

# Basic Conditions Statement

## Cleobury Mortimer Neighbourhood

### Development Plan 2020 - 2038

1. This Statement has been prepared by Cleobury Mortimer Town Council (the Town Council) to accompany its submission to the local planning authority, Shropshire Council of the Cleobury Mortimer Neighbourhood Development Plan 2020 - 2038 (CMNDP) under Regulation 15 of The Neighbourhood Planning (General) Regulations 2012.

#### **The Regulations**

2. The CMNDP is being submitted under Regulation 15 of The Neighbourhood Planning (General) Regulations 2012 which requires under Regulation 15 (1):
  - (d) *a statement explaining how the proposed neighbourhood development plan or neighbourhood development plan as proposed to be modified meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act or in the case of a modification proposal, how the neighbourhood development plan as proposed to be modified meets the requirements of paragraph 11 of Schedule A2 to the 2004 Act.*
3. Paragraph 8 of Schedule 4B of the 1990 Act paragraph 2 accordingly requires:

*The Neighbourhood Plan must meet the following requirements:*

#### **Legal matters**

*(1) The examiner must consider the following: -*

- (a) whether the draft neighbourhood development plan meets the basic conditions (see sub-paragraph (2)),*
- (b) whether the draft neighbourhood development plan complies with the provision made by or under sections 61E(2), 61J and 61L,*
- (c) whether the area for any referendum should extend beyond the neighbourhood area to which the draft neighbourhood development plan relates, and*
- (d) such other matters as may be prescribed.*

#### **The Basic Conditions**

*(2) A draft neighbourhood development plan meets the basic conditions if: -*

- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood development plan,*
- (b) the making of the neighbourhood development plan contributes to the achievement of sustainable development,*

*(c) the making of the neighbourhood development 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),*

*(d) the making of the neighbourhood development plan does not breach, and is otherwise compatible with, EU obligations, and*

*(e) prescribed conditions are met in relation to the neighbourhood development plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood development plan.*

*(f) The examiner is not to consider any matter that does not fall within subparagraph (1) (apart from considering whether the draft neighbourhood development plan is compatible with the Convention rights).*

4. This Statement addresses these matters in turn.

#### Legal Requirements

5. The CMNDP is submitted by Cleobury Mortimer Town Council, which, as a qualifying body, is entitled to submit a Neighbourhood Plan for its own parish. The Plan has been prepared by the Cleobury Mortimer Neighbourhood Development Plan steering group, which is overseen by the Town Council.
6. The whole parish of Cleobury Mortimer has been formally designated as a Neighbourhood Area under the Neighbourhood Planning Regulations 2012 (part2 S6) and was formally approved by Shropshire Council on 2 May 2018. The full report is copied in **Annex 1. Figure 1** shows the extent of the designated neighbourhood area.
7. The Plan contains policies relating to the development and use of land within the neighbourhood area. Proposals relating to planning matters (the use and development of land) have been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the Neighbourhood Planning Regulations 2012.
8. The Plan identifies the period to which it relates as **2020 to 2038**. The start date of the plan relates to the start of the evidence gathering for the NDP and the end date is tied to the emerging Shropshire Local Plan 2016 – 2038. The start date of the CMNDP is not linked to the start date of the emerging LP because this date pre-dates evidence gathering.
9. The Plan does not deal with county matters (mineral extraction and waste development), nationally significant infrastructure or any other matters set out in Section 61K of the Town and Country Planning Act 1990.
10. The Plan relates only to the parish of Cleobury Mortimer. It does not relate to more than one neighbourhood area. There are no other neighbourhood development plans in place within the neighbourhood area.

Figure 1: Map of Plan Area (Cleobury Mortimer Parish)



## The Basic Conditions

### Having regard to national policies and advice contained in guidance issued by the Secretary of State

11. The Neighbourhood Plan has been prepared having regard to national policies, in particular those set out in the National Planning Policy Framework 2021 (NPPF) and the National Planning Practice Guidance (NPPG) suite. It is contended that the neighbourhood plan accords with the core Planning Principles at the heart of the NPPF. This has been confirmed by the Local Planning Authority in its response to the Regulation 14 consultation and the response is copied in the Consultation Statement.
12. **Table 1** below provides a summary of how CMNDP policies conform to the NPPF. The NPPF paragraphs set out are those considered most relevant. The table is not intended to be an exhaustive list of all NPPF policies.

