

Regulation 16 Consultation
on the Submitted Martley, Knightwick & Doddenham
Neighbourhood Plan
RESPONSE FORM

Under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012, Martley Parish Council has submitted the draft Martley, Knightwick & Doddenham Neighbourhood Plan to Malvern Hills District Council. In accordance with Regulation 16, Malvern Hills District Council would like to invite comments from organisations and individuals on the Neighbourhood Plan.

This consultation runs for six weeks from Friday 12th May to Friday 23rd June 2017.

If you wish to comment on the draft Martley, Knightwick & Doddenham Neighbourhood Plan **please complete and return this form no later than 5:00 pm on Friday, 23rd June 2017** to:

Email: developmentplans@malvern hills.gov.uk, or by

Post: Planning Policy, Malvern Hills District Council, Planning Services, The Council House, Avenue Road, Malvern, Worcestershire, WR14 3AF.

All comments will be made publicly available and identifiable by name and organisation (where applicable). Please note that any other personal information provided will be processed by Malvern Hills District Council in line with the Data Protection Act 1998.

Please fill in your details in the boxes below:

Full Name: Peter Henry Tufnell DipTP MRTPI

Organisation (if applicable): Tufnell *Town & Country* Planning

Address (including postcode):

████████████████████

████████████████

Telephone number: ██████████

Email address: ████████████████████

Please state which part of the draft Neighbourhood Plan (i.e. which section, objective or policy) your representation refers to (please use a separate form for each representation):

Submission on behalf of the Bray Family, covering the whole NDP

Please use the space below to make comments on this part of the Neighbourhood Plan.

Please see attached statement of representation

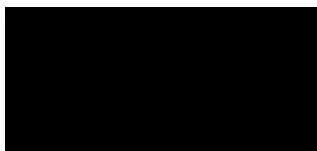
Please use a separate form for each representation.

Future Notification

Please state whether you would like to be notified of the decision on the Neighbourhood Plan proposal:

Yes ^{*}

No



Signature Date 23.June
2017.....

Thank you for completing this form.

Regulation 15 Consultation

Neighbourhood Planning (General) Regulations 2012

Martley, Nightwick & Doddenham

Neighbourhood Development Plan

REPRESENTATIONS ON BEHALF OF THE BRAY FAMILY

INSTRUCTIONS

Peter H Tufnell is instructed by the Bray Family who have owned and farmed land in Martley Parish for 3 generations.

PROFESSIONAL BACKGROUND

I am the principal of Tufnell Town & Country Planning and a Member of the Royal Town Planning Institute. I hold a Post Graduate Diploma in Town & Country Planning and I have in excess of 35 years experience working in the public and private sectors centred on the three counties of Gloucestershire, Herefordshire and Worcestershire. I have visited/inspected the Parish (NDP area) and its environs and know the village of Martley and its environs well. I am familiar with Malvern Hills District and the South Worcestershire Development Plan ("SWDP") area having worked in and around the area for many years.

I have been involved in the Bray Families recent planning applications in the village and as part of that process have investigated the recent planning history of other village developments, including housing developments (some of which) have recently been delivered.

I have dealt with a wide range of planning proposals at planning application and at appeal stage and presented evidence at numerous Hearings, Local Inquiries and Development Plan examinations

The evidence which I have prepared and provide for this representation is true, and has been prepared, and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions.

1. INTRODUCTION

1.1 For the purpose of this representation this emerging (regulation 15) NDP is referred to as “The Plan”. In order for any NDP to be successful it needs to fulfil certain legal and administrative criteria and it has to be genuinely and positively prepared so that it will meet the socio-economic and environmental needs of the parish set within the Development Plan hierarchy and National Planning Policy Framework (“TF”). The needs of existing parishioners and all who will be parishioners, including e.g. those who have a need or wish to form new households should be considered/taken into account. The absence of current support or presence of current objection, for a particular policy or proposal should not necessarily determine outcome as the decisions taken will need to have been shown to be carefully and professionally considered. The plan needs to be fit for purpose throughout the plan period. Where there are competing issues, as is often the case in planning, evidence will need to be weighed and considered and professional planning balance exercised.

1.2 Matters to be considered in assessing the suitability or appropriateness of The Plan’s policies include the following:

- Positively Prepared
- Justified
- Effective
- Consistent with existing Development Plan policy
- Consistent with national policy
- Legally compliant and sound

The issues covered are invariably interrelated crossing over two or more of the identified matters, and need to be considered in the round.

2. IS THE PLAN POSITIVELY PREPARED, JUSTIFIED & EFFECTIVE?

2.1 To be positively prepared due weight should be given to all three of the dimensions of sustainable development: economic, social and environmental in a balanced fashion. The Plan however is considered to be centred on the environmental dimension.

