wider development plan and then used to determine planning applications in the plan area.

## **2. Appointment of the independent examiner**

9. I have been appointed by Herefordshire Council with the agreement of the two parish councils of Orleton and Richards Castle to carry out this independent examination. The Neighbourhood Planning Independent Referral Service (NPIERS) has facilitated my appointment. I am a chartered town planner with extensive planning experience in local government and therefore have the appropriate qualifications and experience to carry out this examination. I am independent of the qualifying body and have no land interest in the area that might be affected by the plan.

## **3. The role of the independent examiner**

10. The role of the independent examiner is to ensure that the submitted neighbourhood plan meets the Basic Conditions together with a number of legal requirements.

11. In examining the Neighbourhood Plan I am required, under Paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990, to check<sup>1</sup> that:

- the policies in the plan related to the development and use of land for a designated neighbourhood area; and
- the policies in the plan meets the requirements of Section 38 of the Planning and Compulsory Purchase Act (that is, it specifies the period to which it has effect, does not include provision about excluded development and does not relate to more than one neighbourhood area); and
- the plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body

12. I must also consider whether the neighbourhood plan meets the Basic Conditions set out in Schedule

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<sup>1</sup> Set out in paragraph 8(1) of Schedule 4B of the Town and Country Planning Act (as amended)

4B of the Town and Country Planning Act 1990 (as amended). A plan meets the basic conditions<sup>2</sup> if:

- 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 plan contributes to the achievement of sustainable development
- the making of the neighbourhood plan is in general conformity with the strategic policies of the development plan for the area
- the making of the neighbourhood plan does not breach, and is otherwise compatible with European Union (EU) obligations

13. Regulations 32 and 33 of the Neighbourhood Planning Regulations 2012 (as amended) set out two additional basic conditions. These are:

- the making of the neighbourhood plan is not likely to have 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 does not apply to this examination as it is not about a neighbourhood development order).

14. As independent examiner, having examined the plan, I am required to make one of the following recommendations:

- that the plan as submitted can proceed to a referendum; or
- that the plan with recommended modifications can proceed to referendum; or
- that the plan does not meet the necessary legal requirements and cannot proceed to referendum

15. The independent examiner can only recommend modifications to ensure that the Neighbourhood Plan meets the Basic Conditions and other legislative requirements, or for the purpose of correcting

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

errors.

16. If the plan can proceed to 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.

17. Herefordshire Council will consider the examiner's report and decide whether it is satisfied with the examiner's recommendations and will publicise its decision on whether the plan will be subject to referendum, with or without modifications. If a referendum is held and results in more than half of those voting in favour of the plan, the Council must "make" the neighbourhood plan a part of its development plan. The plan then becomes part of the development plan for the area and is a statutory consideration in guiding future development and determining planning applications in the area.

#### **4. Compliance with matters other than the basic conditions**

18. Orleton and Richards Castle Parish Councils agreed to prepare a joint neighbourhood development plan and made a formal submission to Herefordshire Council to designate the two parishes as a neighbourhood area in June 2013. On 29 July 2013, Herefordshire Council designated the Orleton and Richards Castle (Herefordshire) Parish Area as a neighbourhood planning area in accordance with the Neighbourhood Planning (General) Regulations 2012. The designated area covers both parishes of Orleton and Richards Castle and does not cover any other neighbourhood area. The qualifying body is both Parish Councils and the Plan has been prepared by a Neighbourhood Plan Steering Group. The Plan covers the period 2011-2031, which is the same plan period as the recently adopted Herefordshire Local Plan Core Strategy. However, I note the cover of the Consultation Statement refers to a plan period of 2016 – 2031. Similarly, on page 18 of the Basic Conditions Statement in the first paragraph of the right-hand column, the plan period should be corrected to 2011-2031. These amendments need to be made to ensure there are consistent references to the plan period across all the Neighbourhood Plan documents.

- **Amend the date for the plan period on the front cover of the Consultation Statement from 2016-2031 to 2011-31 and in the Basic Conditions Statement on page 18**

19. I am also satisfied that the Neighbourhood Plan includes policies that relate to the development and use of land and does not include provision for any excluded development.

20. The Orleton and Richards Castle Neighbourhood Plan therefore meets the requirements set out in para 11 above.

## **5. The examination process**

21. The documents which I considered during the course of the examination are listed in Appendix 1.

22. The general rule<sup>5</sup> is that an examination is undertaken by the consideration of written representations only. Having considered all the information before me, including the representations made to the submitted plan (the Regulation 16 responses), I was satisfied that the Orleton and Richards Castle Neighbourhood Development Plan could be examined without the need for a public hearing.

23. During the course of the examination it was necessary to clarify a number of factual matters with Herefordshire Council and Orleton and Richards Castle Parish Councils. Both provided prompt and helpful responses to my requests and I am satisfied that I had all the information I required to carry out the examination.

24. As part of the Neighbourhood Examination process, it is important for the examiner to understand the context of the neighbourhood plan in the wider area and its overall character, as these shape the issues and policies set out in the plan. I therefore made an unaccompanied site visit to the area on 24 February 2017.

## **6. Consultation**

### *Consultation process*

25. Effective consultation and engagement with the local community is an essential component of a successful Neighbourhood Plan, bringing a sense of public ownership to its proposals and helping to achieve consensus. The policies set out in the Neighbourhood Plan will be used as the basis for planning decisions – both on local planning and on planning applications – and, as such, legislation requires neighbourhood plans to be supported by public consultation.

26. In line with the Neighbourhood Planning (General) Regulations 2012<sup>6</sup>, the Steering Group, prepared

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<sup>5</sup> PPG para 004 ref id 41-004-20140306

<sup>6</sup> Regulation 15 of the Neighbourhood Planning (General) Regulations 2012

a Consultation Statement for the Neighbourhood Development Plan (NDP) which sets out how the group approached public consultation, who was consulted and the outcomes.