<b>Table 1</b>		
<b>CMNDP Policy Number</b>	<b>NPPF 2021 Reference</b>	<b>Commentary</b>
<b>CM1: Ludlow Road residential allocation</b>	11a	The proposal meets the objectively assessed housing needs of the parish.
	28	The allocation is a non-strategic policy that sets out the community's shared vision for future housing growth based on years of detailed negotiation between the land owner, the Town Council and the planning authority.
	29	The allocation, taken alongside expected windfall contributions, exceeds the housing requirement.
	34	The allocation alongside other policies gives developers a clear understanding of necessary development costs arising from infrastructure provision.
	61	The housing requirement was provided by the planning authority based on the standard method as explained in the site allocation report.
	62-63	The affordable housing requirements were derived from a survey of community housing preferences and Shropshire council data.
	71	As explained in the site allocation report, the housing requirement set by the LPA was expressed as 100% windfall. The NDP evidence concludes that it was unlikely that the full requirement could be met by windfall and it undertook to allocate 100% and leave windfall as a separate source of provision which has not been analysed.
	92,93	The allocation makes provision for walking and play in a natural environment supporting healthy lifestyles and fostering social interaction.
	98	The proposal combines a need for recreation and play with improvements to the natural environment including the use of natural flood management techniques as part of sustainable urban drainage.
	104,106	The scheme will contain an internal link to the wider walking network. Access to the town centre on foot and cycle is possible on Catherton and Ludlow Roads.

	114	The policy seeks to have broadband and mobile phone provision to link to the existing fibre network.
	126-127	Scheme design is supported by design policy CM6.
	131	The policy requires tree planting for recreation, biodiversity net gain, cooling and amenity.
	153 -155	The proposal seeks to ensure that buildings address climate change and meet part of their own energy needs.
	159	The site is in Flood Zone 1.
	174	The proposed wildlife corridor promotes the wider benefits of natural capital and ecosystem services.
	179	The proposal creates a new wildlife corridor that links to the existing wildlife network.
<b>CM2: cemetery extension</b>	34	The requirement for additional cemetery provision arises from the development. A reasonable contribution has been agreed with the landowner of this site and the allocation under CM1.
<b>CM3: Extension at Tenbury Road employment area</b>	11a	The proposal meets the objectively assessed economic development needs of the parish.
	28	The allocation is a non-strategic policy that sets out the community's shared vision for future economic growth based on years of detailed negotiation between the landowner, the Town Council and the planning authority.
	34	The allocation alongside other policies gives developers a clear understanding of necessary development costs arising from infrastructure provision.
	81, 82	The allocation sets out clearly how local businesses can invest and expand in a flexible manner.
	106	The allocation has a requirement to enhance the local walking and cycling network.
	114	The policy seeks to have broadband and mobile phone provision to link to the existing fibre network.
	126	The proposal seeks high standard development.
	153 -155	The proposal seeks to ensure that buildings address climate change and meet part of their own energy needs. Renewable and low carbon energy is supported.
	159	The site is in Flood Zone 1.

<b>CM4: Cleobury Mortimer development boundary</b>	11a	The development boundary is an adjustment to accommodate planned housing and commercial growth.
	119	Adjusting the development boundary provides certainty in meeting the need for housing and other development whilst safeguarding and improving the rural aspects of the parish.
<b>CM5: Housing Mix</b>	62-63	The affordable housing requirements were derived from a survey of community housing preferences and Shropshire council data.
<b>CM6: Housing Design</b>	107, 108	The County parking standards are to be met or exceeded and the policy is therefore not setting a local parking standard.
	127	The design principles are based on consultation with Cleobury Mortimer residents and seek to add local detail to any design codes that the planning authority may produce.
<b>CM7: Environment and biodiversity net gain</b>	130	The environmental principles are based on consultation with Cleobury Mortimer residents and the Town Council. They seek to preserve and enhance the existing high quality natural environment and to promote biodiversity improvements.
	131	The policy seeks to increase tree cover across the parish in line with Town Council aspirations, to enhance the natural environment and create new habitats and to address climate change. Native species are preferred which will be resilient and enhance local ecosystems.

## Contributes to the achievement of sustainable development

13. The following sustainability assessment has been carried out to assess how the policies in the neighbourhood plan contribute positively to delivering sustainable development. The plan will serve an economic, social and environmental objective and seeks to balance them. **Table 2** below summarises the various sustainability outcomes of each policy in the neighbourhood plan.



