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and examinations

# **Report on the Hermitage Neighbourhood Plan 2022 – 2039**

**An Examination undertaken for West Berkshire Council with the support of Hermitage Parish Council on the February 2023 submission version of the Plan.**

Independent Examiner: Andrew Mead BSc (Hons) MRTPI MIQ

Date of Report: 9 November 2023

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## **Main Findings - Executive Summary**

From my examination of the Hermitage Neighbourhood Plan (HNP/the Plan) and its supporting documentation including the representations made, I have concluded that subject to the policy modification set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the Hermitage Parish Council;
- The Plan has been prepared for an area properly designated – the Hermitage Neighbourhood Area as shown on Figure 1.1 on page 3 of the Plan;
- The Plan specifies the period during which it is to take effect: 2022 - 2039; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### **Hermitage Neighbourhood Plan 2022–2039**

- 1.1 The Parish of Hermitage is located in the North Wessex Downs Area of Outstanding Natural Beauty (AONB) about 8km to the north-east of the centre of Newbury. The attractive and spacious village of Hermitage is set in rural, well wooded surroundings. The M4 motorway forms part of the northern boundary of the Parish. In 2011, the Parish population was 1,943.<sup>1</sup>
- 1.2 The formal process to prepare a neighbourhood plan for Hermitage began in 2018 when Hermitage Parish Council (HPC) announced its intention to produce one. A Steering Group was formed, evidence was collected and consultations were carried out. The Plan was finally submitted to West Berkshire Council (WBC/the Council) in February 2023, representing nearly 5 years work for those involved.

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<sup>1</sup> HNP: page 6 paragraph 2.17.

## The Independent Examiner

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the HNP by WBC with the agreement of HPC.
- 1.4 I am a chartered town planner and former government Planning Inspector and have experience of examining neighbourhood plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the Plan.

## The Scope of the Examination

- 1.5 As the independent examiner, I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the plan meets the Basic Conditions.
  - Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;
    - it does not include provisions and policies for 'excluded development'; and
    - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.

- Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.
  - Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').
- 1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

### The Basic Conditions

- 1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contribute to the achievement of sustainable development;
  - be in general conformity with the strategic policies of the development plan for the area;
  - be compatible with and not breach European Union (EU) obligations (under retained EU law)<sup>2</sup>; and
  - meet prescribed conditions and comply with prescribed matters.
- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Plan does not breach the requirement of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>3</sup>

## 2. Approach to the Examination

### Planning Policy Context

- 2.1 The current Development Plan for the Hermitage Neighbourhood Area, excluding policies relating to minerals and waste development, includes the West Berkshire District Local Plan 1991–2006 (Saved Policies 2007) (as amended in 2012 and 2017), the West Berkshire Core Strategy (WBCS) 2006–2026, which contains most of the strategic policies, and the

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<sup>2</sup> The existing body of environmental regulation is retained in UK law.

<sup>3</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

West Berkshire Housing Site Allocations Development Plan Document (HSADPD) adopted in 2017.<sup>4</sup>

- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF).<sup>5</sup> In addition, the Planning Practice Guidance (PPG) offers advice on how the NPPF should be implemented.
- 2.3 The West Berkshire Local Plan Review (WBLPR) is also currently being examined.<sup>6</sup> Whilst there is no requirement for the Plan to be in general conformity with any strategic policies in the emerging review of the Local Plan, there is an expectation that West Berkshire and the Parish Council will work together to produce complementary plans.<sup>7</sup> I note in the context of the provision of future monitoring and review, that the HNP makes a commitment to maintaining and periodically revisiting the Neighbourhood Plan to ensure relevance.<sup>8</sup>

### Submitted Documents

- 2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, as well as those submitted which include:
- the draft Hermitage Neighbourhood Plan 2022–2039, February 2023 submission version;
  - the map on page 3 of the Plan which identifies the area to which the proposed Neighbourhood Plan relates;
  - the Consultation Statement, dated February 2023;
  - the Basic Conditions Statement, dated February 2023;
  - the Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Reports, dated October 2022 and November 2022 and the SEA and HRA Decision, dated November 2022;
  - the Hermitage Green Spaces Audit, dated January 2023;
  - the West Berkshire Density Pattern Book for West Berkshire District Council, dated September 2019;
  - the Hermitage Design Guidelines and Codes, dated September 2022; and
  - all the representations that have been made in accordance with the Regulation 16 consultation.<sup>9</sup>

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<sup>4</sup> There is also the retained South East Plan Policy NRM6: Thames Basin Heaths Special Protection Area.