27. The plan builds on earlier work already done in preparing Parish Plans for both Orleton and Richards Castle. Following the decision to designate the neighbourhood area, a joint Steering Group was set up in February 2014. The group has taken a positive approach to involving the community in preparing the neighbourhood plan, which is summarised in the Consultation Statement.

28. As a first step, the Orleton and Richards Castle website was launched in July 2014 and this has been used throughout the preparation of the plan to explain the NDP process, publicise planned consultation events, provide progress updates, Steering Group minutes and allow access to all the relevant consultation documents. This has been a useful means of keeping everyone up to date.

29. A series of well publicised public drop-in events were held in July 2014 in Orleton Village Hall and Richards Castle Village Hall. These were well attended with over 480 people visiting over a four-day period. Using themed displays, attendees were able to express their ideas about how the two parishes should be allowed to develop. Reviews of the drop-in events were published in articles in the next editions of the local parish magazines.

30. In February 2015, a comprehensive questionnaire was distributed by hand to all households in the two parishes. This included:

- A main questionnaire
- A development land (or call for sites) questionnaire
- A housing needs questionnaire

31. No doubt due to the efforts of volunteers distributing and collecting the questionnaires, the questionnaire elicited a high response rate – with 76% of residents in Richards Castle responding and 60% of residents in Orleton.

32. Articles were published in the both parish magazines in January 2016 to flag up the upcoming consultation on the draft plan, followed up by a hand delivered leaflet to every household in April 2016. This invited people to respond formally to the Regulation 14 public consultation which took place between 7 May and 20 June 2016. A summary of all the representations received is set out on the Consultation Statement (Schedule 1 and 2) and Appendix 1 sets out all the changes made to the plan as

a result of the Regulation 14 consultation.

33. I sought clarification from Herefordshire Council and Orleton and Richards Castle Parish Councils about the consultation activities carried out for the Regulation 16 Submission version of the plan between 31 October and 12 December 2016. In addition to e mail contact with statutory consultees and groups consulted on the Regulation 14 consultation, site notices were placed within the neighbourhood area to advertise the consultation period indicating where documents could be viewed and how to make comments. Copies of the NDP and supporting information were made available on the Herefordshire Council website, council information centres and libraries. Once Herefordshire Council announced the start of the Regulation 16 consultation, a notice advertising the consultation was submitted to local newsletters (Grapevine and Castle News), and placed on parish noticeboards in Orleton and Richards Castle and in the shop at Orleton.

#### *Representations received*

34. Preparing the Neighbourhood Development Plan has involved two statutory six week periods of public consultation. The first, on the Regulation 14 Draft Plan, took place between 7 May and 20 June 2016. This generated 16 community representations and 17 responses from statutory bodies, five of which were from Herefordshire Council. The second consultation on the Submission Draft plan was managed by Herefordshire Council and took place between 31 October and 12 December 2016. This generated 27 responses. Three were from Herefordshire Council, 6 from statutory bodies and 18 from the community. In addition, 16 postcard responses were submitted by Richards Castle residents.

35. Occasionally in this report I refer to representations and identify the organisation making that particular comment. However, I have not referred to every representation in my report. Nonetheless, I can assure everyone that each comment made has been looked at and carefully considered.

36. From the evidence in front of me, it is apparent that the Orleton and Richards Castle Neighbourhood Plan has been subject to extensive community engagement and consultation and the Steering Group is to be congratulated for their sustained effort and achievements. I am therefore satisfied that the consultation process which has been followed complies with the requirements of the Regulations.

## **7. Compliance with the basic conditions**

37. In my role as independent examiner I must assess whether the Plan meets the Basic Conditions<sup>7</sup> set out in the Regulations as described in para 12 above.

38. I have considered the very comprehensive Orleton and Richards Castle Neighbourhood Development Plan Basic Conditions Statement (September 2016) produced by the Steering Group to assist my assessment which is set out below.

### *National Policy*

39. National planning policy is set out in the National Planning Policy Framework (NPPF) and in the supporting Planning Practice Guidance (PPG). At the heart of the planning system is a presumption in favour of sustainable development, which applies to all levels of plan making. For neighbourhood plans, this means that neighbourhood plans should support the strategic development needs set out in Local Plans and plan positively to shape local development. Included in the twelve core principles of the NPPF<sup>8</sup> is a requirement for neighbourhood plans which provide a practical framework within which decisions on planning applications can be made in a confident and consistent manner. Policies also should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.

40. The Basic Conditions Statement (Section 3) sets out a composite assessment of how the NDP has responded to both national policy and guidance and to the Herefordshire Local Plan Core Strategy. The commentary demonstrates in some detail how the plan as a whole has addressed the basic conditions.

41. I have considered the Basic Conditions Statement, the supporting evidence and representations made to the Orleton and Richards Castle Neighbourhood Plan and I am satisfied that the Plan as submitted follows the general principles set out in national planning policy. It sets out a positive vision for both parishes and sets out policies to protect its distinctive character while accommodating development needs.

42. At a practical level, however, a number of the policies in the Submission NDP are not expressed as

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<sup>7</sup> Para 8(2) of Schedule 4B of the Town and Country Planning Act (as amended)

<sup>8</sup> NPPF para 16 and 17

concisely and precisely as required and I have therefore suggested a number of modifications to help ensure that the plan accords with national and strategic guidance.

#### *Sustainable development*

43. The qualifying body has to demonstrate how a neighbourhood plan contributes to the achievement of sustainable development as set out in the NPPF<sup>9</sup>.

44. The Basic Conditions Statement (Section 2) provides a very clear explanation of how the plan contributes to each of the twelve principles of sustainable development.

45. There are three broad strands to sustainable development – economic, social and environmental. Section 3 of the Basic Conditions Statement sets out a systematic assessment of how the neighbourhood plan performs against each of the strands. In terms of the economy, the plan seeks to support local businesses and services, as well as providing housing allocations to meet development needs. In social terms, it aims to provide more affordable homes and support community services. The plan also has an environmental dimension, and each of its policies seek to protect and enhance the natural and built environment of the parish.