**Table 2: How the policies in the CMNDP contribute to sustainable development**

<b>NPPF 2021 objectives for sustainable development</b>	<b>CMNDP policies that meet the sustainability objectives in the NPPF 2021</b>
<b>Economic</b>	CM3: Extension at Tenbury Road employment area
<b>Social</b>	CM1: Ludlow Road residential allocation CM2: Cleobury Mortimer cemetery extension CM4: Cleobury Mortimer development boundary CM5: Housing Mix CM6: Housing Design
<b>Environmental</b>	CM1: Ludlow Road residential allocation CM6 Housing Design CM7: Environmental and biodiversity net gain

## General conformity with the strategic policies in the development plan

14. The development plan for the CMNDP is
  - Shropshire Local Development Framework, **Adopted Core Strategy**, March 2011;
  - The Shropshire Council Site Allocations and Management of Development (**SAMDev**) Plan, Adopted 17/12/2015;
15. The Development Plan is informed by the **Place Plan** for Cleobury Mortimer and surrounding area September 2019. Information in support of the review of the Place Plan was submitted by the Town Council in June 2019. The Place Plan is a material consideration but not a planning policy.
16. The Local Plan is currently under review and was subject to Regulation 19 consultation in December 2020. It is currently undergoing its Examination in Public.
17. The planning policy context for the CMNDP is set out in the section “Development Plan policies” in the policies section of the NDP and will not be repeated here.
18. Conformity with the Adopted Core Strategy is set out below in **Table 3** below. Only the main relevant policies will be discussed here.

**Table 3: How the policies in the CMNDP conform with the policies in the Adopted Core Strategy (2011)**

<b>Core Strategy Policy</b>	<b>Commentary why the CMNDP is in conformity</b>
<b>CS1: strategic approach</b>	As a market town, Cleobury Mortimer has already seen development identified in the core strategy and it has met its expectations as a district centre. The allocations in the CMNDP meet demand identified in the Local Plan Review.
<b>CS3: Table 2</b>	Cleobury Mortimer is identified as a district centre.
<b>4.52</b>	A new wastewater treatment plant will not be delivered by the CMNDP although efforts were made by the steering group to identify a suitable site.
<b>CS5: Countryside and Green Belt</b>	The policies adjust the development boundary to extend into the currently identified countryside but only to meet objectively assessed need for housing and commercial development. Outside the development boundary, policy CS5 will continue to apply.
<b>CS6: Sustainable development and design principles</b>	The CMNDP seeks throughout to promote good design, including the enhancement of the built environment by greater use of trees and planting to bring the natural environment into harmony with the built environment which will also help to address the challenges of climate change. The NDP contains design and environmental principles to assist applicants. The allocations were carefully chosen to be as near to the town centre as possible and to allow maximum use of walking and cycling.
<b>CS7: Communications and Transport</b>	Improvements to the walking and cycling network were included where possible in all policies.
<b>CS8: Facilities, services and infrastructure provision</b>	The provision of land for cemetery space is the main infrastructure requirement and other provision for play and open space is required in CMNDP policies.
<b>CS9: infrastructure contributions</b>	The plan makes specific reference to a range of necessary infrastructure in a clear manner: cemetery extension, sustainable urban drainage, tree planning and landscaping, play, open space, communications infrastructure, sustainable transport infrastructure and affordable housing of the type desired by the local community.
<b>CS10: managed release of housing land</b>	The allocations from this core strategy have largely been met.
<b>CS11: type and affordability of housing</b>	The requirement from this core strategy have largely been met.
<b>CS13: economic development, enterprise and employment</b>	The identified requirement has been met but the CMNDP extends the employment area to create new opportunities.

<b>CS14: managed release of employment land</b>	The identified requirement has been met but the CMNDP extends the employment area to create new opportunities.
<b>CS16: Tourism, culture and leisure</b>	The plan supports connections between visitors and the natural, cultural, historic environment through active recreation, trails and parkland.
<b>CS17: Environmental networks</b>	The CMNDP identifies key wildlife corridors and trees and contains policies to promote, enhance and connect these to create a more diverse and resilient natural environment. It also seeks to encourage long term maintenance.

20. Conformity with the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) is set out below in Table 4. Only the main relevant policies will be discussed here.