<sup>5</sup> A new version of the NPPF was published on 5 September 2023. It sets out focused revisions (to the previously published version of 20 July 2021) to the extent that it updates national planning policy for onshore wind development. As such, all references in this report read across to the latest 5 September 2023 version.

<sup>6</sup> View at: [Examination of the West Berkshire Local Plan Review 2022-2039 - West Berkshire Council](#)

<sup>7</sup> PPG Reference ID: 41-009-20160211.

<sup>8</sup> HNP: page 4 paragraph 1.13.

<sup>9</sup> View all the documents at: [Hermitage Neighbourhood Plan - West Berkshire Council](#)

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## Site Visit

- 2.5 I made an unaccompanied site inspection to the HNP Area on 18 October 2023 to familiarise myself with it and visit relevant locations referenced in the Plan and evidential documents.

## Written Representations with or without Public Hearing

- 2.6 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. No requests for a hearing session were received.

## Modification

- 2.7 Where necessary, I have recommended a modification to the Plan (**PM**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed this modification separately in the Appendix to this report.

## 3. Procedural Compliance and Human Rights

### Qualifying Body and Neighbourhood Plan Area

- 3.1 The Hermitage Neighbourhood Plan has been prepared and submitted for examination by HPC, which is a qualifying body. The HNP extends over all the area designated by WBC on 26 April 2019.

### Plan Period

- 3.2 The Plan period is from 2022 to 2039 as clearly stated on the front cover.

### Neighbourhood Development Plan Preparation and Consultation

- 3.3 The comprehensive Consultation Statement (CS) describes the thorough preparation of the Plan with involvement of the public and various stakeholders at many stages of the process. A list of the events in the timeline on page 3 covers the period from 2018 until late 2022, following the pre-submission consultation.
- 3.4 The pre-submission Plan was published for consultation under Regulation 14 of the 2012 Regulations from 25 October 2022 until 5 December 2022. The list of organisations consulted is shown at paragraphs 3.6 – 3.8 of the CS. The list of respondents, the matters raised, the responses of the Steering Group and any resulting changes to the Plan are described in Appendix B on pages 18 – 57 of the CS.



- 3.5 The Plan was submitted to WBC on 17 February 2023. Consultation in accordance with Regulation 16 was carried out for six weeks from 21 July 2023 until 1 September 2023. 8 representations were received together with comments from WBC about the Plan. I am satisfied that a transparent, fair and inclusive consultation process has been followed for the HNP, that has had regard to advice in the PPG on plan preparation and engagement and is procedurally compliant in accordance with the legal requirements.

### Development and Use of Land

- 3.6 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

### Excluded Development

- 3.7 The Plan does not include provisions and policies for 'excluded development'.<sup>10</sup>

### Human Rights

- 3.8 I have read the Basic Conditions Statement (BCS) which states that the HNP does not breach and is not otherwise incompatible with the European Convention on Human Rights, incorporated into UK law by the Human Rights Act 1998. I am aware from the CS that considerable emphasis was placed throughout the consultation process to ensure that no sections of the community were isolated or excluded. I have considered this matter independently and I am satisfied that the policies will not have a discriminatory impact on any particular group of individuals.

## 4. Compliance with the Basic Conditions

### EU Obligations

- 4.1 The Basic Conditions Statement notes that the Plan was screened for Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) by WBC. The Council's initial conclusion was that a SEA of the Hermitage NP was not necessary under the SEA Directive and Regulations because it was demonstrated that there are unlikely to be significant environmental effects as a result of the Plan. It was also WBC's initial conclusion that a HRA was not required because there are no internationally designated sites within or adjacent to the Neighbourhood Area. Therefore, on the basis of the screening process, it was the Council's opinion that the HNP is unlikely to have significant environmental effects and as such did not require an SEA under EU Directive 2001/42/EC and The Environmental Assessment of Plans and Programmes Regulations

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<sup>10</sup> See section 61K of the 1990 Act.

(2004), or a Habitats Regulations Assessment under EC Habitats Directive 92/43/EEC and the Conservation of Habitats and Species Regulations 2010 (*sic*).<sup>11</sup> The statutory consultees did not dissent from these conclusions<sup>12</sup> and the determination was made on 29 November 2022. I have read the SEA and the HRA and the Screening Determination and the other information provided and, having considered the matter independently, I also agree with the conclusions. Therefore, I am satisfied that the HNP is compatible with EU obligations as retained in UK law.