2.2 Reference is made to the need to “plan positively” in paragraph 2.1.7 and this is supported. However, close analysis of The Plan’s content reveals that it is far from positive. The document, if approved as a development plan document will stifle a range of otherwise acceptable developments that it ought to be facilitating. The Plan will run contrary to the legitimate and necessary planning goal of promoting a thriving sustainable community.

2.3 The Plan’s Vision as set out in paragraph 3.1 is most noteworthy for the absence of vision. There is nothing in the Vision about provision of homes. There is no recognition that

people need places to live. There is also no vision for affordable homes, for homes for the young or for the elderly, or less-able. Whilst there is reference to a housing objective (paragraph 3.2- Objective 3) that does acknowledge planning for housing need it is framed as a protectionist (or exceptions) policy taking no account of in-migration. Little or no regard is paid to how affordable housing will be delivered. Objective 3 lacks clarity. On the one hand it is a housing objective, yet on the other it is an environmental objective. Whilst we encourage policies to be balanced, objectives need to be singularly clear. Objective 3 needs to be disaggregated to its separate elements. Notwithstanding objection to the wording of the objective it is also doubted whether the objective will be met given the wording of The Plan's policies and its tightly drawn restricting boundaries. Further evidence that The Plan appears to devalue "housing" is provided by its inclusion within section 5, Built Heritage (objective 3), but more particularly that section 6 is entitled "Settlement Pattern and Housing". It may seem a moot point, but settlement pattern should have been adequately dealt with in the built heritage section, and housing should be included as a distinct section.

2.4 The Plan is lacking justification for its environmental protectionist approach. At paragraph 1.3.4 The Plan's authors' refer to "...reduce demand for housing in rural areas...", due to rising energy costs. I do not regard this as a statement of fact. No evidence is provided to back the claim. In any event, it is not simply a matter of whether demand has by fact and degree reduced from a peak; it is whether demand (and need) can be satisfied by supply. Martley is a SWDP Category 1 village having the highest level of services and facilities below the market towns. The Plan refers to pupils from Worcester City being bussed to the school, and of large capacity community facilities. A more sustainable approach would be for planned and windfall developments at a scale commensurate with retaining and enhancing services and facilities. It is imperative that development is planned for and delivered at Martley that will not only maintain, but enhance, its vitality. There is a case for the allocation of one or more housing sites, in addition to greater encouragement to windfall.

2.5 To be effective the NDP needs to positively plan for the whole range of future needs of the NDP area, taking account of its parishioners, but also set within a context recognising the interrelationship with neighbouring settlements. Where there are group dynamics between settlements and hinterland which share services and facilities they need to be identified and understood.

2.6 Map 3 to The Plan is out of date. It depicts some sites as housing commitments when they have been developed. The Map 3 needs to be brought fully up to date.

2.7 The Plan's Section 4 Landscape objectives are in principle sound and should be supported. The Plan however misinterprets the intent of the LCA "character" based system (inclusive of the LCA Supplementary Guidance-2012), viewing it more as a landscape

protection policy. There is reference to parts of the landscape as “valued landscape”, but if the plan intends to pursue a proposal for valued landscape it must identify specifically the landscape to be covered and provide appropriate reasoned justification for designation. It does neither. It is accepted that there is an interrelationship between landscape, biodiversity and geological value. The Plan discusses these issues, but in a muddled way and it is difficult to understand which of the three elements the plan is promoting as “special” and in need of protection. The plan need to be clear and justified for each issue.

2.8 It is not clear what is meant by “conservation” in the context of Table 1, and the value of the consultation exercise is questioned. It is unclear what The Plan intends by reference to “significant local landscape features”, or how these “designations” are justified. If these features are intended as designations I would question consistency within the SWDP area. Likewise the Appendix 1 “significant views”, whilst interesting, require close scrutiny before they are incorporated in to a restrictive policy as proposed by MKD1.

2.9 The current physical attributes of Martley village is not wholly typical of the LCA within which it is situated. It is not correctly categorised as a settlement of dispersed character, despite the fact that it incorporates areas of open space and has a more open character than many more nuclear settlements. The village has evolved. It has at its physical and social core a church, schools and other village services and facilities, together with 20th and 21st century developments that have consolidated the development pattern. MKD1 seeks to impose or create some kind of idealised rural idyll turning the clock backwards. It is neither a practicable, achievable or appropriate approach. The policy is too prescriptive and complex. The settlement pattern analysis set out in Section 6 is not accepted. The Village has evolved following the historic analysis by *Brookes* and *Pevsner*. The built form character of Martley Village is both distinct and separate from the character of more outlying parts of The Plan area. The policy is flawed and unsound.