**Table 4: How the policies in the CMNDP conform with the policies in the SAMDev 2015**

<b>SAMDev policy</b>	<b>Commentary why the CMNDP is in conformity</b>
<b>MD1: Scale and distribution of development</b>	Cleobury Mortimer is identified as a Market Town and Key centre and a community cluster settlement
<b>MD2: Sustainable Design</b>	This SAMDev policy requires development to respond to local design aspirations which are provided in the CMNDP which contribute to, and respect locally distinctive and valued character. The site allocation also includes sustainable drainage and considers design and landscaping holistically across the site. The cemetery allocation meets an infrastructure requirement identified in the place plan.
<b>MD3: Delivery of housing development</b>	This has already been delivered. The CMNDP seeks to meet the requirements identified in the Local Plan review.
<b>MD4: Managing employment development</b>	This has already been delivered. The CMNDP seeks to meet the requirements identified in the Local Plan review.
<b>MD8: Infrastructure provision</b>	The site allocations in totality seek to identify and meet infrastructure requirements including for communications, sustainable transport, interment, green and blue infrastructure, renewable energy, play and open space. It was not possible to meet the need for additional water treatment infrastructure because the call for sites did not yield any reasonable and viable opportunities although this matter was discussed with landowners and the water company.

<b>MD12: The natural environment</b>	Taken together, the CMNDP policies encourage development which appropriately conserves, enhances, connects, restores or recreates natural assets, particularly where this improves the extent or value of those assets which are recognised as being in poor condition.
<b>MD13: the historic environment</b>	The CMNDP has identified elements of the historic environment and has taken them into account in it's policies. The site allocations considered the historic environment as a constraint which was used in deciding which sites to progress.
<b>S6: Cleobury Mortimer Area</b>	The development strategy has largely been delivered through past development. These policies are discussed in the Policies section of the CMNDP which demonstrates how the NDP policies built upon the SAMDev allocations and development boundary.

22. The CMNDP has been prepared to meet need identified since the NDP preparation began in 2018. The requirement for housing and employment land was provided by Shropshire Council and this is explained in detail in the CMNDP accompanying documents on the housing allocation and employment land allocations. These arguments will not be repeated here.
23. The emerging Local Plan has been the main policy driver for the CMNDP and its direction of travel. Though the emerging Local Plan was not adopted at the time that the CMNDP was submitted, and will not be until late 2023 or in 2024, its supporting evidence on housing need, environmental management and other matters is up to date and has been used extensively in the preparation of the CMNDP.
24. Conformity with the Shropshire Local Plan 2016 – 2038 (submitted to the Secretary of State on 3 September 2021) is set out below in **Table 5** below. Only the main relevant policies will be discussed here.

**Table 5: How the policies in the CMNDP conform with the policies in the emerging Shropshire Local Plan 2016 – 2038 (submitted to the Secretary of State on 3 September 2021). The document can be viewed here: [Regulation 19: Pre-Submission Draft of the Shropshire Local Plan 2016 to 2038](#)**

<b>Reg. 19 Shropshire Local Plan 2016-38</b>	<b>Commentary why the CMNDP is in conformity</b>
<b>SP1: Shropshire test</b>	The NDP was prepared in consultation with the local community and seeks to meet its needs by allocating land for housing and economic development, setting out the types of housing required, and a range of other policies aimed at preserving and enhancing the built and natural environment and identifies necessary infrastructure. The Cleobury Mortimer Place plan was used in the preparation of the CMNDP.
<b>SP2: Strategic approach</b>	The CMNDP meets identified need for housing and economic development land. It identifies locally necessary infrastructure and supports the provision of locally necessary affordable housing. The CMNDP seeks to allow Cleobury Mortimer to fulfil its role as a Key Centre.
<b>SP3: Climate Change</b>	The CMNDP seeks to address climate change on number of levels such as selecting allocation sites that can be accessible on foot and cycle, improvements to the routes to the town centre for foot and cycle, creation of wetlands, and increasing the number of trees and improving green infrastructure in the town.
<b>SP4: Sustainable Development</b>	The CMNDP meets the objectives for sustainable development as shown above.
<b>SP5: High Quality Design</b>	The combined policies of the CMNDP encourage new development to deliver high quality design by ensuring the creation of better places in which to live and work, improving sustainability, supporting active and healthy lifestyles and ensuring individual and community well-being as well as providing policies that protecting the existing character of the settlement.
<b>SP6: Health and Wellbeing</b>	The CMNDP identifies specific infrastructure improvements that will allow for healthy play and recreation and active travel.
<b>SP7: Managing Housing Development</b>	The NDP allocates land for housing and changes the development boundary to include that land allowing previously developed land within the settlement to be reused.
<b>SP10: Managing development in the countryside</b>	The CMNDP sets a revised development boundary which sets a clear framework for SP10.
<b>SP12: Shropshire Economic Growth Strategy</b>	The CMNDP allocates additional employment land to meet identified need. It seeks to allow businesses to grow and expand in the employment area in a sustainable manner including the generation of energy.