46. It is therefore evident that the Orleton and Richards Castle Neighbourhood Development Plan will contribute to the achievement of sustainable development, so the basic condition is met.

#### *Development Plan*

47. In terms of the wider planning of Herefordshire as a whole, the Neighbourhood Development Plan has been prepared alongside the preparation of the Herefordshire Local Plan Core Strategy (LPCS). This has therefore provided a clear framework for the policies in the neighbourhood plan and, with the adoption of the LPCS on 16 October 2015, there is now an up to date development plan in place.

48. The Basic Conditions Statement demonstrates a clear understanding of the relationship between the strategic planning policies of the Herefordshire Local Plan Core Strategy, explaining that the neighbourhood plan has to align with the strategic needs and priorities of the wider area. Paragraph 9.1 of the Neighbourhood Development Plan provides an excellent explanation of how the plan complements and does not duplicate the Herefordshire LPCS policies. It is also evident that a number of

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<sup>9</sup> NPPF para 18-219

the policies are designed to support and amplify the policies in the LPCS so that they are relevant to the particular needs and priorities of Orleton and Richards Castle. The Basic Conditions Statement (Section 3) is very comprehensive and the Steering Group are to be congratulated on how well they have tackled this part of the plan preparation process.

49. Herefordshire Council has provided comments on the plan as it has proceeded through the preparation stages and its very helpful Progression to Examination Decision Document (December 2016) confirms the Council's decision under Regulation 17 that the plan should proceed to examination.

50. In the assessment of the individual policies set out in Section 8 below, I have considered the general conformity of the Neighbourhood Development Plan policies with the LPCS. Subject to the modifications I have suggested to a number of policies, I have concluded the Neighbourhood Development Plan is in general conformity with the strategic policies contained in the Development Plan.

#### *European obligations and Human Rights Requirements*

#### *Strategic Environmental Assessment (SEA)*

51. The Strategic Environmental Assessment Directive aims to provide a high level of protection to the environment by ensuring that environmental considerations are included in the process of preparing plans and programmes. An SEA Screening for the Orleton and Richards Castle Neighbourhood Plan was carried out in October 2014. It concluded that due to the range of environmental designations in and around the designed neighbourhood plan area, there may be significant environmental effects and consequently an SEA and HRA would be required.

52. A first Environmental Report for the NDP was prepared in April 2016. This confirms that a Scoping Report was made available for comment by four statutory consultee bodies from 30 October to 4 December 2014. Comments from English Heritage and Natural England have been incorporated into the Environmental Report, as appropriate. No comments were received from the Environment Agency and Natural Resources Wales.

53. The Environmental Report is a comprehensive document and includes an appraisal of the NDP's objectives against the SEA framework, an appraisal of the options considered when preparing the NDP

and an appraisal of the plan's policies. It was subject to a six-week public consultation period between 7 May and 20 June 2016 at the same time as the Regulation 14 NDP.

54. Following the consultation, a further Environmental Report was produced in September 2016. This re-assessed the plan in the light of the amendments to the policies proposed for the submission Regulation 16 NDP. This showed that the outcomes set out in the earlier report were largely unaffected or strengthened by the refinements to the policies. Natural England confirmed in November 2016 that it did not have any further specific comments to make on the NDP.

55. The non-technical summary of the Environmental Report, September 2016 concludes:

*'On the whole, it is considered that the Orleton and Richards Castle NDP is in general conformity with both national planning policy contained in the National Planning Policy Framework and strategic policies set within the Herefordshire Local Plan (Core Strategy). It does not propose any growth that would be over and above that prescribed by strategic policies.'*

56. Overall the Environmental Report is a comprehensive and well-structured document and I consider that it deals with the likely significant effects appropriately and therefore meets the requirements of the Regulations. I therefore conclude that the requirements under the SEA Directive have been met.

#### *Habitat Regulations Assessment*

57. The initial Screening Report carried out by Herefordshire Council in July 2014 confirmed that the two parish councils fall within the catchment for the River Wye (including River Lugg) and is within 4.5km of Downton Gorge both of which are European sites, designated as Special Areas of Conservation (SAC). As a result, a full HRA Screening would be required to assess the potential effects of the NDP on the River Wye SAC and Downton Gorge.

58. A draft Habitats Regulations Assessment was carried out in April 2016. Changes made to the plan were subject to a further assessment in the light of changes made in response to the Regulation 14 consultation and the findings are presented in the Habitat Regulations Assessment Addendum report produced in September 2016. Both reports concluded that the Orleton and Richards Castle Plan will not have a likely significant effect on the River Wye (including the River Lugg) SAC nor on Downton Gorge SAC.

59. The Habitats Regulations Reports have been prepared in consultation with the statutory consultees and represent a comprehensive and thorough assessment of the potential impact of the Neighbourhood Plan on the River Wye SAC. Natural England agreed with the conclusion of both reports that the Neighbourhood Plan will not have a likely significant impact on the River Wye SAC. I am therefore satisfied that the submitted Orleton and Richards Castle Neighbourhood Development Plan meets the requirements set out in the HRA Directive.

#### *Human rights requirements*

60. The Basic Conditions Statement - in Section 4 - confirms that the NDP has had regard to the requirements of EU obligations in relations to human rights and no evidence has been submitted to me to suggest otherwise. I am satisfied, then, that the Plan does not breach the European Convention on Human Rights obligations.

#### *Other Directives*

61. I am not aware of any other European Directives that would apply to this Neighbourhood Development Plan, and in the absence of any evidence to the contrary, I am satisfied that the plan is compatible with EU obligations.

### **8. Neighbourhood Development Plan policies**

62. This section of my report considers the policies set out in the Neighbourhood Development Plan against the basic conditions.