2.10 Martley Conservation Area Appraisal and Management Strategy is dated June 2006. It is an appropriate policy document. It is not necessary for The Plan to repeat lengthy sections of the MCAAMS. It should be recognised that the Conservation Area has evolved, and will continue to evolve. It should also be recognised that the correct starting point for the consideration of development is the circumstances (and policy framework) that currently prevail, and not that which had existed.

2.11 The Plan is muddled in proposing as Action 1 (Map 9) an extension to the Conservation Area, which is also referred to as “a distinctive landscape feature”. The Plan needs to be clear what it seeks to achieve. The area is private land, served by a PROW, but with no other public rights. If it is intended to apply for Conservation Area status it will be necessary to demonstrate that the land qualifies by appropriate legislative channels. It is not appropriate

to “ease” the aspiration in to policy without proper analysis and justification. Objection is raised to both elements of Action 1.

2.12 Actions 2 and 3 are also “halfway house” policies that are not within the power of The Plan. There is insufficient justification for extension to the AONB and no evidence relating to local list candidates. The Parish Councils can pursue aspirations on these matters without references in The Plan.

2.13 Whilst there are no firm objections to Section 7 and the wish to protect important green space is understood and supported there is no need to duplicate other controls and protections. I question what benefit would accrue as a result of designation for e.g. Ankerdine Common? It is owned by Worcestershire County Council and Managed as a Local Nature Reserve. The Recreation Ground is protected by policy MKD13, so does not need duplicated protection.

2.14 MKD12 is supported in principle. The policy, in line with MKD9, appears to recognise that there is a place for larger development schemes and that they can make positive health and well-being contributions.

2.15 Support in principle is also offered for MKD14. Requirements for additional car parking for the Memorial Hall seem to have been omitted from the supporting text and should be included. The specific requirement for any re-provided or alternative community facility to be no more than 800 metres from the community that it serves is however for this community impracticable. Unworkable urban standards should not be applied. Policy MKD15 requires amendment to accord with national policy. A requirement for enhancement is excessive. Proposals that do not harm should not be rejected.

2.16 The respective purposes of Maps 12 and 13 need to be explained. It is not clear from Map 12 exactly where photographs are taken (obscured by large squares). The arrows imply multiple views. Map 13 indicates 23 views, but the photographs stop at 17. The Plan’s authors are requested to confirm that all photographs have been taken with a standard lens and for photographs to be dated. The justification for concluding that certain views are significant is absent.

3. IS THE PLAN CONSISTANT WITH THE SWDP & THE FRAMEWORK? IS IT LEGALLY COMPLIANT & SOUND?

3.1 At Section 2 of The Plan selected policy from TF is singled out. Whilst I have no concern with the policy referred to there needs to be justification for the “singling out” and The Plan ought to state that TF should be read as a whole. The singling out, in my view speaks volumes. It demonstrates a discrimination or bias towards environmental protectionism and

away from balanced sustainability and positive planning. Cherry picking the “conservation” principles from TF paragraph 17 core planning principles aptly demonstrates the underlying theme of The Plan. It is not necessary to repeat policies from TF, SWDP or any other recognised planning policies in The Plan.

3.2 The theme is continued in The Plan paragraph 2.1.5 where TF paragraphs 109 and 112 are highlighted. The approach wholly misses the point, that there are 3 dimensions to sustainability. There are social and economic dimensions as well as environmental.

3.3 The direction of travel of National Policy includes a growing recognition of the value of small and medium sized building and development companies in providing flexibility and choice of housing and in delivering quality homes. The reasons for the encouragement are complex but include a concern that delivery of housing is not best achieved by limiting the delivery to a handful of national companies. Developments by small local firms can assist in providing local employment and in keeping money in the local economy through direct and indirect economic means. The recent encouragement for small/medium firms also dovetails with national policy for self-build and custom-build developments. The Plan’s policies on these matters are sparse (except for reference to self-build in paragraphs 6.17 & 6.19/ policy MKD9 - see discussion in paragraph 3.12 below). Failure to properly take account of these matters may result in otherwise sustainable and acceptable developments being wrongly seen as unsustainable and unacceptable, contrary to the best interests of the community and to sound planning.