<b>DP1: residential mix</b>	Housing need was identified by using the Big Cleobury survey and Homepoint data.
<b>DP3: Affordable housing provision</b>	Housing need was identified by using the Big Cleobury survey and Homepoint data.
<b>DP11: Minimising carbon emissions</b>	The NDP contains a range of measures to ensure that housing and economic development allocations minimise carbon emissions. In addition, policies on green infrastructure will aid carbon capture and the creation of shade. Energy generation on the commercial allocation is supported.
<b>DP12: The Natural Environment</b>	The CMNDP was subject to a Strategic Environmental Assessment and makes detailed provision for biodiversity net gain in allocation policies and in its environmental principles. It seeks to significantly increase the number of trees in the parish with a preference for native species.
<b>DP14: Green infrastructure</b>	The CMNDP contains specific policies on environment, biodiversity net gain and has locally important environmental principles to guide development.
<b>DP15: Open space and recreation</b>	The CMNDP makes specific provision for open space in the housing allocation which is proposed as part of the wider green infrastructure network.
<b>DP16: Landscaping of new development</b>	The good design and environmental principles generally, and the site allocations specifically, address matters of landscaping and screening.
<b>DP19: Water resources and water quality</b>	Allocations in the CMNDP are located in Flood Zone 1. The design principles promote wastewater management and sustainable drainage. It was not possible to provide additional sewage infrastructure. Creation of new water features is encouraged.
<b>DP20: water efficiency</b>	The requirement for buildings in the employment land allocation has been downgraded from BREEAM “excellent” to “good” to conform to this policy.
<b>DP23: Conserving and enhancing the historic environment</b>	The good design principles ensure that wherever possible, proposals avoid harm or loss of significance to designated or non-designated heritage assets, including their settings.
<b>DP25: infrastructure provision</b>	The CMNDP makes specific provision for new cemetery provision to meet identified need. Other infrastructure requirements are clearly set out, particularly for site allocations.
<b>DP26: strategic, renewable and low carbon infrastructure</b>	The employment land allocation support energy generation where this does not cause harm to local amenity and character. The good design principles encourage development to maximise the use of renewable energy opportunities.
<b>DP27: Broadband and mobile communications infrastructure</b>	Residential and employment allocations encourage broadband provision.
<b>DP28: communications and transport</b>	Residential and employment allocations encourage broadband provision and the extension of footways and active travel.

<b>S6: Cleobury Mortimer Plan Area:</b>	The CMNDP is a strategy for achieving the housing and employment guidelines for the Key Centre of Cleobury Mortimer. The plan allows for (but does not make provision for) additional windfall development which exceeds the identified requirement for housing and employment land. Saved SAMDev allocations are taken into account.
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## **Does not breach and is otherwise compatible with EU Obligations**

26. A Strategic Environmental Assessment has been prepared to accompany the CMNDP. The SEA report was prepared under the requirements of the Environmental Assessment of Plans and Programmes Regulations 2004. The SEA concludes:



### Summary findings (housing)

6.40 Overall, a range of effects against the different SEA themes have been identified through the assessment. Of note, significant positive effects are anticipated under all options in relation to the population and communities SEA theme, through the potential to deliver against local housing needs in full, and support growth with improved access to open space and community infrastructure. However, the potential for significant negative effects has also been identified for sites North and South of the A4117 in relation to landscape, and for Redthorne Farm and South of the A4117 in relation to the historic environment. Uncertain effects are also noted in relation to the historic environment for development North of the A4117. There are key sensitivities associated with these sites that need consideration and potentially further investigation prior to any progression as an allocation.

6.41 Minor negative effects are considered likely under all options in relation to transportation, and land, soil, and water resources, and for the remaining sites in relation to landscape. This predominantly reflects the loss of greenfield land and potentially high-quality agricultural land, as well as inevitable traffic generation.

6.42 Broadly neutral effects are considered likely in relation to climate change under all options. Furthermore, it is considered likely that broadly neutral effects in relation to the historic environment could be achieved in development at sites CMO004, CMO005, CMO020, and Ludlow Road.

6.43 Minor positive effects are considered likely under all options in relation to biodiversity and health and wellbeing, with all options providing opportunities to support enhanced ecological connectivity and delivering new open space to meet the recreational needs of new residents or enhance access for existing residents in the town.

