

LUSTON GROUP NEIGHBOURHOOD PLAN

Submission Draft Version

**A report to Herefordshire Council
into the examination of the
Luston Group Neighbourhood Plan
by Independent Examiner, Rosemary Kidd**

Rosemary Kidd, Dip TP, MRTPI
NPIERS Independent Examiner
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1.0 Summary

- 1.1 The Luston Group Neighbourhood Plan has been prepared to set out the community's wishes for the Luston Group of parishes which contains three civil parishes of Luston; Eye, Moreton and Ashton; and Eyton and the villages of Luston, Eyton, Moreton, Eye and Ashton. The context for the preparation of the Plan is the adopted Herefordshire Council's Core Strategy 2015 which included four settlements in the Luston Group as "settlements which will be the main focus of proportionate housing". The Parish lies within the Leominster Rural Housing Market Area (HMA), for which there is an indicative target of 14% for housing growth in the main villages over the 20 year duration of the Herefordshire Core Strategy up to 2031.
- 1.2 This Neighbourhood Plan sets out local planning policies which are aimed at ensuring the rural character of the village is retained and that provision is made for the communities to evolve and grow organically.
- 1.3 I have made a number of recommendations in this report in order to make the wording of the policies and their application clearer and to ensure that they meet the Basic Conditions. Section 7 of the report sets out a schedule of the recommended modifications.
- 1.4 The main recommendations concern:
- Revisions to clarify the wording of a number of policies;
 - The amalgamation of Policies LG8 and LG14 on the improvements to highway infrastructure and the deletion of Policy LG9;
 - Placing aspirational projects in a new section entitled "Community Actions" which will not form part of the Neighbourhood Development Plan;
 - The deletion of the proposed Local Green Space at Lydiatts Crossroad;
 - The deletion of the policy on the protection of commons.
- 1.5 Subject to the recommended modifications being made to the Neighbourhood Plan, I am able to confirm that I am satisfied that the Luston Group Neighbourhood Plan satisfies the Basic Conditions and that the Plan should proceed to referendum.

2.0 Introduction

- 2.1 Neighbourhood planning is a relatively new process introduced by the Localism Act 2011 which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to develop a vision to steer the planning of the future of the parish, to prepare the policies and allocate land for development which will be used in the determination of planning applications in the parish.
- 2.2 Neighbourhood development plans that are in general conformity with the strategic policies of the local development plan for the local area (and which together form the local development plan), and have appropriate regard to national policy, have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
- 2.3 Neighbourhood Plans are developed by local people in the localities they understand and as a result each plan will have its own character. I have been appointed to examine whether the submitted Neighbourhood Plan meets the basic conditions and the other statutory requirements.
- 2.4 The nature of neighbourhood plans varies according to local requirements. A neighbourhood plan can be narrow in scope. There is no requirement for a neighbourhood plan to be holistic, or to include particular types of policies, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan.

Legislative Background

- 2.5 I was appointed as an independent examiner to conduct the examination on the Luston Group Neighbourhood Plan by Herefordshire Council. I am a chartered town planner with over 30 years' experience in local authorities preparing Local Plans and associated policies. My appointment was facilitated through the Neighbourhood Planning Independent Examiner Referral Service.
- 2.6 As an independent Examiner, I am required to determine, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:
 - (a) the policies of the Neighbourhood Plan relate to the development and use of land for a designated neighbourhood area;
 - (b) the Neighbourhood Plan meets the requirements to: specify the period to which it has effect; not include provision about excluded development; and not relate to more than one neighbourhood area;
 - (c) the Neighbourhood Plan has been prepared for an area that has been properly designated for such plan preparation; and

- (d) the Neighbourhood Plan has been prepared and submitted for examination by a qualifying body.
- 2.7 I am satisfied that the Neighbourhood Plan subject to the modifications proposed, includes policies that relate to the development and use of land and does not include provision for any excluded development.
- 2.8 The Neighbourhood Plan area is co-terminus with the three parishes covered by the Luston Group Parish Council; Eyton; Luston; and Eye, Moreton and Ashton. It was designated by Herefordshire Council on 4 September 2013 as a Neighbourhood Area. Section 1 of the Basic Conditions statement states that the Plan relates to the Luston Group Neighbourhood Area and that there are no other Neighbourhood Plans relating to that area.
- 2.9 Section 1 of the Basic Conditions Statement states that the lifespan of the Neighbourhood Plan is to be from the date the plan is made (2017) up to 2031 the same end date as the Herefordshire Core Strategy. The front cover of the Neighbourhood Plan shows the plan date to 2031.
- 2.10 The neighbourhood plan making process has been led by Luston Group Parish Council which is a “qualifying body” under the Neighbourhood Planning legislation which entitles them to lead the plan making process. The Plan was prepared by the Neighbourhood Plan Steering Group.
- 2.11 I am satisfied therefore that the Luston Group Neighbourhood Plan satisfies all the requirements set out in paragraph 2.6 above.

Conformity with Basic Conditions and other statutory requirements

- 2.12 An Independent Examiner must consider whether a neighbourhood plan meets the “Basic Conditions”. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:
1. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 2. the making of the neighbourhood plan contributes to the achievement of sustainable development;
 3. the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 4. the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations; and
 5. prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan. The following prescribed condition relates to Neighbourhood Plans:

- Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition in addition to those set out in the primary legislation. That the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended).
- 2.13 The role of an Independent Examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans. It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan. I have been appointed to examine whether the submitted Neighbourhood Plan meets the basic conditions and Convention rights, and the other statutory requirements.
- 2.14 It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed it is important that neighbourhood plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
- 2.15 I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the basic conditions and the other requirements I have identified.

Policy Background

- 2.16 The first basic condition is for the neighbourhood plan “to have regard to national policies and advice contained in guidance issued by the Secretary of State”. The requirement to determine whether it is appropriate that the plan is made includes the words “having regard to”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans which requires plans to be “consistent with national policy”.
- 2.17 The Planning Practice Guidance assists in understanding “appropriate”. In answer to the question “What does having regard to national policy mean?” the Guidance states a neighbourhood plan “must not constrain the delivery of important national policy objectives.”
- 2.18 The National Planning Policy Framework 2012 (NPPF) sets out the Government’s planning policies for England and how these are expected to be applied. The Planning Practice Guidance provides Government guidance on planning policy.

- 2.19 The third basic condition is for the neighbourhood plan to be in general conformity with the strategic policies contained in the Development Plan for the area. The strategic policies covering the neighbourhood plan area are contained in the Herefordshire Local Plan Core Strategy 2011 – 2031 adopted 16 October 2015.
- 2.20 The Basic Conditions Statement sets out an assessment of the NPPF Core Planning Principles and how the Neighbourhood Plan has had regard to them. It also assesses each of the Neighbourhood Plan policies to demonstrate how it is in general conformity with the local strategic policies of the adopted Core Strategy.
- 2.21 I have considered the policies of the Neighbourhood Plan against the NPPF and PPG and the strategic policies in the adopted Herefordshire Local Plan Core Strategy 2011 - 2031. Where appropriate I have highlighted relevant policies and guidance when considering each policy of the Neighbourhood Plan. I have also considered the Basic Conditions Statement submitted alongside the Neighbourhood Plan.