63. The Plan is very clearly written and presented with a number of attractive photographs and the Steering Group are to be congratulated on producing such a succinct plan. All of the policies (apart from the last, non-statutory policy ORC(NS)16) relate to the development and use of land so the requirements of Planning Practice Guidance<sup>10</sup> are met. The Plan is structured in sections and the policy wording is distinguished from the rest of the plan by the use of coloured boxes and bold text.

64. As part of this examination, my report includes a series of recommended modifications to ensure that the policies are expressed concisely and precisely in order to comply with the basic conditions. Where I have suggested modifications, these are identified in **bold text**. The recommended

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<sup>10</sup> Planning Practice Guidance PPG para 004

modifications relate mainly to issues of clarity and precision, and are designed to ensure that the plan fully accords with national and strategic policies. I have considered the policies in the order they appear in the Plan and comment on all of the policies, whether I have suggested modifications or not.

### Section 1 Introduction

65. The first section provides a useful context to the neighbourhood plan making process and outlines how the plan was prepared. More detail about the extensive community involvement carried during the course of preparing the plan is provided in the Consultation Statement.

### Section 2 Background to the Plan Area

66. This section provides a fascinating insight into the history of the two settlements, their environment and how they have evolved to the present day. Together these combine to provide a succinct setting and evidence base for the planning policies in the rest of the plan.

67. Parts of Para 2.18 and Para 2.19 and Para 2.20 seem to go beyond description of the landscape and its character and read more like planning policy, for example:

- “Areas to the west of Richards Castle village and within the parish are identified as mineral reserves that should be safeguarded” Para 2.18
- “Linkages between woodland blocks such as through hedgerows should be promoted” Para 2.19
- “A number of local wildlife sites also lie on the western periphery of Richards Castle Parish” Para 2.20

68. I note that strategic planning policy guidance on these issues is provided in the adopted Local Plan Core Strategy and saved policies from the Unitary Development Plan. The areas where these strategic policies apply within the NDP boundary are also mapped on the Orleton and Richards Castle Policies Map.

69. As there are no specific policies on these matters in the NDP, the assumption is that it will rely on these other strategic plans on such matters. To ensure clarity, a paragraph should be added at the end of “The Environment within the Two Parishes” section. This could be usefully based on para 9.1 which explains the linkages between the NDP and LPCS.

70. The Orleton and Richards Castle Parish Policies Map is based on the adopted Herefordshire Local Plan Core Strategy October 2015. For clarity, I suggest that the full title and date of this map is added.

- **Add a paragraph at the end of Section 2 to explain that the NDP relies on the policies in the adopted Herefordshire Local Plan Core Strategy and saved policies from the UDP on a number of environmental matters, including mineral reserves, the historic environment and local wildlife sites**
- **Add a full title, including a date, to the Orleton and Richards Castle Map Parish Policies Map**

### Section 3 Informing the Plan

71. This section outlines the background information which was used to inform and draw up the plan. Figures 4 and 5 which map the Broad Character Areas and Key Features of the two settlements are helpful and articulate the issues facing the settlements particularly well and I commend the Steering Group for producing such clear, easily understood diagrams.

72. The housing need section provides a succinct background for the housing policies which follow in the rest of the plan.

73. I have noted several typographical errors in this section which ought to be corrected:

- **Para 3.6 “relayed” should be “re-laid”**
- **Para 3.10 In the third line, after “properties” add “the”**
- **Para 3.12 in the second line after “must” add “be”**
- **Para 3.16 “role” should be “roll”**

### Section 4 Main Issues and Options

74. Six key issues are identified for the plan area derived from earlier work on Parish Plans for the two communities and through community consultation. These are - housing; economic development; highways and transport; community, social and health needs; other infrastructure and the environment.

75. In the Community, Social and Health Needs section, reference is made to initiatives to encourage greater use of public rights of way. However, I note that this is not specifically mentioned in the wording of the only non-statutory enabling policy in the plan i.e. Policy ORC(NS)16. My remit is only to

consider the land use planning policies included in the NDP, so I merely flag this up as an issue which the Steering Group may wish to look at when they produce the final version of the plan.

- **Consider adding a reference to encouraging greater use of public rights of way in ORC(NS) 16**

78. The short options section outlines the choices facing the parishes in preparing the NDP. In selecting Option 2 – to prepare a Neighbourhood Development Plan that provides a range of house types in terms of size and tenures, through spreading development on a pro-rata basis between the two villages according to their relative sizes – it is evident that the plan is taking a positive approach to accommodating new development and is therefore supporting the strategic policies of the Local Plan, as required by the NPPF<sup>11</sup>.

#### Section 5 Vision, Objectives and Strategic Policies

79. The vision for the plan is commendably succinct and clear. It envisages that by the end of the plan period:

*‘Orleton and Richards Castle will be thriving and prosperous communities that offer a high quality of life for residents of all ages, a resilient economy, a sustainable use of resources, and an excellent natural environment’*

80. This vision is to be delivered by three well expressed objectives which had the overwhelming support of the community.

80. Two overarching sustainable policies then set out the development strategy for the plan.

#### *ORC1 Promoting Sustainable Development*

82. Orleton and Richards Castle are located in the rural area defined in the Herefordshire Local Plan Core Strategy where the strategy is for positive growth<sup>12</sup>. The two parishes are situated in the Leominster Housing Market Area where there is an indicative housing target of 14% (Policy RA1). This is the basis for the housing requirements for each neighbourhood plan.

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<sup>11</sup> NPPF Para 184

<sup>12</sup> Herefordshire Local Plan Core Strategy Section 4.8

83. Both Orleton and Richards Castle are designated settlements which will be the main focus of proportionate housing development (LPCS policy RA2). Based on proportional growth of the number of houses in each parish, Orleton requires 53 new homes and 18 new homes are needed in Richards Castle – so a total of 71 new homes over the plan period 2011-2031. The Housing Need Section (paras 3.11 to 3.17) of the NDP explains that these will be found through a combination of dwellings which have already been built or have planning consent, rural windfall sites and new allocations. It concludes that between 15 and 23 additional dwellings will be needed in Orleton and 11 at Richards Castle.