## Main Issues

- 4.2 Having considered whether the Plan complies with various procedural and legal requirements, it is now necessary to deal with whether it complies with the remaining Basic Conditions, particularly the regard it pays to national policy and guidance, the contribution it makes to the achievement of sustainable development and whether it is in general conformity with strategic development plan policies. I test the Plan against the Basic Conditions by considering specific issues of compliance of all the Plan's policies.
- 4.3 As part of that assessment, I consider whether the policies are sufficiently clear and unambiguous, having regard to advice in the PPG. A neighbourhood plan policy 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.<sup>13</sup>
- 4.4 Accordingly, having regard to the Hermitage Neighbourhood Plan, the consultation responses, other evidence and the site visit, I consider that the main issues in this examination are whether the HNP policies (i) have regard to national policy and guidance; (ii) are in general conformity with the adopted strategic planning policies; and (iii) would contribute to the achievement of sustainable development? I shall assess these issues by considering the policies in the sequence in which they appear in the Plan.

## Vision and Objectives

- 4.5 The overall vision for the HNP is described in paragraph 3.2 on page 11 of the Plan. The vision is then used to develop 8 objectives listed in paragraph 3.3 which set the context for the 9 subsequent land use policies.

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<sup>11</sup> 2017 (SI No. 1012).

<sup>12</sup> Details in the Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report: November 2022.

<sup>13</sup> PPG Reference ID: 41-041-20140306.

## Policy HER1: Addressing Hermitage’s Housing Needs

4.6 Hermitage is defined in the WBCS as a service village and it is located within the North Wessex Downs AONB. Policy HER1 seeks to provide a mix of dwelling types which reflect the identified housing needs of Hermitage. The policy has regard to national guidance<sup>14</sup>, generally conforms with both Area Delivery Plan Policy 5 and Policy CS 4 of the WBCS and meets the Basic Conditions.

## Policy HER2: Design

4.7 Policy HER2 states that development should respect the local character of Hermitage as identified in the Hermitage Design Guidelines and Codes (HDGC) 2022. The policy also describes six factors which should be taken into account, which include having regard to the guidance in the West Berkshire Density Pattern Book and limiting the building heights and rooflines to no more than two storeys.

4.8 I note the Regulation 16 comments from WBC that the Plan has not been amended consistent with the Regulation 14 response (CS page 35). However, as currently drafted in the Plan, although there is a general limitation on two storeys, taller buildings will be permitted where it is clearly demonstrated that they can complement or enhance the local character. Therefore, Policy HER2 has regard to national guidance<sup>15</sup>, generally conforms with Area Delivery Plan Policy 5 and Policy CS 14 of the WBCS and meets the Basic Conditions.

## Policy HER3: Countryside Views Between Properties

4.9 Policy HER3 seeks to safeguard views of the surrounding countryside between buildings when development within or adjacent to the settlement boundary of Hermitage is considered. The policy has regard to national guidance<sup>16</sup>, generally conforms with Policy CS 19 of the WBCS and meets the Basic Conditions.

## Policy HER4: Low Energy and Energy Efficient Design, including Sustainable Drainage Systems

4.10 Policy HER4 requires new development to demonstrate how the consumption of natural resources have been minimised in order to provide resilience to the effects of climate change and how it has been designed to incorporate measures to adapt to climate change. The policy also seeks the minimisation of surface water runoff through sustainable drainage systems (SuDS). The policy generally conforms with Policy CS 16 of the WBCS but, in order to have regard to the various elements of national guidance, I shall recommend a modification to include a reference to

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<sup>14</sup> NPPF: paragraphs 60, 62 & 65.

<sup>15</sup> NPPF: paragraph 126, 127 & 130.

<sup>16</sup> NPPF: paragraphs 130, 174 & 176.

improvements in green and other infrastructure based on paragraph 154 (a) of the NPPF. **(PM1)** The policy would then meet the Basic Conditions.

#### Policy HER5: Wildlife-Friendly Development

4.11 Policy HER5 aims to secure a net biodiversity gain of at least 10% for all new development and also to safeguard the dark skies within the North Wessex Downs AONB. The policy has regard to national guidance<sup>17</sup>, generally conforms with Area Delivery Plan Policy 5 and Policy CS 17 of the WBCS and meets the Basic Conditions.

#### Policy HER6: Irreplaceable Habitats and Local Wildlife-Rich Habitats and Species

4.12 Policy HER6 seeks to protect irreplaceable habitats and local habitats which are rich in wildlife. The policy has regard to national guidance<sup>18</sup>, generally conforms with Policy CS 17 of the WBCS and meets the Basic Conditions.