EU obligations and human rights requirements

- 2.22 A neighbourhood plan must be compatible with European Union obligations as incorporated into UK law, in order to be legally compliant. Key directives relate to the Strategic Environmental Assessment (SEA) Directive, the Environmental Impact Assessment Directive and the Habitats and Wild Birds Directives. A neighbourhood plan should also take account of the requirements to consider human rights.
- 2.23 Herefordshire Council undertook an initial screening exercise and this concluded that due to the range of environmental designations in and around the parish, there may be significant environmental effects and consequently an SEA would be required. The environmental appraisal of the Luston Group Neighbourhood Plan has been undertaken in line with the Environmental Assessment of Plan and Programmes Regulations 2004. Stage A of the SEA process involved scoping and Stage B provided a review and analysis of the Neighbourhood Plan. Stage C involved preparing an Environmental Report and Stage D comprised a formal consultation on the Environmental Report.
- 2.24 Following the consultation on the draft plan and the Environmental Report, six policies were amended. Six housing sites were included within Policy LG6 to address earlier concerns that the plan did not deliver the required housing growth. These changes were necessitated by comments received during the consultation period rather than specifically to the Environmental Report. Additional policy criteria was added to Policy LG1 highlighting the need to phase development linked with the capacity of the waste water treatment works serving Luston and Yarpole.
- 2.25 The Environmental Report concludes that on the whole, it is considered that the Luston Group Neighbourhood Plan 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). Nor does it propose any growth that would be over and above that prescribed by strategic policies.

- 2.26 Natural England has confirmed that the Environmental Report meets the requirements of the SEA European Directive and national regulations and that they concur with the conclusions.
- 2.27 Habitat Regulations Assessment (HRA) screening was carried out as the Group Parish falls within the catchment for the River Wye (including River Lugg), and is within 10km of Downton Gorge both of which are European sites (Special Area of Conservation (SAC)). The HRA assesses the potential effects of the Neighbourhood Plan on the River Wye SAC and Downton Gorge SAC.
- 2.28 The HRA Addendum Report assessed the revisions that were incorporated into the plan following consultation on the draft plan. The report concluded that the Luston Group Neighbourhood Plan will not have a likely significant effect on the Downton Gorge SAC nor River Wye SAC. The plan is not proposing development which would have an impact on air quality likely to affect Downton Gorge SAC. Policy criteria has been included within Policy LG1 regarding waste water capacity within the Luston and Yarpole area in order to provide safeguards for the River Wye (River Lugg) SAC.
- 2.29 Natural England has confirmed that they agree with the conclusions of the HRA Report and Addendum that the Neighbourhood Plan will not have a likely significant effect on the River Wye SAC and Downton Gorge SAC. They advise that the report should make it clearer why it concludes no likely significant effect on the Downton Gorge SAC.
- 2.30 The Basic Conditions Statement states that *“The Submission Neighbourhood Plan is fully compatible with the European Convention on Human Rights. It has been prepared with full regard to national statutory regulation and policy guidance, which are both compatible with the Convention. The Plan has been produced in full consultation with the local community. The Plan does not contain policies or proposals that would infringe the human rights of residents or other stakeholders over and above the existing strategic policies at national and district-levels.”*
- 2.31 The Basic Conditions Report considers the wording of the plan and the process of preparing the plan against Articles 1, 6 and 14 and concludes
- The restriction of development rights inherent in the UK’s statutory planning system is demonstrably in the public interest by ensuring that land is used in the most sustainable way, avoiding or mitigating adverse impacts on the environment, community and economy.
 - The process for Neighbourhood Plan production is fully compatible with Article 6, allowing for extensive consultation on its proposals at various stages, and an independent examination process to consider representations received.

- The Parish Council has developed the policies and proposals within the Plan in full consultation with the community and wider stakeholders to produce as inclusive a document as possible. In general, the policies and proposals will not have a discriminatory impact on any particular group of individuals.

2.32 I consider that the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements and therefore satisfies that Basic Condition.

Contributes to sustainable development

2.33 Table 2 of the Basic Conditions Statement addresses the contribution of the plan to the achievement of the economic, social and environmental aspects of sustainable development.

2.34 I am satisfied that, subject to the modifications proposed, the Luston Group Neighbourhood Plan will support the delivery of sustainable development and help to meet the social and economic development needs of the parish within the environmental context of the area.

The Neighbourhood Plan Preparation

2.35 I am required under The Localism Act 2011 to check the consultation process that has led to the production of the Plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012.

2.36 The Consultation Statement sets out the details of the consultations carried out during the preparation of the Plan and on the pre-submission draft plan under Regulation 14.

2.37 An initial awareness raising event was held on 10 - 11 May 2014 and residents were asked what should be included in the Neighbourhood Plan. The results were used to form the basis for the questionnaire. The questionnaire was distributed in October 2014. A total of 605 questionnaires were distributed across the three parishes with 514 completed responses returned (85%). A further consultation event was held in July 2016 to enable the community to consider the potential housing sites.

2.38 The Luston Group Draft Neighbourhood Development Plan was published for 6 weeks formal public consultation from 6 March 2016 to 18 April 2016. There was widespread publicity for the consultation including the parish website, posters and notices in the parish magazine and letters or emails sent to the statutory consultation bodies. A launch Open Event was held on 6 March in Cawley Hall to promote the consultation process.

2.39 The Draft Scoping Report for Strategic Environmental Assessment (SEA) of the Neighbourhood Plan was also published as part of both consultations for

consultation with English Heritage, Natural England and the Environment Agency by Herefordshire Council.

- 2.40 A comprehensive summary of the issues raised at each stage of pre-submission consultation and the action taken to address them, as appropriate, is included in the Consultation Statement.
- 2.41 Consultation on the submission draft Neighbourhood Plan ran from 9 January to 20 February 2017. This resulted in 10 responses.
- 2.42 I am satisfied that the pre-submission consultation and publicity has met the requirements of Regulations 14 and 15 in the Neighbourhood Planning (General) Regulations 2012.

The Examination Process

- 2.43 The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or so that a person has a fair chance to put a case. I have sought clarification on a number of matters from the qualifying body and/or the local planning authority in writing. I am satisfied that the responses received have enabled me to come to a conclusion on these matters without the need for a hearing.
- 2.44 I have considered the Basic Conditions Statement and the Consultation Statement as well as the Environmental Report for the Strategic Environmental Assessment. In my assessment of each policy I have commented on how the policy has had regard to national policies and advice and whether the policy is in general conformity with relevant strategic policies, as appropriate.
- 2.45 This report is the outcome of my examination of the Submission Draft Version of the Luston Group Neighbourhood Plan to 2031 dated November 2016. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions. My report makes recommendations based on my findings on whether the Plan meets the Basic Conditions and provided the Plan is modified as recommended, I am satisfied that it is appropriate for the Neighbourhood Plan to be made. If the plan receives the support of over 50% of those voting then the Plan will be made following approval by Herefordshire Council.
- 2.46 Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:
- That the plan should proceed to referendum on the basis that it meets all the legal requirements;
 - That the plan should proceed to referendum if modified; or
 - That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

2.47 If recommending that the Neighbourhood Plan is submitted to referendum my report must also recommend whether the area for the referendum should extend beyond the neighbourhood area to which the Neighbourhood Plan relates, and if to be extended, the nature of that extension. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.

3.0 Neighbourhood Plan – As a whole

3.1 Where modifications are recommended, they are highlighted in bold print, with any proposed new wording in italics.

3.2 In considering the policies contained in the Plan, I have been mindful of the guidance in the Planning Practice Guide (PPG) that:

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like.”