### Summary findings (employment)

6.65 Overall, a range of effects have been identified through the assessment against the different SEA themes. Most of the identified effects are common to both options and only marginal differences between the options are identified in relation to the SEA themes of landscape and transportation. Whilst minor long-term negative effects are anticipated in relation to these themes for both options, Option E-A is recognised for its greater potential to integrate with the existing and established employment area off Tenbury Road when compared to Option E-B. Furthermore, Option E-A is better located to facilitate new and improved footpath connections in both new development and the existing employment area.

6.66 Significant positive effects are anticipated under both options by way of their potential to deliver in full against the identified need for employment land. Increasing local access to employment opportunities is also recognised for community benefits, including reducing deprivation and improving health outcomes in this respect. Minor long-term positive effects are anticipated in relation to health and wellbeing as a result.

6.67 Minor negative effects are anticipated under both options in relation to land, soil, and water resources, given the inevitable loss of greenfield, and likely high-quality agricultural land resources at either site. 6.68 Broadly neutral effects are anticipated under both options in relation the SEA themes of biodiversity, climate change and historic environment. This reflects the likelihood that development will not lead to any significant deviation from the baseline.

27. The SEA concluded that the Ludlow Road site provides a better cemetery extension than any other site option as it lies adjacent to the existing cemetery. It is also the flattest site (and therefore most suitable for housing) and has the capacity to put into place a valuable wildlife corridor linking Ludlow Road to Catherton Road and the QE11 Park beyond.
28. The Environment Agency, Natural England and Historic England expressed satisfaction that the requirements of the SEA regulations had been met in their responses to Regulation 14 consultation. Their responses can be viewed in full in the Consultation Statement.
29. The neighbourhood area is not in close proximity to any European site. As such a Habitats Regulation Assessment screening opinion was deemed unnecessary and was not provided by Shropshire Council as the appropriate authority.
30. The Neighbourhood Plan has regard to and is compatible with the fundamental rights and freedoms guaranteed under the European Convention on Human Rights. The main issues for planning in the context of human rights are: protection of property, right to respect for private and family life and prohibition of discrimination. The Plan complies with the requirements of the Human Rights Act 1998.

## A note on Policy CM2: Cemetery extension

31. The Environment Agency raised an objection to the allocation of land for a cemetery extension on the basis that changed advice from 2022 now precluded human burials where ground water pollution might be caused. It was established that a local borehole would be affected. The steering group suggested an addition to the policy which required a risk assessment but this was deemed by the Agency to be insufficient. Therefore, the steering group has agreed to add a new condition to the policy that allows the contained interment of cremated remains and prevents human burials. This is considered by the steering group to be a suitable compromise.
32. The full advice can be seen by following this link. The Examiner's attention is drawn to the highlighted passage below.

[Protecting groundwater from human burials - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/protecting-groundwater-from-human-burials)

### ***When you do not need an environmental permit***

*Local councils (or other cemetery operators) do not need to apply for an environmental permit for existing cemeteries if:*

- *they do not need to use active mitigation measures to prevent pollution*
- *they are not planning to expand a cemetery area after 1 April 2022 which needs new planning permission under section 57 of the Town and Country Planning Act 1990*
- *they are planning to expand a cemetery area after 1 April 2022 which needs new planning permission, but the risk assessment shows that the expansion is not high risk and the Environment Agency has agreed this*
- *the Environment Agency has told them, as part of their planning application, that they do not need a permit*

***You also do not need an environment permit if all burials on existing sites are of human ashes from crematoria.***

33. The revised policy approach was agreed in a letter from the Environment Agency (2/11/22) copied in the Consultation Statement.

## Annex 1: Decision on Neighbourhood Area, Shropshire Council, Cabinet, 2 May 2018

### Agenda Item 9



Committee and Date:
Cabinet
2 May 2018

#### **Application by Cleobury Mortimer Parish Council to be considered as a Neighbourhood Plan Area**

**Responsible Officer** Gemma Davies, Head of Economic Growth  
Email: Gemma.davies@shropshire.gov.uk Tel: 01743 258985

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#### **1. Summary**

- 1.1 This report seeks approval for the application by Cleobury Mortimer Parish Council for the Parish Council area to be considered as an appropriate area for a potential Neighbourhood Plan to be prepared by the Parish Council (attached as Appendix A, map as Appendix B).
- 1.2 Cleobury Mortimer Parish Council made the application to Shropshire Council in July 2017 under the provisions of the Town and Country Planning Act 1990. Shropshire Council consulted on the proposed area for a period of four weeks between August and September 2017. Only two responses were received to this consultation, neither of which objected to the principle of using the proposed Neighbourhood Plan Area.
- 1.3 It is the Council's role to decide if the Cleobury Mortimer Parish Council area is an appropriate area for the purposes of preparing the proposed Neighbourhood Plan. This consideration takes into account views expressed through the consultation process as well as information from the Parish Council. The recommendation focusses solely on the extent of the area to be used in the preparation of the proposed Neighbourhood Plan. This recommendation does not deal with the proposed or potential content of the Neighbourhood Plan, which are issues to be considered by Cleobury Mortimer Parish Council in cooperation with Shropshire Council in due course.