3.4 There is a concern that the SWDP, although recently approved, is not (subject to interpretation) fully in accordance with national policy on these particular matters. The Plan will need to be in general conformity with the SWDP but it must also ensure compliance with national policy. The Supreme Court’s recent ruling¹ on the meaning of “sustainability” in TF has (in my view) raised the bar for policy making and as it is a reversal of the Court of Appeal’s earlier decision² (i.e. the relevant Case Law at the time of adoption of the SWDP) a material change in the law. It is vitally important that for all emerging DPs there is a proper and full understanding of the consequences of the law whereby development boundaries must not be too tightly drawn. To prohibit otherwise sustainable development without detailed analysis is not eloquent of a positively prepared and sound approach to development management. The provision of development boundaries without cost-benefit analysis and planning balance is tantamount to simplistic zoning and is unsound. It is appreciated that The Plan largely repeats the SWDP boundaries for the village and as such the approach taken is understandable. The extent of objection to or consideration of, development boundaries for Martley during the SWDP examination is not known. The Plan must react and adjust to ensure that it will accommodate all material considerations,

¹ Supreme Court[2017]UKSC37

² Court of Appeal [2016]EWCA.Civ.168

including up to date planning law and policy. It must not prohibit otherwise sustainable development which is at a scale commensurate with this Category 1 settlements needs and status. There is a sound case for a comprehensive review of the Martley settlement boundary so that it encompasses (at the least) the built physical framework of the village, and that it provides for need and supply throughout the plan period

3.5 Viewing the plan area in isolation from, or out of context with, the SWDP, TF and planning law will result in non-conformity and non-compliance.

3.6 MKD2 (part 1) deviates from Planning Law and practice and is therefore inappropriate. It is not necessary to repeat legislative requirement in policy. The law can be set out, if considered necessary, in supporting text. Objection is also raised to parts 3 and 4 of the policy. Although the policy is, I am sure, well intentioned it is over prescriptive, without due justification. It is contrary to positive planning as set out in the SWDP and TF. Policy MKD2 is not sound.

3.7 The message of MKD3 is generally supported, but the precise wording follows the same over prescriptive pattern and is unacceptable and unsound.

3.8 MKD6 is also over prescriptive (and unjustified). Design principle 1 is not in accordance with the settlements Category 1 status and is contrary to the SWDP and TF. Parts 2 and 3 are over prescriptive and could be said to be more restrictive than controls applying within a designated Conservation Area. It is a policy designed to prohibit or curtail development. This is not acceptable.

3.9 Contrary to the views set out in The Plan (paragraphs 6.9-6.10) development at Martley in order to support the vibrancy of the community and its range of services and facilities had been long overdue. Malvern Hills District (in isolation of its DP partners) had a long record of under delivery of housing. Whilst current provision (to be achieved by implementation of the SWDP) and a more favourable national context have helped, I would characterise the recent Martley developments as long overdue and as a “catch up”. The Plan, as currently worded, effectively closes the door on the future. A 5 year supply (SWDP-MHDC stated position) has been shown courtesy of more generous provision in Wychavon District, but that does not necessarily satisfactorily address local need or wide choice for those who desire (or need) housing in Martley or surrounding MHDC parishes. Achievement of a robust supply may be tenuous. This is certainly the recent experience of Herefordshire Council where the achievement of 5 year supply had been agreed in the DP process but subsequently accepted as not being deliverable. A 5 year supply should be regarded as a minimum. Suitable flexibility and adequate supply will not be achieved by negative planning.

3.10 Policy MKD7 is negative and over prescriptive. There is no justification to limit development to infilling or conversion. The policy is at odds with TF's model of sustainable development, cost-benefit analysis, and positive planning. It is also at odds with the SWDP, including the development hierarchy. Paragraph 6.13 of The Plan selects those parts of TF Paragraph 55 that supports its position, but conveniently omits references to more positive guidance (see 3.11 below)

3.11 The Plan includes the Parishes of Knightwick and Doddenham, but is silent on whether it is appropriate to view the settlements within the plan area as "group villages" as referred to in TF paragraph 55. The plan should consider the costs and benefits of a group village approach and to justify a preferred approach with reasoned arguments. To simply remain silent suggests that no consideration to the matter has been given. Objection is raised to policy MKD8 for similar reasons. In recognition of an acute shortage of affordable housing (including the failure of the current system to deliver affordable housing), it is suggested that encouragement should be given to cross-subsidy schemes that will deliver affordable housing. The requirement as set out in paragraph 6.17 for on-site affordable housing provision (small sites) exceeds the national policy position. The deviation will need specific justification.

3.12 MKD9 is a curious policy which on its face encourages developments of 5 or more dwellings. Inclusion of the policy is a positive step. The difficulty however is that the policy would (due to lack of land within the development boundaries) result in conflict with other emerging policies, including MKD7 and MKD8. Development according with the policy is unlikely to be achievable in accordance with The Plan read as a whole. Whilst this positive policy is supported in principle, in context with the more general negative theme of The Plan it is nonsensical.

3.13 A definition of Sustainability is provided in the Glossary which makes reference to TF and to other sources. It is not necessary or appropriate to deviate from TF definition. Paragraph 6 of TF makes it clear that: "The policies in paragraphs 18-219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system"

4. CONCLUSION

4.1 Notwithstanding what are no doubt best intentions, The Plan, as currently presented, is an example of negative planning. It is not fit for purpose. It will require substantial review and amendment.