84. A recent planning consent on the site allocated at Orleton under ORC8 demonstrates that it could accommodate up to 39 dwellings, thus meeting the village's needs

85. In Richards Castle, existing commitments and rural windfalls will contribute around 6 dwellings over the plan period, leaving around 12 homes to be accommodated on the two sites allocated under ORC10.

86. The NDP therefore has demonstrated that it is planning positively to meet housing needs in line with the NPPF.<sup>13</sup>

87. Clause (a) of Policy ORC1 refers to 'sufficient housing will be provided to meet the needs of both the local and wider community'. Para 3.17 states that around 60 further new houses will be needed over the remaining 15 years of the plan period – i.e. 2016-2031. However, these statements do not provide sufficient precision for future decision-makers. In order to meet the basic conditions, an amendment to ORC1(a) is required to give an overall housing figure.

- **Delete the first sentence of ORC1(a) and replace with:**  
**"The Neighbourhood Development Plan supports the delivery of around 71 houses in the neighbourhood plan area over the period 2011-31 to meet the needs of both the local and wider community through development that contributes to meeting identified needs in terms of size, type and tenure"**

88. In ORC1 (d), reference is made to 'risks' but it is not clear what these are and who or what might be placed at risk. To ensure precision, the reference to risk should be deleted.

- **Delete "to ensure risks are minimised" from the second line of ORC1(d)**

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<sup>13</sup> NPPF Para 184

89. ORC1(e) provides guidance on development supporting local business and diversification of the rural economy. It is expressed in very general terms and more precision on these matters is provided in the first paragraph of ORC14 Agricultural Diversification, Workshops, Services and Facilities. There is therefore a risk of policy duplication and I suggest that as ORC14 is expressed more precisely, that clause ORC1(e) is deleted.

- **Delete ORC(e)**

90. ORC1(f) mixes guidance on both retaining and improving community facilities and services and the wording would benefit from some streamlining to ensure its intentions are clear.

- **Reword ORC1(f) to read “Measures to retain community facilities and services will be supported; improvements to community services and facilities will be sought to benefit the health and well-being of both new and existing residents”**

91. The first sentence of the last paragraph of ORC1 makes reference to development proposals needing to comply with the policies in the NDP. This is unnecessary as once the NDP is made it becomes the Development Plan alongside the LPCS against which all development proposals are assessed.

- **Delete the first sentence of the last paragraph of ORC1**

92. The second sentence of the last paragraph of ORC1 refers to Herefordshire Local Plan Core Strategy Policy SS1. However, the NPPF requires an NDP to be in general conformity with all the strategic policies of the LPCS. To ensure compliance with the basic conditions, the reference to only one specific policy should be removed.

- **Amend the second sentence of the last paragraph of ORC1 to read ‘Where this plan does not cover a proposal, any decision should reflect, where possible, the above priorities as well as the policies in the Herefordshire Local Plan Core Strategy’**

93. With these changes policy ORC1 complies with national and strategic policy and meets the basic conditions.

#### *ORC2 Development Strategy*

94. This policy sets out the development strategy for the NDP and, as such, covers a number of types of

development including residential and employment. As currently structured, the policy mixes guidance for different types of development and would benefit from grouping the employment and rural development guidance more closely together. This would improve clarity and ensure precision, in order to meet the basic conditions.

- **Add a new, separate paragraph after ORC2(c). This should comprise the third sentence of the first paragraph and the last sentence of ORC2(c) as follows:**  
**“Limited small scale employment opportunities will be provided for, including enabling limited new and extended premises, outside of the parish’s settlements in association with rural enterprises, or through utilising brownfield land or existing rural buildings. The countryside will continue to accommodate economic development and particularly that associated with agricultural and rural enterprises where these reflect the scale and nature of the landscape within which they sit.”**

95. ORC2(c) provides guidance about housing development outside settlement boundaries, and refers to such development as being ‘exceptional’, with any development needing to be in accord with the policies in the LPCS. However, the term ‘exceptional’ could be interpreted in a number of ways. The standard wording used in LPCS in policy RA2, however, is ‘exception sites’ - that is sites which may come forward outside settlements which may, in particular circumstances, be granted planning consent. The NDP has to be in general conformity with RA2 and so to ensure compliance, the wording of ORC3(c) should be tightened up to remove any possible ambiguity.

- **Delete ‘exceptional and’ from ORC2(c)**

## Section 6 Environmental Policies

### *ORC3 Local Green Space*

96. The NPPF explains that local and neighbourhood development plans can designate areas of Local Green Space (LGS). These are green areas that are valued by local communities and once designated as LGS, development is ruled out other than in very special circumstances. They should also be consistent with the local planning of sustainable development and be long term designations which are capable of enduring beyond the end of the plan period.

97. Policy ORC3 designates five areas as Local Green Space. Each site is identified under sub paragraphs

of ORC3 i.e. ORC3(i) to ORC3(vi). However, this referencing is not carried through to the respective Policies Maps for the two villages. To ensure clarity for future decision-makers, each area of designated LGS should be annotated with the appropriate policy number.

98. Also, I note that in ORC3 a roman numeral system is used to denote sub clauses of the policy, while elsewhere in the plan an alphabetic system is used. A consistent approach would improve clarity. In addition, in the supporting text for the policy in para 6.3, ORC3 (iv) is missing, so ORC3(v) and ORC3(vi) in the supporting text should be renumbered. I recommend the following changes:

- **Ensure that a consistent approach is taken to numbering the sub clauses of policies throughout the plan**
- **Annotate each area of designated LGS on the Policies Maps with the relevant sub policy reference**

99. I visited each of the proposed areas of LGS during my site visit. The reasons for their designation is described very briefly in the supporting text to ORC3. Four of the five areas were protected under previous planning documents.