3.3 In order to ensure that a Neighbourhood Plan can be an effective tool for the decision maker, the PPG advises that

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

3.4 NPPF paragraph 183 states that parishes can use neighbourhood planning to set planning policies through neighbourhood plans to determine decisions on planning applications. The Planning Practice Guidance on Neighbourhood Plans states that neighbourhood plans should *“support the strategic development needs set out in the Local Plan”* and further states that *“the neighbourhood plan must address the development and use of land by setting out planning policies to be used in determining planning applications because once the plan is made it will become part of the statutory development plan”*.

3.5 Paragraph 16 of the National Planning Policy Framework is clear that those producing neighbourhood plans should support the strategic development needs set out in local plans, including policies for housing and economic development. Qualifying bodies should plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. PPG guidance under Rural Housing states that *“all settlements can play a role in delivering sustainable development in rural areas – and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless they can be supported by robust evidence”*.

3.6 The Basic Conditions require that the examiner considers whether the plan as a whole has had regard to national policies and advice contained in guidance issued by the Secretary of State and whether it is in general conformity with the strategic local policies.

- 3.7 Before assessing the policies individually, I have considered whether the plan has a whole has had regard to national and local strategic planning policies.
- 3.8 The plan provides for the future housing, employment and community development of the area, promotes good quality design in new development and safeguards the environment. The plan supports the strategic development needs set out in the Local Plan. The housing policies seek to place a limit on the size of developments to less than 5 dwellings and restrict the density of developments to 20 dwellings to the hectare. As robust evidence has not been provided to support these restrictions, modifications are recommended to the policies.
- 3.9 Several policies in the plan seek to place requirements on developments that are considered to be onerous and would be likely to make a proposal undeliverable. I have made recommendations in the report concerning these policies and included recommendations to ensure that the Plan would not place unacceptable burdens on development proposals which, in view of the rural nature of the plan area, are likely to be small scale.
- 3.10 The Neighbourhood Plan contains seven maps: a Parish Policies Map which shows sites referred to in policies in the Core Strategy and six Village Policies Maps which show the boundaries of sites referred to in the Neighbourhood Plan and other designations such as the conservation area and local wildlife sites. There are also a number of maps in the document itself, which show sites and locations referred to in the policies. The Policies Map is the term used in the Herefordshire for the Proposals Map. All maps should be at a scale to clearly show the boundaries of sites referred to in the Neighbourhood Plan policies.
- 3.11 It is considered that the Luston village map should be improved as it is barely legible and the shading of the housing and Local Green Space sites is indistinct. In order to ensure that the boundaries of sites and relevant policies are clearly shown on the Policies Map so that the policies can be applied consistently and with confidence by decision makers it is recommended that the Luston village map be enlarged and the policy shading is clearly distinguishable.
- 3.12 All sites and buildings referred to in the policies should be identified on the Policies and Inset Maps as appropriate to enable decision makers to identify the boundaries of the relevant sites and buildings

Recommendation 1: Improve the legibility of the Luston village map to ensure that all site boundaries are clearly legible and the shading is clearly distinguishable.

Identify the boundaries of all sites and buildings referred to in policies on the Policies Map/Inset Map.

- 3.13 The Plan includes a number of policies that state that planning permission will be granted for a particular type of development. The Neighbourhood Plan

policies cannot indicate whether planning permission should be granted for a particular form of development. NPPF paragraph 2 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan consists of the Local Plan as well as the Neighbourhood Plan and there may be other matters that have to be considered before granting planning permission. Modifications are proposed to these policies to avoid this form of wording to take account of national policy.

- 3.14 The application of a number of policies would be improved by including correct punctuation with semi-colons at the end of each criterion and the word “and” after the penultimate criterion to demonstrate that all the criteria are to be applied.
- 3.15 It is considered therefore that the plan as a whole, subject to the modifications proposed, has had regard to national policies and advice contained in guidance issued by the Secretary of State and is in general conformity with the strategic local policies.

4. The Neighbourhood Plan Policies

Section 1: Introduction and Background

Section 2: A Neighbourhood Plan for Luston Group?

Section 3 Key Issues for Luston Group and Themes for the Plan

- 4.1 The introductory section sets out a factual description of the plan area and the key issues facing the communities. Section 3 outlines the issues that were identified through local consultation.

The Neighbourhood Plan's Vision and Objectives for Luston Group

- 4.2 The Plan includes a Vision statement in Section 1 that states that *"A group of parishes that will retain the rural character of the villages and hamlets. They will evolve and grow organically to maintain the character and serenity of the area."*
- 4.3 Section 4 of the Plan includes nine objectives relating to design, natural and built environment; housing; traffic and highways; employment; and community facilities. Except for objective 5, the objectives are clearly articulated and linked to the policies of the Plan. Objective 5 aims *"to retain Luston village conservation status"*. Much of the village has been designated as a conservation area and whilst there are no specific policies in the Neighbourhood Plan relating to the conservation and enhancement of the conservation area various policies refer to the design of new buildings respecting the character and historic settlement patterns.
- 4.4 It is recommended that the objective be revised to better reflect the policy approach of the plan and national planning guidance on the conservation of heritage assets.

Recommendation 2: revise objective 5 to read: *"To conserve and enhance the heritage assets, particularly Luston Conservation Area."*

- 4.5 The Plan's policies are set out in themes. Each policy is clearly set out and followed by an explanation of the background to the policy and a summary of the relevant policies from the Core Strategy.

General Policy

Policy LG1 - General Development Principles

- 4.6 NPPF paragraph 58 states that neighbourhood plans should develop robust and comprehensive policies that set out the quality of the development that will be expected for the area.

- 4.7 The policy sets out an expectation that all new development should enhance the positive attributes of the villages and local design features and that development that has a detrimental impact on the character of the area will not be permitted. Policies LG2 and LG3 give more detail on design and landscape character which will assist in interpreting this part of the policy.
- 4.8 However, the assessment of the impact of a development on the character of the area may be carried out by a subjective assessment and the impact of a proposed development on the character of the area may have to be weighed against other matters. Some degree of impact may be acceptable if it is outweighed by other factors. In order to give some flexibility to the policy it is recommended that the second sentence of the first paragraph of the policy be revised to read "*Development should not have an unacceptable detrimental impact on the character of the area in which it is located*".
- 4.9 Nine criteria are to be taken into account in the location of new development.
- 4.10 Criterion b) states that new development should use existing services and facilities. It is considered that this is not a matter that can be controlled through a planning condition and it is not therefore appropriate to make it a requirement of new development. It is recommended that it be deleted.
- 4.11 Criterion e) requires a comma after "open space".
- 4.12 Criterion g) states that "*housing development must not be impacted by existing agricultural or commercial activity or vice versa*". It is considered that the wording of this criterion is unclear and ambiguous. A modification is recommended that will clearly specify the circumstances where sensitive development such as housing and potentially polluting development should be separated.
- 4.13 Criterion i) specifies that the development should be in accordance with all relevant policies within the plan. As stated in paragraph 3.13 above, NPPF paragraph 2 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan consists of the Local Plan as well as the Neighbourhood Plan and there may be other matters that have to be considered before granting planning permission. Criterion i) does not accord with the NPPF and is not considered to be necessary and it is recommended that it be deleted.
- 4.14 Welsh Water / DwrCymru has submitted a representation to state that a programmed scheme of improvements to the Luston and Yarpole Waste Water Treatment Works is due for completion by the end of year 3 of the current Asset Management Plan (31 March 2018) following which the growth proposed can be accommodated. It is recommended that paragraph 5.1.5 should be updated to reflect this change.

- 4.15 Subject to the modifications recommended, it is considered that the policy has had regard to national planning policy and is in general conformity with strategic local policies and will satisfy the Basic Conditions.