#### **2. Recommendations**

1. Cabinet agrees that the Cleobury Mortimer Parish Plan area is an appropriate basis for the development of a Neighbourhood Plan and notifies the Parish Council accordingly.
2. Cabinet agrees that if the proposed Neighbourhood Plan Area is approved, Cleobury Mortimer Parish Council will be able to prepare the Cleobury Mortimer Neighbourhood Plan, which will be subject to public consultation, examination and local referendum as set out in Neighbourhood Planning Regulations 2012 as amended. Assuming any subsequent local referendum if successful, Shropshire Council's full Council will then be asked to adopt the final version of the Neighbourhood Plan.

## REPORT

### 3 Risk Assessment and Opportunities Appraisal

- 3.1 The power to designate a Neighbourhood Area is exercisable under Section 61G of the Town and Country Planning Act 1990. Under Regulation 5(1) of The Neighbourhood Planning (General) Regulations 2012 an Area Application has to include a map that identifies the area to which the application relates and a statement to explain why the area is considered appropriate to be designated as a neighbourhood area and that the body is in fact a "relevant body" for the purposes of Section 61 G(2) of the Act. Cleobury Mortimer Parish Council is a relevant body for the purposes of the Act.
- 3.2 The relevant material (Area Application (Appendix A) and Map (Appendix B)) was received by Shropshire Council in July 2017 and as required by regulation, advertised on 29<sup>th</sup> August 2017 for a period of four weeks. In advertising this information comments were invited through the 'Get Involved' section of the Shropshire Council website. Shropshire Council and Cleobury Mortimer Parish Council received only two responses to this consultation, neither of which objected to the principle of the proposed Neighbourhood Plan Area.
- 3.3 In determining the application Shropshire Council must have regard to the desirability of designating the whole of the area of a parish council as a neighbourhood area and the desirability of maintaining the existing boundaries of areas already designated as neighbourhood areas. In the event the designation is approved, it will be published on the Council's website. In the event a designation is refused under Section 61G (9) of the Act reasons must be given and the decision publicised in accordance with Regulation 7 of the Regulations.
- 3.4 The designation of an appropriate area for a neighbourhood plan is to confirm the geographic area the Plan will cover. This does not set policies to be contained in the Neighbourhood Plan, or the thematic scope of that Plan. Indeed, the designation of a Neighbourhood Plan area does not commit the Parish or Town Council to producing or completing a Neighbourhood Plan.
- 3.5 When approved, Neighbourhood Plans form part of the statutory development plan for the area. The statutory framework covering the production of neighbourhood plans is therefore quite prescriptive and there is little risk for either Shropshire Council or Cleobury Mortimer Parish Council in following this carefully. However, it is important that a high degree of trust and cooperation between the Councils is maintained in order to reduce any risk of the inconsistency and conflict between the Neighbourhood Plan and those other parts of the Development Plan prepared by Shropshire Council.
- 3.6 A key issue to be considered through the Neighbourhood Plan's preparation is the implications of the ongoing Shropshire Local Plan Review. Neighbourhood Plans must be broadly consistent with other parts of the adopted Development Plan. Work on the Local Plan Review is ongoing and most recently has been subject to a Preferred Options consultation on the Preferred Scale and Distribution of Growth in Shropshire. This included a proposal that Cleobury Mortimer would continue to act as a 'Key Centre' and in doing so accommodating around 200 dwellings and 2 hectares of employment land between 2016 and 2036. Discussions between Shropshire Council and representatives from the Neighbourhood Plan Steering Group and the Parish Council will continue to ensure the aspirations of the Neighbourhood Plan are in conformity with the emerging Local Plan Review.
- 3.7 A Neighbourhood Plan will, after passing through the relevant stages of consultation, submission, examination and the referendum, go on to become part of the statutory Development Plan for the area. By definition, the Neighbourhood Plan should be a product

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of the community and as such will contain policies that, whilst in general conformity with other elements of the Development Plan, should have its own distinct character. The degree of scrutiny to be applied to a Neighbourhood Plan through its examination process is dependent upon the scope of the plan but is unlikely to be to the same degree as the other elements of the Development Plan. However, it will continue to be important for appropriate evidence to be produced to inform the Plan. Statute provides that planning applications should be determined in accordance with the provisions of relevant Development Plan policies unless material considerations indicate otherwise. The weight given to the Plan thus remains to be balanced with other considerations when taken into the round by decision makers.

