

# Habitats Regulations Assessment



## Brilley Neighbourhood Area

Addendum

March 2017

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## 1.0 Introduction

- 1.1 To ensure that the requirements of the Habitats Directive and Regulations are met, it is necessary to consider the proposed Main Modifications through the HRA process to the Brilley NDP. The NDP has now been through an Independent Examination by Rosemary Kidd and within her report she has recommended a number of minor modifications to ensure the Plan meets the Basic conditions.
- 1.2 Herefordshire Council have accepted these modifications to the Plan, the NDP, therefore, has been updated to reflect the modifications suggested. In the main the changes were minor word alterations to ensure the Policies were in line with the Framework and also to add clarity for the decision makers. These modified policies have now been assessed as part of the HRA and the full results can be viewed in Appendix 1.
- 1.3 The purpose of this further HRA Addendum Report is to detail the findings of the screening of proposed changes to policies and consider if they significantly affect the conclusions of the earlier HRA Reports (April 2015 and July 2016).
- 1.4 The modifications are not considered to significantly affect the conclusions of the earlier HRA report, as they did not involve the introduction of new policies or change the overall aims and objectives of the existing planning policies.

## 2.0 Screening of proposed modifications to the NDP

- 2.1 Regulation 102 of the Habitats Regulations 2010 requires that a Screening Assessment be undertaken, in order to identify the 'likely significant effects' of an NDP. Accordingly, a screening matrix was prepared and this determined the extent to which any of the policies and site allocations in the Brilley NDP would be likely to have a significant effect on the River Wye SAC which runs through the neighbourhood area.
- 2.2 The findings of the screening matrix can be found in Appendices 1 and 2 of that report.
- 2.3 The screening matrix took the approach of screening each policy, objective and site allocation individually, which is consistent with current guidance. The results from the HRA reports for the Pre-submission version of the Herefordshire Local Plan (Core Strategy) and the proposed Main Modifications were also taken into consideration.
- 2.4 None of the Brilley NDP objectives and policies (April 2016 and Addendum in July 2016) were concluded to be likely to have a significant effect on the European site. This conclusion is based on assumptions and information contained within the Brilley NDP.
- 2.5 In many cases this is because the policies themselves would not result in development, i.e. they related instead to criteria for development. In several cases the policies also included measures to help support the natural environment including biodiversity and safeguard historic environment. These policies have the potential to mitigate some of the possible adverse effects arising from other policies.
- 2.6 With regard to site allocations, the possibility of there being likely significant effects was considered unlikely given that none of the sites are in close proximity of the European sites. However, it is considered that the inclusion of additional policy wording within the related housing policies of the NDP would, along with other policies, provide adequate safeguarding measures.
- 2.7 It was also concluded that the Brilley NDP will unlikely have any in-combination effects with any plans from neighbouring parishes.
- 2.8 Therefore it was concluded previously that the **Brilley NDP will not have a likely significant effect on the River Wye SAC.**

- 2.9 The proposed amendments to the final NDP following the examination are screened to consider if they are likely to significantly affect the findings of the previous HRA Report, prepared in July 2016. A summary of the main findings is provided below. The full findings can be found in Appendix 1 of this report.

### 3.0 Summary of main findings

- 3.1 The final NDP incorporates the modifications that examiner has recommended within the examiner's report. These changes are to ensure that the Plan meets the Basic Conditions. For full details on the modifications see Appendix 2 of this Addendum.
- 3.2 No new policies have been introduced into the Final NDP following the examination; however there have been some minor word changes and repeated or unnecessary criterion deleted from some of the policies. Policy BR2 protection of local green spaces has been deleted as it is not compliant with paragraph 77 of the NPPF. Policy BR4 Ensure an appropriate range of tenures, types and sizes of houses, has also been deleted as the examiner has found it not to be in general conformity with the Core Strategy and lack of evidence to support the policy. Policy BR9 has also been deleted as it is not worded as a land use policy and is more of an aspirational statement for traffic improvements. BR12 and BR13 have merged to stop policy repetition and add clarification to the policy.
- 3.3 The revised NDP policies are therefore unlikely to result in significant effects on the European sites, a conclusion of which is based on assumptions and information contained within the Brilley NDP, the proposed Main Modifications to the Herefordshire Local Plan (Core Strategy) and the latest version of the HRA for the Local Plan (Core Strategy).

### 4.0 Conclusion

- 4.1 With reference to section 3 above, the change of wording added to the Policies BR3, BR7, BR12 and BR14 (now BR2, BR5, BR9 and BR10) have been rescreened this have improved certainty in many places providing a more positive effect on the HRA SAC. The deletion of criterion within Policies and deletion of policies BR2, BR4 and BR9 are not considered to affect the findings of the previous HRA report. Policies BR1, BR5, BR10 and BR11 (Now BR2, BR3, BR7 and BR8) had minor wording amendments but changes were not significant enough to require rescreening.
- 4.2 Therefore the earlier conclusion that the **Brilley NDP will not have a likely significant effect on the River Wye SAC** remains valid.