Recommendation 3: Revise Policy LG1 as follows:

Revise the second sentence of the first paragraph to read:

“Development should not have an unacceptable detrimental impact on the character of the area in which it is located.”

Delete criteria b) and i)

Revise criterion g) to read: *“Housing development should not be located where existing agricultural or commercial uses would have unacceptable adverse impact on residential amenity.”*

Add a new criterion *“Agricultural and commercial buildings or uses that are likely to give rise to noise or other pollution shall not be located where they would have an unacceptable adverse impact on existing or proposed housing.”*

Revise paragraph 5.1.5 to read *“.....within the Neighbourhood Plan until a programmed scheme of improvements is implemented. The scheme is within year 3 of the current Asset Management Plan and is due for completion by the end of March 2018.”*

Policy LG2 - Design of Development in Luston Group

- 4.16 Policy LG2 sets out sixteen criteria to be taken into account in considering the design of new development to ensure that it makes a positive contribution to the distinctive character of the plan area. It is considered that the matters reflect national and strategic planning policy on heritage and good quality design. The policy will support the delivery of Core Strategy Policies RA2, SS2 and SS6.
- 4.17 The opening paragraph of the policy refers to *“the designated area having a distinctive and special character”*. This is a statement of fact and not policy and as such it is not appropriate to include it in the policy. It is recommended that it be deleted.
- 4.18 The policy states that development will be permitted where it makes a positive contribution to the area. As stated in paragraph 3.13 above, policies should not refer to development being permitted and a modification is recommended to replace this wording.
- 4.19 The policy refers to the “designated area”, which the qualifying body has confirmed is intended to refer to the neighbourhood plan area. Unless the policy refers to a specific area, it is understood that it refers to the whole of the plan area and there is therefore no need to refer to the “designated area”

or “neighbourhood plan area”. A modification is proposed to the second sentence of the opening paragraph to clarify the wording.

Recommendation 4: Revise the first paragraph of Policy LG2 to read:

Delete first sentence. Revise the second sentence to read: “*All new development should make a positive contribution to the distinctive character of the area and...*”

Policy LG3 - Protecting and enhancing local landscape character and views

- 4.20 Policy LG3 sets out landscape design principles to support the conservation and enhancement of the landscape of the plan area.
- 4.21 It is considered that the policy has had regard to national planning policy on the protection and enhancement of local landscape quality, biodiversity and heritage assets and will support the delivery of Core Strategy Policies LD1 – LD4, SD1 and SD4.
- 4.22 Criterion d) seeks to protect the locally significant views shown on Map 2. Only one viewpoint is shown on the map. In order to ensure that the policy is clear and unambiguous, it is recommended that the criterion be worded in the singular.
- 4.23 Criterion g) seeks to encourage a number of innovative design and construction solutions to promote sustainable development as well as promoting opportunities for local food production. It is considered that as worded these aspirational design and construction solutions are in general conformity with the Sustainable Design policies of the Core Strategy (SD1 – 4). However, it is considered that promotion of opportunities for local food production is not a matter that is appropriate for inclusion in a policy on the protection of landscape character and the design of development and reference to it should be deleted.
- 4.24 Subject to the modifications recommended, it is considered that the policy will satisfy the Basic Conditions.

Recommendation 5: revise Policy LG3 as follows:

Revise criterion d) to read: “*Development proposals should take in consideration any adverse impact on the Locally Significant View from Luston to Eye Church and Manor shown on Map 2 through a landscape appraisal and impact study.*”

Delete “and opportunities for local food production” from criterion g).

Policy LG4 – Dark Skies

- 4.25 The policy seeks to reduce light pollution and improve the views of night time skies. It is considered that the policy satisfies the Basic Conditions.

Policy LG5 - Flood Risk, Water Management and Surface Water run-off

- 4.26 The first paragraph of Policy LG5 states that all new development is to be located in zones of lowest flood risk. It is considered that this does not accord with national planning policy in NPPF paragraphs 100 – 104 which states that *“inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere”*.
- 4.27 Core Strategy Policy SD3 – Sustainable water management and water resources states *“development proposals are located in accordance with the Sequential Test and Exception Tests (where appropriate) and have regard to the Strategic Flood Risk Assessment (SFRA) 2009 for Herefordshire”*.
- 4.28 It is recommended that the first paragraph of Policy LG5 should be revised in accordance with the wording of Core Strategy Policy SD3 to ensure that it has had regard to national and strategic local planning policy.
- 4.29 The other matters addressed in Policy LG5 are considered to accord with the Core Strategy Policy SD3.
- 4.30 Subject to the modifications recommended, it is considered that the policy will satisfy the Basic Conditions.

Recommendation 6: revise the first paragraph of Policy LG5 to read:

“Development proposals should be located in accordance with the Sequential Test and Exception Tests (where appropriate) and have regard to the Strategic Flood Risk Assessment (SFRA) 2009 for Herefordshire.”

Policy LG6 - Scale and Type of New Housing in Luston

Policy LG7 - Scale and Type of New Housing in Ashton, Eyton and Moreton

- 4.31 Core Strategy Policy RA1 sets a target of 14% growth in housing numbers for the Leominster Housing Market Area. This equates to 55 additional dwellings in the plan area for the period 2011 – 2031. The Neighbourhood Plan states in Table 1 that 12 dwellings have received planning permission since 2011. I have also been notified of an appeal decision on site 136/213 which has been

allowed for a further 3 dwellings. Planning permission was granted in December 2016 for 7 dwellings on site 136/220.

- 4.32 Herefordshire Council has provided data to show that at April 2017, 12 dwellings have been completed in the Plan area since 2011 and 15 are committed by a planning permission leaving a residual total of 28.
- 4.33 To provide clarity on the number of dwellings to be developed in the plan area during the lifetime of the plan it would be helpful to include the minimum number of 43 in the policy. This is the guideline growth figure of 55 less the number completed since 2011 of 12.
- 4.34 Policy RA2 of the Core Strategy identifies Luston as a settlement which will be the main focus of proportionate housing development. Ashton, Eyton and Moreton are identified in the policy as “other settlements where proportionate housing is appropriate”. Policies RA3, RA4 and RA5 set out the provisions for housing in the countryside and through rural building conversions. Policies H1 and H2 provide for the development of affordable housing on market sites and through rural exceptions sites.
- 4.35 Appendix 1 lists the planning approvals for new housing development from 2000 – 2015 which total 30 dwellings. These are all windfall developments as no sites have been allocated in the parishes in previous Local Plans. Most sites are for single dwellings and the largest has been for five dwellings. Most sites are in Luston although there are barn conversions in and around the other villages.
- 4.36 The Neighbourhood Plan assumes a figure of 20 additional homes to come forward as windfall development during the period 2016-2031. I consider this to be a reasonable assumption in the light of the past rate of windfall development on small sites.
- 4.37 There is clearly some discrepancy between the figures set out in Table 1 and Appendix 1 of the Plan and those supplied by Herefordshire Council. These should be checked and updated in the final Plan.
- 4.38 Map 3 of the Plan identifies the Luston village settlement boundary which has been drawn around the existing village and includes six sites as “potential development sites” in Policy LG6 with an indicative number of 34 dwellings. Two sites 136/213 and 136/220 have received planning permission for 10 dwellings it total. It would be appropriate to show these two sites as commitments in the plan.
- 4.39 An assessment of eleven potential sites has been undertaken by the Qualifying Body for “*their appropriateness for housing development not for allocated sites*”. In response to a question on how this term is to be interpreted, the Qualifying Body has stated that the terminology of sites being “potential development sites” has been used throughout the consultation on the draft plan as it is ultimately the decision of the landowner as to whether the site is developed. Landowners have been contacted during the course of

the preparation of the plan and have expressed their interest in the development of the four sites that do not have planning permission.