100. Four areas are designated in Orleton - ORC3 (i) the Recreation Ground to the west and north of Millbrook; ORC3(ii) Amenity Land between Halletts Well and Kings Road; ORC3(iii) Woodland to south of Kitchen Hill Road and north of Orleton Manor and ORC3(iv) Orleton Primary School Playing Fields.

101. The Recreation Ground to the west and north of Millbrook - ORC3 (i) - is a well-defined area of open space which is largely laid to grass and is accessed by a gate from the car park. It has a football pitch with two goalposts, swings, and an equipped children's play area. There is a wooden pavilion and pre-fabricated building towards the northern edge of the Recreation Ground. Reference is made to the potential for the pre-fabricated ex-classroom being developed to provide a modern building to host the youth club and sports pavilion and this would be permissible under the LGS designation.

102. The plan, at para 6.3(i) explains that the Recreation Ground is well used by the community, hosting two adult and five junior football teams. The area therefore meets the criteria for LGS designation set out in the NPPF.

103. The amenity land between Halletts Well and Kings Road - ORC3(ii) - is a pleasant, very well maintained open area of amenity land. It is crossed by a tarmac footway which provides an attractive

route through the village, particularly for those going to the primary school and accessing the bus service. Again, this area meets the criteria for LGS designation set out in the NPPF.

104. The woodland to the south of Kitchen Hill Road and north of Orleton Manor ORC3(iii) is a broadly rectangular area of rather steeply sloping land which is heavily planted. I noted on my site visit that there were numerous informal means of access to the site but that it did not seem to be well maintained. I note also that, unlike the other three proposed LGS sites in Orleton, it was not designated as Safeguarded Open Space in the Herefordshire UDP March 2007.

105. I recognise, however, that it contributes to the open character of the southern end of the village and the conservation area. It also contributes to the setting of Orleton Manor which is a listed building. For these reasons, I consider that this area meets the criteria for LGS designation set out in the NPPF.

106. Orleton Primary School Playing Fields - ORC3(iv) – is a flat area of well-maintained green space which is largely laid to grass. It has a football pitch and two goal posts and has well maintained fenced boundaries and I noted that one of the accesses to the site was via a gate which was locked when I visited. This would appear to restrict public access during school hours. The plan explains that the area is important to the community as a school playing field. Again, this area meets the criteria for LGS designation set out in the NPPF.

107. One area is designated as Local Green Space in Richards Castle – land in front of Westbrook incorporating the Brook and its banks – ORC3 (v). It is an inverted triangle shape, comprising two distinctive parts, separated by the Brook. The southern apex is steeply sloping, well planted and appears to be part of the garden of a large house (Westbrook). It is fenced on all sides and I saw no apparent means of public access to it. For these reasons, I consider that this part of the site does not meet the criteria for designation as LGS and should be deleted. The northern part of the site is different in character being flat open land, accessed via a gate.

- **Delete the triangular area of Local Green Space to the south of the Brook from the Richards Castle Proposals Map. Amend the wording of ORC3(v) to read “Land to the east of Westbrook and north of the Brook in Richards Castle”**

#### *ORC4 Protection from Flood Risk*

108. This is a straightforward policy which directs development away from areas that are at risk from flooding and identifies the situations in which a flood risk assessment may be needed. It also encourages the use of sustainable urban drainage systems (SUDS) in new development. As such it complies with national policy and guidance and is aligned with policy SD3 of the LPCS.

109. Supporting information showing the areas north of Orleton which are at risk of flooding are in Figure 3 on page 12. However, this map is undated and the areas prone to flooding could change over time. It is therefore recommended that the date of the Environment Agency Flood Map is added and a caveat inserted to say that the most up to date mapping should be referred to.

- **Add a date to Figure 3 and additional wording to state that reference should be made to the latest flood mapping information available from the Environment Agency.**

#### *ORC5 Sewerage Infrastructure*

110. Sewerage in Orleton village is identified as an issue and Severn Trent Water has acknowledged that the existing sewer needs to be re-laid. Although a new route has been identified, this is not yet programmed.

111. Policy ORC5 provides the appropriate level of guidance and is aligned with national policy and strategic policy SD4 in the LPCS. It therefore meets the basic conditions.

#### *ORC6 Sustainable Design*

112. This policy seeks to deliver the community's aspiration to take a proactive approach to sustainable design. It accords broadly with national guidance and policies SD1 and LD2 of the LPCS, but would benefit from some tightening up of the wording to improve clarity and precision. In particular, a consistent approach is needed to the introductory wording of each sub clause; the list of disabilities ORC6(c) should be more generic; superfluous wording removed from ORC6(e) and ORC6(h) reworded to make it more precise. I recommend the following changes:

- **ORC6(c) Reword first line to read "Ensuring that new homes are fully integrated into..."  
Delete "those pushing pushchairs, walking with aids or using a mobility scooter" Replace with "those with mobility restrictions"**

- In ORC6(e) delete the phrase “should be appropriate to its purpose”
- In ORC6(h) replace “ensuring” with “carrying out” in the second line and adding “ensuring that” after “and” in the fourth line.

113. With these amendments, the policy meets the basic conditions.

### Section 7 Housing in Orleton

#### *ORC7: Housing Development in Orleton*

114. Policy ORC7 provides the planning guidance for development within the settlement boundary of Orleton. It is expressed in land use planning terms and accords with the strategic policies in the LPCS.

115. While the Policies Map for Orleton shows the settlement boundary for the village, the explanatory text in para 7.3 and 7.5 does not explain how the settlement boundary has been changed since the Herefordshire UDP, although I note this has been done to explain the boundary for Richards Castle (Para 8.4). In particular, there is no explanation as to why the Primary School site has been excluded from the settlement boundary, although it had been included in the adopted UDP.