### 5.0 Next steps

- 5.1 This Addendum Report will be published alongside the final Brilley NDP and the earlier HRA report and Addendum.

# Appendix 1

**Table 4: HRA Re-Screening of Significant Changes (Policies) following Draft Plan Consultation**

**Parish Council Name:** Brilley Parish

**NDP Title:** Brilley NDP

**Date undertaken:** February 2017

NDP Redrafted objectives, options, policies, sites following significant changes HRA Screening	HRA Re-Screening Assessment of significant changes (objectives, options and policies) following Draft Plan Consultation				
	Likely activities (operations) to result as a consequence of the redrafted objective, option or policy	Likely effect if redrafted objective, option or policy implemented. Could they have LSE on European Sites? (Yes/No, with reasons)	European Sites potentially affected  (Refer to Initial Screening)	Mitigation measures to be considered to avoid any impacts	If recommendations are implemented, would it be possible that it would result in no likely significant effect?
Policy BR2 (Formally BR3)	Ensuring that any new housing development contributes to mixed developed in relation to local housing needs.	No likely significant effect on the River Wye SAC	River Wye (including River Lugg) SAC	This addendum report reveals that none of the changes proposed to the policies through the Examiners Modifications would affect the conclusions set out in the in the April 2016 and July 2016 HRA reports.	No. This policy is unlikely to have a significant effect on the River Wye SAC.  Examiner's modifications offer more flexibility encouraging sustainable development.
Policy BR5 (Formally BR7)	N/A This is likely to mitigate effects of development safeguarding heritage of the built and natural environment.  Reduction of outdoor lighting.	No likely significant effect on the River Wye SAC	River Wye (including River Lugg) SAC	This addendum report reveals that none of the changes proposed to the policies through the Examiners Modifications would affect the conclusions set out in the in the April 2016 and July 2016 HRA reports	No. This criteria based policy will not produce any impact upon the European site and ensures protection for dark skies in the neighbourhood area in accordance to SD1.  Examiner's modifications offer

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					greater clarity defining types of lighting and time limitation making this policy easier to implement in line with national legislation.
Policy BR9 (Formally BR12)	Job creation  Potential increase in transport.  Greater monitoring of sustainable and environment standards from businesses.	No likely significant effect on the River Wye SAC	River Wye (including River Lugg) SAC	This addendum report reveals that none of the changes proposed to the policies through the Examiners Modifications would affect the conclusions set out in the in the April 2016 and July 2016 HRA reports	No. This policy is unlikely to have a significant effect on the River Wye SAC.  Modifications included strengthening the wording to take account of National Policy and guidance.
Policy BR10 (Formally BR14)	New development for tourist accommodation.  Potential increase in transport usage.  Small increase in water usage and abstraction.  Increase in facility usage.	No significant effect upon the River Wye	River Wye (including River Lugg) SAC	This addendum report reveals that none of the changes proposed to the policies through the Examiners Modifications would affect the conclusions set out in the in the April 2016 and July 2016 HRA reports	No. This policy is unlikely to have a significant effect on the River Wye SAC. The examiners modifications help to clarify and strengthen the policy, to take account of National Policy and guidance.

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# Appendix 2

HRA Appendix 2-Table of Examiner's recommended modifications

Policy	Modification recommended	Justification
Recommended Modification 1	<p>Recommendation 1: revise Policy BR1 as follows:</p> <p>Revise the first paragraph to refer to the Proposals Map.</p> <p>Revise paragraph 4 to read: "Proposals for new and improvements to existing community facilities will be supported, provided that:"</p> <p>Revise criterion f) to read "The proposal would not have an <i>unacceptable</i> adverse effect on....."</p> <p>Revise the final paragraph to read: "The school site (now part of the Village Hall and Green Community Facility) <i>shall be used to provide infrastructure to support social events, educational and recreational activities.</i>"</p>	<p>Interests of accuracy and clarity</p> <p>Gives the policy greater flexibility.</p>
Recommended Modification 2	<p>Recommendation 2: Delete Policy BR2, paragraphs 7.4 to 7.6 and delete the sites from Figure 3.</p>	<p>Interests of accuracy and clarity.</p>
Recommended Modification 3	<p>Recommendation 3: Revise the first part of Policy BR3 as follows:</p> <p><i>"At least 16 dwellings shall be delivered by 2031 through the development of the housing allocations, windfall development within the settlement boundaries and exceptionally through windfall development in the countryside.</i></p> <p><i>"The following sites are allocated for housing development as defined on the Brilley Village Proposals Map:</i></p> <p><i>"Site 1 Pentre Lane site (0.5ha), up to 4 dwellings</i></p> <p><i>"Site 2 Site west of Brunley Close, (0.73ha) for up to 5 dwellings</i></p> <p><i>"New housing development should be: criteria a) to e)."</i></p> <p>For the avoidance of doubt: No modifications are proposed to the remainder of Policy BR3. The Settlement Boundaries should be revised to include the allocated housing sites. The key to the Proposals Map should be revised to read "Housing Allocations". The housing allocations should be numbered.</p> <p>Paragraph 7.21 should be revised to delete "(though these figures have been deleted from the draft Plan following responses to the Regulation 14 consultation)".</p> <p>Add <i>"It is anticipated that additional dwellings will come forward as windfalls."</i> before the final sentence in paragraph 7.21.</p>	<p>Lack of evidence to justify local green spaces.</p> <p>No evidence has been provided as to why the green spaces are demonstrably special to the local community.</p> <p>Both sites are at some distance from the local community, it is considered that they do not satisfy the NPPF requirement that they be in reasonably close proximity to the community they serve.</p> <p>This reflects the relevant legislation Paragraph 77 of the NPPF.</p>
Recommended Modification 4	<p>Recommendation 4: Delete Policy BR4. Move paragraph 7.25 to the local evidence section of the introduction to the housing section.</p>	<p>It is considered that Policy BR4 is not in general conformity with the strategic policies. No evidence has been supplied to support and justify its application on the small site allocations proposed. It is recommended therefore that it be deleted.</p>