- 4.40 I consider that the term “potential development sites” in Policy LG6 is unclear. The inclusion of a site within the neighbourhood plan within the settlement boundary will be regarded as a housing allocation. To clarify the status of the housing sites the key to the Policies Map and Map 3 should be revised to read “housing allocations” or “housing commitments” as appropriate. The village settlement boundary should be clearly defined to include all the housing allocations and commitments.
- 4.41 The housing sites assessment is somewhat cursory: it lacks a map to show the location of the sites; there is little descriptive text to explain the reasons for scoring each site and the reasons for accepting or rejecting sites. The site areas given are different to those set out in Policy LG6. No expert assessment has been undertaken of the access requirements or the likely impact of the development on the local road network. This is surprising in view of the narrowness of the local road network.
- 4.42 Three representations have been received expressing concern about the development off Townsend Park (136/214) on the grounds of increase of traffic and poor standard of access, loss of agricultural land and other environmental factors. One representation has been received about the site 136/223 concerning the impact on the conservation area and loss of an old orchard. One representation has been received expressing concern about the inclusion of the sites at Upper Court Barns (136/213 which has received planning permission) and the field opposite (which has not been included as a potential site) on the grounds of the proximity to a dangerous bend and difficulties in accessing the sites.
- 4.43 Policy LG6 c) states that developments should be small scale of between 3 to 5 dwellings and d) states that the density should be appropriate to the local context and not exceeding 20 dwellings to the hectare. The two largest allocations are of 1 hectare and 1.6 hectares and the policy indicates that they would be suitable for 5 and 12 dwellings respectively which would result in very low density development which is usually in the form of high value large detached houses unless areas are identified for other purposes such as open space.
- 4.44 Paragraph 5.3.13 states that a range of house sizes will be sought through the plan to meet local housing needs. In response to a question on the evidence on the mix of housing type, size and tenure that is required, the Qualifying Body has referred me to the Housing Needs Survey for the parish carried out by Herefordshire Council in 2009. This assessed the need for affordable housing for the following 3 year period and demonstrated a need for affordable social housing to rent for 12 households. This evidence is now out of date and does not address the type and size of market housing required.

- 4.45 The Neighbourhood Plan includes data on house size and tenure from the 2011 Census. This shows that there is a higher proportion of large houses in the parish than the County as a whole and a lower proportion of social rented housing. However, this does not provide evidence on the future housing needs and aspirations for residents of the parish or those wishing to live there.
- 4.46 The Qualifying Body has referred me to the responses from the household questionnaires. This asked for the type of housing that people would like to see developed and the size of developments. The Qualifying Body states that this has provided the rationale for limiting developments to a maximum of 5 dwellings. The analysis of the responses to the questionnaires shows that these were the views and opinions of the respondents. This is not the same as a robust housing assessment seeking information about the future housing needs and aspirations of residents. As such the results of the survey cannot be relied on it as a foundation for restrictive policies such as limiting the maximum size of a development.
- 4.47 No evidence has been provided of the type of housing that is required to meet local housing need and it is not clear how a range of house types, sizes and tenures is to be delivered in the context of restricting the size of developments to 5 or less and with a density of less than 20 dwellings per hectare. It is noted that an element of affordable housing will be required on sites of 10 or more dwellings. No consideration has been given as to whether any of the sites may be suitable for rural exceptions housing.
- 4.48 A response has been made by the Housing Officer stating that as Core Strategy Policy H1 requires affordable housing on sites of 10 or more and Policies LG6 and LG7 could restrict the delivery of affordable housing in the parish.
- 4.49 Both policies include a criterion that requires developers to demonstrate that the development will contribute to the delivery of an appropriate mix of housing types and sizes including affordable housing to meet the needs of all sectors of the community. However this would not appear to be deliverable in the context of the minimum site size and density.
- 4.50 It is considered that placing a limit on the density of development of 20 dwellings to the hectare is not justified by robust evidence and would be unnecessarily restrictive. Criteria d) of Policy LG6 and c) of Policy LG7 state that the density should be appropriate to the context of the immediate surroundings. It is considered that this should provide sufficient guidance on the appropriate density that will be acceptable and give some flexibility to enable a mix of dwellings sizes to be developed. It is recommended therefore that the restriction that developments should not exceed 20 dwellings per hectare should be deleted as it is not supported by robust evidence and would restrict the delivery of a mix of house sizes including affordable housing.

- 4.51 Criterion c) of Policy LG6 and criterion b) of Policy LG7 set an upper limit on the number of dwellings on a site of between 3 to 5. It is considered that this is a restrictive policy that is not supported by robust evidence. In Luston, the number of dwellings on each site should reflect the potential layout, access and landscaping requirements. Each scheme should be considered on its merits and not be restricted by an arbitrary upper limit. In the other villages and hamlets, the scale of the development should be proportionate to the size of the settlement.
- 4.52 Sites 136/212 and 136/214 are sufficiently large to be developed for 10 or more dwellings and would therefore provide scope for a mix of house types and sizes and the inclusion of some affordable homes should the need be demonstrated. However setting an upper limit on the number of dwellings on a site of between 3 to 5 may affect the scope to deliver mixed housing developments on these two sites. It is therefore recommended that criterion c) of Policy LG6 and criterion b) of Policy LG7 should be deleted.
- 4.53 No evidence has been provided to justify the indicative number of dwellings on the sites to 5 and 12 respectively. A more realistic indicative number of dwellings should be included for sites 136/212 and 136/214 and the background text should explain that the figures are indicative only and not maximum figures.
- 4.54 It is unclear how it is proposed to deliver site 136/214 as three phases of development with each phase limited to four dwellings should a developer seek permission for the whole site.
- 4.55 Whilst an increase in the delivery of new housing in a Neighbourhood Plan is usually to be welcomed, the question should be asked in view of the small size and limited facilities in the village and the narrow roads in the area, as to whether this scale of development accords with the principles for the location of development in rural areas in the Core Strategy. Herefordshire Council has commented that the proportional growth figures in the Core Strategy are indicative and should not be seen as maximum figures or caps on development.
- 4.56 No evidence was provided during the preparation of the plan about the access requirements for the sites and the impact of the quantum of development on the local road network. I do not concur with the Qualifying Body's statement that no comments by the Council's Highways section has been taken to mean that there are no concerns.
- 4.57 The views of the Council's Highways section on the development sites have been sought during the examination. They have commented that *"the identified sites have issues in relation to connectivity to the village. If the sites were to come forward for development, the expectation would be for all the sites to have sustainable active travel links to the village network. Site 136/221 accesses onto the C1048 which already serves properties, the proposal is relatively small and would be onto a relatively quiet lane with the*

road acting as a shared space. The B4361 is a relatively busy road which accommodates HGV and agricultural movements, it is the old Ludlow Road, in times of emergency it has acted as diversion route for the A49. As such safe access and links to the village are required as part of any proposed development. This should be able to be accommodated with careful design.”