116. I sought clarification from the Council and Parish Council on this issue and it seems that there have been various approaches to drawing the settlement boundary in this location. I note that the most recent plan – the Herefordshire UDP - included the school so I therefore suggest that the school site is reinstated within the boundary. In addition, as the school playing field (proposed as ORC3(iv)) is an integral part of the school facilities, I suggest that it is also included within the settlement boundary. The supporting text to ORC7 should also make reference to the extension of the settlement boundary to include the allocated housing site opposite the Primary School.

117. It is also inappropriate to state that infilling development will be permitted within parts of the settlement boundary without defining these. The reference to ‘meeting a number of other requirements’ is also imprecise. In combination, this supporting text makes interpretation of this policy difficult for future decision-makers so a tightening up of para 7.3 is required as follows:

- **Delete the first two sentences of para 7.3 and replace with “The settlement boundary remains generally as defined in the Herefordshire UDP. To the north east it has been extended to include the housing site north of Kings Road and opposite Orleton Primary School which is**

**allocated in ORC8. It has also been extended to include the Primary School Playing Fields, designated as ORC3(iv). Within the settlement boundary it may be possible for limited infilling to take place, provided the criteria set out in Policy ORC7 are met.”**

- **Amend the Orleton Policies Map to include the Primary School and its Playing Field within the settlement boundary**

#### *ORC8 Housing Site in Orleton*

118. Policy ORC8 allocates the site north of Kings Road and opposite Orleton Primary School for housing development.

119. The process of site selection is described in Appendix 2 of the Regulation 14 Draft Plan dated May 2016. It is evident that a structured and transparent approach was adopted with opportunities for sites to be brought forward, assessed against a range of criteria which were important to the community and then options were made available for public comment. The Consultation Statement further explains how the three original sites proposed in the Regulation 14 plan were narrowed down to the one site which is now in the Regulation 16 Plan. The approach to site selection meets the requirements of the NPPF<sup>14</sup> and LPCS Policy RA3 and therefore the basic conditions are met.

120. The wording of Policy ORC8 would benefit from some rewording to remove superfluous text as follows:

- **Add “following” after “the” in the third line of ORC8 and delete “specified in the policy “after “requirements”**
- **In ORC8 (b) delete “to be assessed taking into account the effects of climate change”**
- **Add “vehicular” before “entrance” and delete “is” after “entrance” in ORC8 (c)**

121. ORC8(n) is unnecessary as the plan and the LPCS will be read as whole so should be deleted.

- **Delete ORC8(n)**

122. In the supporting text, para 7.8, reference is made to an outline planning consent and associated planning agreements on which a decision was awaited. This may need to be updated for the next

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<sup>14</sup> NPPF para 47

version of the plan.

- **Update para 7.8 to reflect the latest position on planning application for site north of Kings Road and opposite the Primary School**

123. At the end of para 7.10, reference is made to three sites where the capacity of the public sewerage system is a concern. I think this is text which has inadvertently been carried forward from the Regulation 14 plan as only one site is now being proposed in Orleton. This wording therefore needs to be deleted.

- **Delete last sentence of Para 7.10**

### Section 8 Housing in Richards Castle

#### *ORC9 Housing Development in Richards Castle*

124. Policy ORC9 provides the planning guidance for development within the settlement boundary of Richards Castle. It is expressed in land use planning terms and accords with the strategic policies in the LPCS.

125. ORC9(f) is unnecessary as the plan and the LPCS will be read as whole so should be deleted.

- **Delete ORC9(f)**

#### *ORC10 Housing Sites in Richards Castle*

126. As with Orleton, the process of site selection in Richards Castle is described in Appendix 2 of the Regulation 14 Draft Plan dated May 2016. It is evident that a structured and transparent approach was adopted with opportunities for sites to be brought forward, assessed against a range of criteria which were important to the community and then options were made available for public comment.

127. Policy ORC10 allocates two sites for housing development - ORC10(i) at Spout House Field and ORC10(ii) to the north of Westbrook House. The Richards Castle Policies Map show two proposed housing sites in brown hatching but it is not clear which site is which. From other supporting evidence, including the Housing Site Assessment Appendix 2 to the Regulation 14 Draft Plan, it is evident that the Spout Farm site is the western site and the Westbrook site lies to the east. This omission needs to be rectified by specifying which areas are allocated by adding policy references to the map and key for the

Richards Castle Policies Map.

- **Annotate Richards Castle Policies map with policy references for the two allocated housing sites i.e. ORC9(i) and ORC9(ii) and amend key accordingly**

128. The site at Spout House Field was granted planning consent for four dwellings in 2015 and is therefore likely to come forward for development. This leaves land for up to eight dwellings to be found in the rest of the village.

129. A number of representations expressed concern about the second housing site proposed in the plan north of Westbrook – particularly in terms of its impact on the setting of the village and highways access. The process of site selection is seldom easy, but I recognise that the Steering Group has endeavoured to meet the needs set out in the LPCS and has proposed this site after much deliberation and community engagement. Careful consideration will need to be given to the potential visual impact of any development and highways matters through the planning application process in due course.

130. I therefore support the two housing allocations proposed in ORC10.

131. The wording of Policy ORC10 would benefit from some rewording to remove superfluous text as follows:

- **Add “following” between “the” and “requirements” in the second line of ORC10 and delete “specified in the policy “after “requirements”**
- **In ORC10 (a) delete “to be assessed taking into account the effects of climate change”**

132. ORC10(n) is unnecessary as the plan and the LPCS will be read as whole so it should be deleted.

- **Delete ORC10(n)**

#### Section 9 Other Policy Areas

##### *ORC11 Provision of a Range and Mix of Housing*

133. This policy addresses the mix of type and sizes of new housing to be provided in the NDP area. Its approach derives from LPCS policy H3 which sets the guidance for the rural part of the Leominster Housing Market Area in which Orleton and Richards Castle are situated. It accords with the NPPF and

strategic policy so meets the basic conditions.