#### Policy HER7: Local Green Spaces

4.13 Policy HER7 designates 6 Local Green Spaces (LGS). LGS designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.<sup>19</sup> LGS should also be capable of enduring beyond the end of the Plan period.<sup>20</sup>

4.14 I visited each LGS on my inspection of the area and I agree that each LGS meets the designation criteria. Therefore, the policy has regard to national guidance<sup>21</sup>, generally conforms with Policy CS 18 of the WBCS and meets the Basic Conditions.

#### Policy HER8: Non-Designated Heritage Assets

4.15 Policy HER8 lists 25 non-designated heritage assets (NDHAs) and describes the method of assessment should any loss or alteration be proposed. The policy has regard to national guidance<sup>22</sup>, generally conforms with Policy CS 19 of the WBCS and meets the Basic Conditions.

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<sup>17</sup> NPPF: paragraphs 161, 169, 174, 179 & 185.

<sup>18</sup> NPPF: paragraphs 179 & 180.

<sup>19</sup> NPPF: paragraph 102.

<sup>20</sup> NPPF: paragraph 101.

<sup>21</sup> NPPF: paragraphs 100, 101 & 102. Also see PPG Reference IDs: 37-005-20140306 to 37-022-20140306.

<sup>22</sup> NPPF: paragraph 203.

## Policy HER9: Access for Walking, Cycling and Horse Riding

- 4.16 Policy HER9 promotes and aims to safeguard access to the countryside for walkers, cyclists and horse riders and encourages proposals to develop the Eling Way. The policy has regard to national guidance<sup>23</sup>, generally conforms with Area Delivery Plan Policy 5 and Policy CS 13 of the WBCS and meets the Basic Conditions.

### Non-Policy Actions

- 4.17 Table 9.1 of the Plan lists 11 non land issues to be addressed alongside possible actions, together with the lead agency or partner. These are items which the community is seeking but cannot be delivered through planning policies, which are not considered as part of the examination and which will not form part of the statutory Development Plan. Nevertheless, they represent aspirations which would benefit the community and demonstrate an attribute of the neighbourhood planning process.<sup>24</sup> A representation objected to the intention to provide play equipment in the Lipscomb Close Green LGS, but that is not before me to consider and so I shall not pass comment.

### Overview

- 4.18 Therefore, on the evidence before me, with the recommended modification, I consider that the policies within the HNP are in general conformity with the strategic policies of the WBCS, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.
- 4.19 A consequence of the acceptance of the recommended modification would be that amendments may have to be made to the explanation within the Plan in order to make it logical and suitable for the referendum. Further amendments might also include incorporating factual updates, correcting minor inaccuracies, text improvements suggested helpfully by WBC in the Regulation 16 consultation and any paragraph renumbering. None of these alterations would affect the ability of the Plan to meet the Basic Conditions and could be undertaken as minor, non-material changes.<sup>25</sup>

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<sup>23</sup> NPPF: paragraphs 104 & 106.

<sup>24</sup> PPG Reference ID: 41-004-20190509.

<sup>25</sup> PPG Reference ID: 41-106-20190509.

## 5. Conclusions

### Summary

- 5.1 The Hermitage Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the HNP, and the evidence documents submitted with it.
- 5.2 I have made a recommendation to modify a policy to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The HNP, as modified, has no policy or proposal which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

### Concluding Comments

- 5.4 The HPC, the Steering Group and other voluntary contributors are to be commended for their efforts in producing a concise but comprehensive Plan. The Plan is logical, very informative and well-illustrated. I enjoyed examining it, visiting the area and reading about the history, particularly the background to the splendid Village Hall. The Consultation Statement and the Basic Conditions Statement were extremely useful. The Plan benefitted from heeding advice not to duplicate policies<sup>26</sup> found elsewhere in the Development Plan (See paragraphs 3.4 – 3.6 in the Plan), the guidance from WBC evident from the meetings listed in the Consultation Statement and the comprehensive and constructive Regulation 14 comments from the Council.
- 5.5 Subject to the recommended modification, the HNP will make a positive contribution to the Development Plan for the area and should enable the attractive character and appearance of Hermitage to be maintained whilst enabling sustainable development to proceed.

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<sup>26</sup> NPPF: paragraph 16 f).

*Andrew Mead*

Examiner

## Appendix: Modification

<b>Proposed modification no. (PM)</b>	<b>Page no./ other reference</b>	<b>Modification</b>
PM1	Page 20 Policy HER4: C.	Add a final sentence:  <b>“When new development is bought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaption measures, including through the planning of green infrastructure.”</b>