- 4.58 Careful design of the access arrangements and improved pedestrian links from the sites to the village will be required to deliver safe access for the developments as required by criterion e).
- 4.59 Criterion i) states that the development should reflect the scale and function of the settlement. This criterion is considered to be unclear and imprecise. The definition of the settlement boundary around Luston and the allocation of housing sites has been carried out to reflect the scale and function of the settlement as defined in Core Strategy Policy RA2. It is recommended therefore that this criterion be deleted to ensure that the policy is clear and unambiguous.
- 4.60 The wording of Policy LG6 as a whole is considered to be unclear with the inclusion of “or” and “and” after certain criteria.
- 4.61 Outside of the settlement boundary of Luston, any new housing development will be subject to the Core Strategy policies on housing in the countryside. It would also be helpful to plan users to explain that housing development in the countryside will be considered against Policies RA3, RA4 and RA5 of the Core Strategy.
- 4.62 Subject to the modifications recommended, it is considered that the policy will satisfy the Basic Conditions.

Recommendation 7: Revise Policy LG6 as follows:

Revise the first paragraph and criteria as follows:

“A minimum of 43 new dwellings shall be developed in the Plan area between 2017 and 2031. New housing development in Luston shall be located within the settlement boundary on a site shown on the Policies Map as a housing allocation or on an infill site or through the conversion of an existing building.”

“New housing development shall be in accordance with other policies of the development plan and:

d) Be of an appropriate density within the context of the immediate surroundings;”

Include criteria e), f), g), h), j), k) and l). Only include “and” at the end of the penultimate criterion. Renumber criteria.

Delete criteria c) and i).

Revise the second paragraph to read: *“The following sites are allocated for housing development:”* include the table with the heading in the third column revised to read “indicative number of dwellings”. Revise the indicative numbers for sites 136/212 and 136/214 to a realistic figure that can be satisfactorily accessed. Add the following *“The following sites are housing commitments:”* include sites 136/213 and 136/220 with the number of housing approved. Ensure that the site areas are correct.

The definition of infill development should be moved to the justification to the policy.

Revise the key to the Policies Map and Inset Maps to read Housing Allocations and Housing Commitments and differentiate the shading between the two types of sites. Number each site so that it can be identified. Ensure the Settlement Boundary is clearly legible around the allocations.

Update the data set out in Table 1 and Appendix 1.

Recommendation 8: Revise Policy LG7 as follows:

“New housing development in the settlements of Ashton, Eyton and Moreton should be located where it is contiguous with the built form.”

“New housing development shall be in accordance with other policies of the development plan and:

- b) Be small scale, proportionate to the size of the settlement;
- c) Be of an appropriate density within the context of the immediate surroundings;”

Include criteria d), e), f), g) h), i) and j). Only include “and” at the end of the penultimate criterion. Include final paragraph on physical and visual linkages. Renumber criteria.

Delete criteria a).

Add a new paragraph:

“Exceptionally housing development outside the settlements of Luston, Ashton, Eyton and Moreton will be supported where it satisfies Core Strategy Policies RA3, RA4 or RA5.”

Add a new paragraph to the justification to explain how “contiguous with the built form” will be interpreted: *“Existing built form is where there are a number of dwellings and other buildings that create a recognisable settlement. The group may be close or loosely arranged ranging from as few as four dwellings to a continuous stretch of many”*. “Contiguous with” is defined as “adjacent to”.

Policy LG8 - Traffic Management and Transport Improvements

Policy LG14 - Community Facilities and Community Infrastructure Levy

- 4.63 There is a considerable degree of overlap between these two policies.
- 4.64 Policy LG8 includes a mixture of aspirational transport improvements that the Parish Council wish to seek as well as the type of highway infrastructure proposals for which it is proposed to seek developer contributions and CIL
- 4.65 Policy LG14 states that development will be required to support proposals for improved community facilities and infrastructure. Priority highway improvements are set out in the policy.
- 4.66 The PPG advises that neighbourhood plans should consider what infrastructure is needed to deliver new development proposed in a neighbourhood plan; how the infrastructure is to be delivered; what impact the infrastructure requirements may have on the viability of the development. Discussions with infrastructure providers are advised and the priorities identified in the plan.
- 4.67 It is not clear from Policy LG8 whether the infrastructure improvements that are being sought are necessary for the development and deliverable or whether they are aspirational. Policy LG14 clearly identifies specific footpath improvements and traffic calming measures as priorities. The Qualifying Body has confirmed that some of the traffic calming measures have already been realised or initiated. Further, the Qualifying Body has stated that the footpath improvements specified in Policy LG14 have been aspirational for some time and they anticipate that funding from developers and other sources could help to implement them during the lifetime of the plan.
- 4.68 In order to provide clarity for decision makers, a single policy on the priorities for infrastructure improvements should be set out in the plan. It is recommended that Policy LG8 should be deleted and the aspirational infrastructure proposals should be set out in a separate section to the Plan under the heading of Community Aspirations and clearly identified as not forming part of the Neighbourhood Development Plan. The wording of Policy LG14 should be revised to make it clear that the priorities are to be delivered through developer contributions and Community Infrastructure Levy. As the schemes included in Policy LG14 in the submitted plan may be aspirational or already initiated, a more generic form of wording may be more appropriate to identify the key deliverable priorities of improving pedestrian safety and traffic calming and speed reduction.

Recommendation 9: Delete Policy LG8.

Move the aspirational non land use infrastructure and those that are not priorities for developer contributions / CIL to a new section of the Plan under the heading Community Aspirations and clearly identified as not forming part of the Neighbourhood Development Plan:

“The Parish Council will seek to the following improvements to road safety, traffic management and public transport: X, Y, Z.”

Recommendation 10: Revise Policy LG14 as follows:

Revise the title of Policy LG14 to “*Developer Contributions and Community Infrastructure Levy*”.

Revise the first paragraph to read: “*Developer contributions and Community Infrastructure Levy will be sought towards proposals to improve the highway infrastructure. Priority will be given to the following proposals:*

- ***Highway improvement schemes to promote the safety of pedestrians and cycle users; and***
- ***Traffic calming measures and the reduction in traffic speeds.”***

Where feasible, include a list of proposals to be funded through this means in the justification.

Policy LG9 - Sustainable Transport Measures

- 4.69 Policy LG9 seeks to secure improvements to pedestrian and cycle routes in and around the villages and to create links to wildlife corridors with improved landscaping through new development proposals.
- 4.70 Whilst the policy is well intentioned and accords with national and local strategic policies to improve sustainable means of travel, I have concerns about whether the type and scale of development proposals in the plan area will mean that they are unable to deliver any improvements to pedestrian/ cyclist routes outside of the development site. The policy is therefore likely to be not deliverable. The narrowness of the local road network in the area and the lack of any footpath and cycleways links would make any improvement to the local pedestrian/ cyclist network expensive to deliver and would place an unacceptable burden on a development proposal affecting its viability.
- 4.71 Specific deliverable proposals should be included in the justification to Policy LG14 and aspirational proposals should be included in the Community Aspirations section of the Plan.
- 4.72 I consider that the policy is not deliverable and as such has not taken account of national planning policy. It is therefore recommended that it should be deleted.

Recommendation 11: Delete Policy LG9.