#### **4. Financial Implications**

- 4.1 The Localism Act and Regulations provide that the following costs would fall to Shropshire Council: delivering a supporting role particularly in the latter stages of the Plan's development; appointing an Examiner for the Plan; and conducting an Examination and holding a Referendum. Current provisions allow an application for these additional costs to be met, and a reimbursement of costs will therefore be sought from Central Government. As previously acknowledged in reports on the Much Wenlock and Shifnal Neighbourhood Plans, it is considered likely the robustness of the Neighbourhood Plan Policies will be tested over time by independent Planning Inspectors on Planning appeals made under Section 78 of the Planning Act. Members are advised that the liability for future appeal costs rests with Shropshire Council as Local Planning Authority and as such the usability of such plans and their impact on local decision making will need to be carefully monitored.

#### **5. Background**

- 5.1 Shropshire Council's localised planning approach supports Neighbourhood Plans being brought forward under the Localism Act and the 2012 Neighbourhood Planning Regulations, indeed the Council is legally obliged to do so. However, Shropshire Council is also committed to promoting and supporting other forms of locality planning for neighbourhoods as potentially more cost effective and sustainable alternatives to a full Neighbourhood Plan through Community-led planning, parish planning, design guides etc. It is acknowledged these other forms of locality planning do not form part of the statutory development plan, but instead can be considered as material considerations in planning decisions.
- 5.2 The Government's current consultation on revisions to the National Planning Policy Framework (NPPF) continues to support the principle of Neighbourhood Plans and their status as part of the Development Plan. The draft NPPF states "Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies". It is also made clear that Neighbourhood Plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.
- 5.3 The development of a Neighbourhood Plan must be facilitated by the Parish Council and will in most cases proceed with support and assistance from volunteers across the community. It is noted Cleobury Mortimer Parish Council have asked for volunteers to help the Plan's preparation. The Parish Council believes that this is a real opportunity for the community to have greater ownership of future planning policy for the parish, with particular focus on detailed policy in order to supplement the strategic policies of the adopted Core Strategy/SAMDev as well as the ongoing Local Plan Review.

- 5.4 In due course and as part of the Neighbourhood Plan preparation process, Shropshire Council will consider whether the Neighbourhood Plan for Cleobury Mortimer conforms to its adopted strategic policies and, in agreement with the Parish Council, will put it forward for independent assessment. It will be the responsibility of Shropshire Council to arrange a local referendum to assess local support for the plan proposals and subject to a successful referendum outcome, a "yes" vote, Shropshire Council will have a legal duty to 'make' the Neighbourhood Plan for Cleobury Mortimer and bring it into force. This final decision to make the plan will be a matter for Full Council.

**Consideration of Designation**

- 5.5 Only two responses were received to the consultation, from Gladman Development and Natural England. Neither response objected to the principle of the proposed designation, instead focussing on the regulatory process with Neighbourhood Plans, including the need for consistency with the strategic policies set out in the current Local Plan and the emerging Local Plan Review. Whilst clearly of help and interest, both responses do not require further consideration in defining the Neighbourhood Planning area.
- 5.6 Cleobury Mortimer Parish Council seeks to ensure the future sustainable development of the settlement by providing detailed planning policies for their area. Whilst the exact scope and remit of the Plan is to be discussed, at this stage it is clear there is an understanding from the Parish Council as to the general role of the Neighbourhood Plan and the type of policies it is likely to introduce. Further discussions will help to clarify this. It is considered the proposed Designated Area, which covers the Parish of Cleobury Mortimer only, is a sensible and appropriate one, and will allow flexibility as the Parish Council further defines the scope of the Plan. Shropshire Council can also confirm there are no other designated areas in this area.

<p><b>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information):</b></p>
<p><b>Portfolio Holder:</b> Councillor Robert Macey, Portfolio Holder for Planning and Regulatory Services</p>
<p><b>Local Member:</b> Councillors Gwilym Butler and Madge Shineton</p>
<p><b>Appendices:</b> Appendix A: Area Application Appendix B: Area Application map</p>