Recommended Modification 5	<p>Recommendation 5: Revise Policy BR5 as follows:  Delete criterion b)  Revise criterion c) to read “Does not have an unacceptable detrimental effect on...”.  Revise criterion d) to read “Does not have an unacceptable detrimental effect on highway safety.”  Revise criterion h) to read “... or suitable alternatives”.</p>	<p>Strengthen and clarification of policy</p> <p>Clarification of the text and to add more certainty</p> <p>Reflect the relevant legislation</p>
Recommended Modification 6	<p>Recommendation 6: Replace Policy BR7 with:  <i>“Development should not detract from the unlit environment of the Plan area. Security, outside lighting and floodlighting should be designed to be deflected downwards. Outside lighting and floodlighting should be switched off no later than 23.00. Security lighting should be switched on as required.”</i></p>	<p>For clarity, consistency and accuracy. Makes the policy easier to implement.</p>
Recommended Modification 7	<p>Recommendation 7: Delete Policy BR9.</p>	<p>Insufficient account of policy and guidance. Lack of supporting evidence for the policy to stand.</p>
Recommended Modification 8	<p>Recommendation 8: revise Policy BR10 as follows:  Delete criteria c) and d) and the final paragraph of the policy (The Parish Council will...)</p>	<p>For clarity, consistency and accuracy.  Ensure policy is deliverable.</p>
Recommended Modification 9	<p>Recommendation 9: revise Policy BR11 to read: <i>“The improvement and enhancement of the public rights of way network for walking and cycling will be supported.”</i>  Delete the final paragraph of the policy and criteria a) and b).</p>	<p>Policy is too onerous and undeliverable, policy changes makes the policy implementable and deliverable.</p>
Recommended Modification 10	<p>Recommendation 10: amalgamate Policies BR12 and BR13 to read:  “The development of new sites or buildings of an appropriate scale to serve the employment needs of the local area and the enlargement or improvement of existing business premises will be supported provided that the development satisfies the requirements of Policy BR5 and other policies of the development plan.”</p>	<p>Should be modified to reflect national policy and guidance.  To add clarity to the policy as policies BR12 and BR13 overlap, policies to merge to avoid repetition.</p>
Recommended Modification 11	<p>Recommendation 11: Revise Policy BR14 to read:  <i>“Development that contributes to the visitor economy and new visitor accommodation will be encouraged provided that it would not have a detrimental impact on the natural or heritage assets and the overall character and quality of the environment, in particular:</i>  <i>f) it is of an acceptable scale for the proposed location;</i>   <i>g) there is adequate existing screening for any new buildings to reduce the impact on the landscape;</i>  <i>h) a satisfactory means of access and parking can be provided;</i>  <i>i) it ensures that any likely significant effect on the River Wye Special Area of Conservation (SAC) is avoided or adequately mitigated; and</i>  <i>j) it satisfies the requirements of Policy</i></p>	<p>Lack of evidence and framework provision.</p> <p>Parts of the policy is too onerous and undeliverable.</p> <p>Should be modified to reflect national policy and guidance.</p>

	<p>BR5 and other policies of the development plan. Retain the second part of the policy and criteria j) to l) renumbered.” <i>The justification to the Policy should explain that any new residential accommodation associated with tourism development will be considered against Core Strategy Policy RA4 Agricultural, Forestry and Rural Enterprise Dwellings and will be subject to an occupancy condition.</i> <i>The terms of a Local Needs Connections Policy that is to be applied to proposals involving the change of holiday accommodation to residential use should be agreed with the local planning authority and included in the justification to the policy.</i></p>	
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