Policy LG10 - Supporting and enhancing existing small scale local employment

- 4.73 This policy seeks to safeguard local employment premises by ensuring that they are actively marketed or alternative provision is made within the plan area to replace the employment space that has been lost. The policy sets out factors to be considered in assessing the suitability of a site for the development of new small scale employment opportunities.
- 4.74 The background to the policies refers to the Parish Council supporting and protecting businesses and existing employment premises. The first paragraph of the policy itself states that existing sources of local employment will be protected.
- 4.75 The Parish Council and the policies of the Neighbourhood Plan cannot “protect” an employment use or business. The plan’s policies should set out matters to be taken into account in considering planning applications for the redevelopment or change of use of business premises to other uses. It is recommended therefore that reference in the justification to the Parish Council supporting the protection of businesses and premises should be deleted or revised to refer to the Policy seeking to safeguard the premises for business use.
- 4.76 The policy has had regard to national policy to support a prosperous rural economy and will support the delivery of Core Strategy Policy RA6 on diversifying the rural economy.
- 4.77 Core Strategy Policy E2 – Redevelopment of existing employment land and buildings safeguards employment land and buildings rated as ‘best’ and ‘good’ in the Employment Land Study 2012 (or successor document). There are no sites within the plan area that are safeguarded under this policy.
- 4.78 Active marketing of business premises is an established means of ensuring that reasonable efforts are made to secure an alternative business use for redundant business premises in rural areas.
- 4.79 The second bullet point requires other equivalent or better business space provision to be made elsewhere within the plan area. It is considered that this is an onerous requirement to place on the re-use of a business premises in a rural area and is likely to make the conversion of a redundant building unviable. It is recommended that it be deleted.
- 4.80 It is considered that the final part of the policy is in general conformity with Core Strategy Policy RA5 – Re-use of rural buildings which supports the re-use of redundant or disused buildings, including farmsteads in rural areas, to make a positive contribution to rural businesses.
- 4.81 The second part of the policy refers to development including homeworking being “permitted” by the policy. The policy should be revised in accordance with paragraph 3.13 above to refer to the factors to be considered in assessing planning applications.

- 4.82 Core Strategy Policy E3 sets out other factors that will be taken into account in considered planning applications for homeworking. In the interests of clarity for decision makers it is recommended that reference to homeworking is deleted from the policy and a sentence is added to the justification to state that planning applications for homeworking will be considered against Core Strategy Policy E3.
- 4.83 The final bullet point refers to the proposal being in accordance with other relevant policies in “this plan”. In accordance with paragraph 3.13 above, all relevant policies of the “development plan” will be taken into account in considering development proposals as well as other material considerations. There is no need to include this criterion in the policy.
- 4.84 The criteria in this policy are identified with bullet points. To ensure consistency with other policies in the plan and to ensure ease of reference by plan users, it is recommended that they be labelled with letters.
- 4.85 Subject to the modifications recommended, it is considered that the policy will satisfy the Basic Conditions.

Recommendation 12: Revise Policy LG10 as follows:

Delete the first paragraph of the policy.

Revise the second paragraph to read: “*Proposals for the redevelopment or change of use of existing employment premises to non-employment uses should demonstrate that they have been vacant for 6 months or more and during that time have been actively marketed for appropriate employment uses without securing a viable alternative use.*”

Delete the second bullet point.

Revise the third paragraph to read: “*The development of new small scale employment premises should:*” (revise the wording of the bullet points for grammatical reasons)

Delete the final bullet point.

Reference the criteria with letters instead of bullet points.

Delete the second sentence from paragraph 5.5.1. Revise paragraph 5.5.2 to read: “*The Neighbourhood Plan seeks to safeguard existing employment premises and encourage*”

Add the following to paragraph 5.5.4 “*Homeworking is also encouraged and where permission is required, proposals will be considered against Core Strategy Policy E3.*”

Policy LG11 - Protection of Local Green Spaces

- 4.86 The policy seeks to designate four spaces as Local Green Spaces in accordance with NPPF paragraph 76-77.
- 4.87 Three of the spaces are within Luston village. The Holy Well site is a highway verge and banking and includes the old village pump. The two areas at the entrance to the Willows estate are larger verges containing a number of attractive trees and the village noticeboard and bench. The third area is the school playing fields. It is considered that all these sites satisfy the criteria of NPPF paragraph 77.
- 4.88 The final area is a pond and associated vegetation about half a mile west to the south end of Luston village. It is considered that this green space is not in reasonably close proximity to the village and no evidence has been provided as to why it is special to the community. It is considered that it does not therefore satisfy the criteria of paragraph 77 and should not be designated as a Local Green Space under Policy LG11.
- 4.89 Revisions are proposed to the wording of the policy to ensure that it is clear and unambiguous and refers to the sites being shown on the Policies Map.
- 4.90 Subject to the modifications recommended, it is considered that the policy will satisfy the Basic Conditions.

Recommendation 13: Revise the first paragraph of Policy LG11 to read:

“The following areas shown on the Policies Map are designated as Local Green Spaces:”

Delete Lydiatts Crossroads and delete it from the Policies Map

Policy LG12 - Protection of open spaces

- 4.91 This policy seeks to protect three areas of common land all of which are located in the countryside outside of the settlements.
- 4.92 No description, assessment or justification has been given of the sites other than that they are registered common land. Of and by itself this is not a reason for them being especially protected as open spaces. They are located in the countryside and managed for agriculture. The Commons Act 2006 provides the legislative framework of undertaking works on common land.
- 4.93 The Qualifying Body has stated that the policy is intended to protect the setting of the commons.
- 4.94 The policy has not been supported by robust evidence to demonstrate the reasons for the designation. It is considered that the land is no different to other nearby land in the countryside to warrant special additional protection.

Recommendation 14: delete Policy LG12 and delete the sites from the Policies Map.

Policy LG13 - Protection and enhancement of local community facilities

- 4.95 Policy LG13 seeks to safeguard the existing community facilities: the public house, Cawley Hall (village hall), primary school and Luston chapel.
- 4.96 The policy is not clearly worded and revisions are proposed to ensure that it is clear and unambiguous. As stated in paragraph 3.13 above, a policy cannot stipulate that permission will be granted for a specific proposal. A modification is recommended to avoid this term.
- 4.97 Criterion a) requires that any replacement facility is served by public transport. Although there is a reasonable level of public transport provision in Luston, it may not be reasonable or feasible to make it a requirement that any replacement facility is accessible by public transport and it is recommended that some flexibility should be included in the policy around this matter.
- 4.98 Subject to the modifications recommended, it is considered that the policy will satisfy the Basic Conditions.

Recommendation 15: revise Policy LG13 as follows:

Delete the first sentence of the first paragraph. Revise the second sentence to read: “The re-use of local community facilities for health, education or community uses *will be preferred.*” Move the sentence to after criterion b).

Revise the second paragraph to read: “Proposals for the change of use of an existing community facility to other uses *should demonstrate that:*”

Revise the second sentence of criterion a) “....Such sites should, *where feasible, be accessible by*”

Identify the community facilities on the Policies Map/Inset Map.

5.0 Referendum

- 5.1 The Luston Group Neighbourhood Plan reflects the views held by the community as demonstrated through the consultations and, subject to the modifications proposed, sets out a realistic and achievable vision to support the future improvement of community.
- 5.2 I am satisfied that the Neighbourhood Plan meets all the statutory requirements, in particular those set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and, subject to the modifications I have identified, meets the basic conditions namely:
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contributes to the achievement of sustainable development;
 - is in general conformity with the strategic policies contained in the Development Plan for the area;
 - does not breach, and is otherwise compatible with, EU obligations and human rights requirements
- 5.3 **I am pleased to recommend to Herefordshire Council that the Luston Group Neighbourhood Plan should, subject to the modifications I have put forward, proceed to referendum.**
- 5.4 I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. In all the matters I have considered I have not seen anything that suggests the referendum area should be extended beyond the boundaries of the plan area as they are currently defined. I recommend that the Neighbourhood Plan should proceed to a referendum based on the neighbourhood area defined by the Herefordshire Council on 4 September 2013.