134. I have no modifications to recommend.

*ORC12 Traffic Measures within Parishes*

135. This policy addresses the traffic measures which may need to be put in place as part of new development proposals. It is therefore a land use planning policy which it is appropriate to include in the NDP. It aligns with national policy, LPCS policy MT1 and will help to achieve sustainable development. It therefore complies with the basic conditions.

136. However, the policy uses a numeric system to denote sub clauses of the policy, while elsewhere in the plan an alphabetic system is used. I recommend the following change:

- **Use an alphabetic system to denote the sub clauses of policy ORC12**

*ORC13 Highway Design Requirements*

137. This policy addresses the highway design aspects of new development. It has been developed in association with Herefordshire Council and reflects the guidance in LPCS policy MT1. It is also aligned with national guidance and will help to achieve sustainable development. It therefore meets the basic conditions. I have no modifications to recommend.

*ORC14 Agricultural Diversification, Workshops, Services and Facilities*

138. Rural businesses are important in sustaining the economic life of Orleton and Richards Castle as well as providing facilities and services. This policy supports some new development and diversification, providing it is in scale and character with the rural setting. It accords with national guidance which says that plans should support a prosperous rural economy<sup>15</sup> and is in general conformity with LPCS policies RA5, RA6, E1 and E3. It therefore meets the basic conditions.

139. Minor rewording of ORC14(c) is required to ensure it is consistent with the other clauses in the policy.

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<sup>15</sup> NPPF Para 28

- **Delete “is” and replace with “should” in ORC14(c)**

#### *ORC15 Use of Community Infrastructure Levy*

140. ORC15 sets out guidance on the use of the Community Infrastructure Levy (CIL). However, the forthcoming Community Infrastructure Levy (CIL) Charging Schedule for Herefordshire is not yet in place. It is not practical to include a policy in a Neighbourhood Development Plan which is based on emerging and yet to be adopted strategic guidance. Currently the only development contributions which are potentially available are s106 agreements, so the policy needs to be reframed so that it can apply equally to s106 agreements and any future CIL Charging Schedule. Section 106 contributions have to be reasonably related to the development and so the list of types of infrastructure and community facilities in the first line of ORC15 is inappropriate detail and would be better expressed in more generic terms. The title of the policy also needs to be amended.

141. The following modifications are recommended:

- **Change the title of ORC15 to “Developer Contributions and future Community Infrastructure Levy (CIL)”**
- **Reword ORC15 to read “Where appropriate new development within Orleton and Richards Castle Parishes should contribute towards necessary community infrastructure in order to address the demands that such development places on the area and to support the social dimension of sustainable development. Contributions should be made through Section 106 Agreements, CIL or other developer contribution mechanisms that may be available during the period of the Plan.”**

#### Section 10 Implementing the Plan

142. This section sets out a very helpful statement about how the plan will be monitored and implemented after it has been adopted. This is an admirable approach and it is good to see the Steering Group already thinking ahead to the next stage.

143. I have no comments to make on this part of the plan.

## Appendix 1: Non-Statutory Enabling Policies

### *ORC(NS)16 Associated Enabling Measures*

144. This appendix and policy ORC(NS)16 lists a number of projects which the community wishes to implement in collaboration with other bodies to help accommodate the growth proposed in the Neighbourhood Development Plan. As such they do not form part of the plan and are therefore not subject to the examination process.

145. I therefore have no comments to make.

### **9. Conclusions and Recommendations**

146. I have examined the Neighbourhood Development Plan and I have concluded that, subject to the modifications set out in my report, it meets the basic conditions and other statutory requirements.

147. I am therefore pleased to recommend to Herefordshire Council that, subject to the modifications set out in my report, the Orleton and Richards Castle Neighbourhood Development Plan should proceed to referendum.

148. I am also required to consider whether the referendum area should be extended beyond the Orleton and Richards Castle Neighbourhood Plan area. I see no reason why it would be necessary to alter or extend the plan area for the purposes of holding a referendum, nor have I received any representations to that effect. I therefore conclude that the plan should proceed to referendum based on the neighbourhood area approved by Herefordshire Council in 2013.

## Appendix 1 Background Documents

In undertaking this examination, I have considered the following documents:

- Orleton and Richards Castle Neighbourhood Area Decision Document July 2013
- Orleton and Richards Castle Neighbourhood Plan Regulation 14 Draft Plan May 2016
- Orleton and Richards Castle Neighbourhood Development Plan 2011-31 Submission Draft September 2016
- Orleton and Richards Castle Neighbourhood Development Plan Basic Conditions Statement September 2016
- Orleton and Richards Castle Neighbourhood Development Plan 2016 – 2031 Consultation Statement October 2016
- Orleton and Richards Castle NDP SEA Scoping Report July 2014
- Orleton and Richards Castle Draft Habitats Regulations Assessment April 2016
- Orleton and Richards Castle Draft Habitats Regulations Assessment Addendum Report September 2016
- Orleton and Richards Castle Neighbourhood Area Environmental Reports- April and September 2016
- Orleton and Richards Castle Parish Policies Map
- Orleton Policies Map
- Richards Castle Parish Policies Map
- Representations made to the Orleton and Richards Castle Neighbourhood Development Plan (Reg16) – October-December 2016
- Progression to Examination Decision Document produced by Herefordshire Council December 2016
- Herefordshire Local Plan (Council Strategy) adopted 16 October 2015
- Inspector’s report on the Examination of the Herefordshire Local Plan Core Strategy September 2015
- Herefordshire Strategic Housing Land Availability Assessment (SHLAA) 2012
- Strategic Housing Land Availability Assessment - Rural Report November 2015
- Various evidence documents on the Orleton and Richards Castle Neighbourhood Plan website
- National Planning Policy Framework (NPPF)

- Planning Practice Guidance March 2014 and subsequent updates