6.0 Background Documents

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

- Luston Group Neighbourhood Plan Submission Draft Version 2011 to 2031
- Luston Group Neighbourhood Plan Basic Conditions Statement
- Luston Group Neighbourhood Plan Consultation Statement
- Luston Group Neighbourhood Plan Environmental Report December 2016
- Luston Group Neighbourhood Plan HRA Addendum Report December 2016
- Luston Housing Sites Assessment undated
- Luston Group Parish Policies Map and Village Policies Map
- National Planning Policy Framework March 2012
- Planning Practice Guidance March 2014 (as amended)
- The Town and Country Planning Act 1990 (as amended)
- The Localism Act 2011
- The Neighbourhood Planning (General) Regulations 2012
- Herefordshire Employment Land Study 2012

7.0 Summary of Recommendations

Recommendation 1: Improve the legibility of the Luston village map to ensure that all site boundaries are clearly legible and the shading is clearly distinguishable.

Identify the boundaries of all sites and buildings referred to in policies on the Policies Map/Inset Map.

Recommendation 2: revise objective 5 to read: *“To conserve and enhance the heritage assets, particularly Luston Conservation Area.”*

Recommendation 3: Revise Policy LG1 as follows:

Revise the second sentence of the first paragraph to read: *“Development should not have an unacceptable detrimental impact on the character of the area in which it is located.”*

Delete criteria b) and i)

Revise criterion g) to read: *“Housing development should not be located where existing agricultural or commercial uses would have unacceptable adverse impact on residential amenity.”*

Add a new criterion *“Agricultural and commercial buildings or uses that are likely to give rise to noise or other pollution shall not be located where they would have an unacceptable adverse impact on existing or proposed housing.”*

Revise paragraph 5.1.5 to read *“.....within the Neighbourhood Plan until a programmed scheme of improvements is implemented. The scheme is within year 3 of the current Asset Management Plan and is due for completion by the end of March 2018.”*

Recommendation 4: Revise the first paragraph of Policy LG2 to read:

Delete first sentence. Revise the second sentence to read: *“All new development should make a positive contribution to the distinctive character of the area and...”*

Recommendation 5: revise Policy LG3 as follows:

Revise criterion d) to read: *“Development proposals should take in consideration any adverse impact on the Locally Significant View from Luston to Eye Church and Manor shown on Map 2 through a landscape appraisal and impact study.”*

Delete “and opportunities for local food production” from criterion g).

Recommendation 6: revise the first paragraph of Policy LG5 to read:

“Development proposals should be located in accordance with the Sequential Test and Exception Tests (where appropriate) and have regard to the Strategic Flood Risk Assessment (SFRA) 2009 for Herefordshire.”

Recommendation 7: Revise Policy LG6 as follows:

Revise the first paragraph and criteria as follows:

“A minimum of 43 new dwellings shall be developed in the Plan area between 2017 and 2031. New housing development in Luston shall be located within the settlement boundary on a site shown on the Policies Map as a housing allocation or on an infill site or through the conversion of an existing building.”

“New housing development shall be in accordance with other policies of the development plan and:

d) Be of an appropriate density within the context of the immediate surroundings;”

Include criteria e), f), g), h), j), k) and l). Only include “and” at the end of the penultimate criterion.

Delete criteria c) and i).

Revise the second paragraph to read: “The following sites are allocated for housing development:” include the table with the heading in the third column revised to read “indicative number of dwellings”. Revise the indicative numbers for sites 136/212 and 136/214 to a realistic figure that can be satisfactorily accessed. Add the following “The following sites are housing commitments:” include sites 136/213 and 136/220 with the number of housing approved. Ensure that the site areas are correct.

The definition of infill development should be moved to the justification to the policy.

Revise the key to the Policies Map and Inset Maps to read Housing Allocations and Housing Commitments and differentiate the shading between the two types of sites. Number each site so that it can be identified. Ensure the Settlement Boundary is clearly legible around the allocations.

Update the data set out in Table 1 and Appendix 1.

Recommendation 8: Revise Policy LG7 as follows:

“New housing development in the settlements of Ashton, Eyton and Moreton should be located where it is contiguous with the built form.”

“New housing development shall be in accordance with other policies of the development plan and:

- b) Be small scale, proportionate to the size of the settlement;
- c) Be of an appropriate density within the context of the immediate surroundings;

Include criteria d), e), f), g) h), i) and j). Only include “and” at the end of the penultimate criterion. Include final paragraph on physical and visual linkages. Renumber criteria.

Delete criteria a).

Add a new paragraph:

“Exceptionally housing development outside the settlements of Luston, Ashton, Eyton and Moreton will be supported where it satisfies Core Strategy Policies RA3, RA4 or RA5.”

Add a new paragraph to the justification to explain how “contiguous with the built form” will be interpreted: *“Existing built form is where there are a number of dwellings and other buildings that create a recognisable settlement. The group may be close or loosely arranged ranging from as few as four dwellings to a continuous stretch of many”*. “Contiguous with” is defined as “adjacent to”.

Recommendation 9: Delete Policy LG8.

Move the aspirational non land use infrastructure and those that are not priorities for developer contributions / CIL to a new section of the Plan under the heading Community Aspirations and clearly identified as not forming part of the Neighbourhood Development Plan:

“The Parish Council will seek to the following improvements to road safety, traffic management and public transport: X, Y, Z.”

Recommendation 10 Revise Policy LG14 as follows:

Revise the title of Policy LG14 to *“Developer Contributions and Community Infrastructure Levy”*.

Revise the first paragraph to read: *“Developer contributions and Community Infrastructure Levy will be sought towards proposals to improve the highway infrastructure. Priority will be given to the following proposals:*

- *Highway improvement schemes to promote the safety of pedestrians and cycle users; and*
- *Traffic calming measures and the reduction in traffic speeds.”*

Where feasible, include a list of proposals to be funded through this means in the justification.

Recommendation 11: Delete Policy LG9.

Recommendation 12: Revise Policy LG10 as follows:

Delete the first paragraph of the policy.

Revise the second paragraph to read: “*Proposals for the redevelopment or change of use of existing employment premises to non-employment uses should demonstrate that they have been vacant for 6 months or more and during that time have been actively marketed for appropriate employment uses without securing a viable alternative use.*”

Delete the second bullet point.

Revise the third paragraph to read: “*The development of new small scale employment premises should:*” (revise the wording of the bullet points for grammatical reasons)

Delete the final bullet point.

Reference the criteria with letters instead of bullet points.

Delete the second sentence from paragraph 5.5.1. Revise paragraph 5.5.2 to read: “*The Neighbourhood Plan seeks to safeguard existing employment premises and encourage*”

Add the following to paragraph 5.5.4 “*Homeworking is also encouraged and where permission is required, proposals will be considered against Core Strategy Policy E3.*”

Recommendation 13: Revise the first paragraph of Policy LG11 to read:

“The following areas shown on the Policies Map are designated as Local Green Spaces:”

Delete Lydiatts Crossroads and delete it from the Policies Map

Recommendation 14: delete Policy LG12 and delete the sites from the Policies Map.

Recommendation 15: revise Policy LG13 as follows:

Delete the first sentence of the first paragraph. Revise the second sentence to read: “The re-use of local community facilities for health, education or community uses *will be preferred.*” Move the sentence to after criterion b).

Revise the second paragraph to read: “Proposals for the change of use of an existing community facility to other uses *should demonstrate that:*”

Revise the second sentence of criterion a) “....Such sites should, *where feasible, be accessible by*”

Identify the community facilities on the Policies Map.