

Progression to Examination Decision Document

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Aymestrey Neighbourhood Area
Parish Council	Aymestrey Parish Council
Draft Consultation period (Reg14)	19 March to 12 May 2018
Submission consultation period (Reg16)	27 June 2018 to 22 August 2018

Determination

Is the organisation making the area application the relevant body under section 61G (2) of the 1990 Act		Yes
Are all the relevant documentation included within the submission <ul style="list-style-type: none"> • Map showing the area • The Neighbourhood Plan • Consultation Statement • SEA/HRA • Basic Condition statement 	Reg15	Yes
Does the plan meet the definition of a NDP - 'a plan which sets out policies in relation to the development use of land in the whole or any part of a particular neighbourhood area specified in the plan'	Localism Act 38A (2)	Yes
Does the plan specify the period for which it is to have effect?	2004 Act 38B (1and 2)	Yes
Are any 'excluded development' included?	1990 61K / Schedule 1	No

<ul style="list-style-type: none"> • County matter • Any operation relating to waste development • National infrastructure project 		
Does it relation to only one neighbourhood area?	2004 Act 38B (1and 2)	Yes
Have the parish council undertaken the correct procedures in relation to consultation under Reg14?		Yes
Is this a repeat proposal? <ul style="list-style-type: none"> • Has an proposal been refused in the last 2 years or • Has a referendum relating to a similar proposal had been held and • No significant change in national or local strategic policies since the refusal or referendum. 	Schedule 4B para 5	No

Summary of comments received during submission consultation

External Consultation Responses	
Historic England	<p>Our earlier Regulation 14 comments, therefore, remain entirely relevant. That is:</p> <p><i>"Historic England is supportive of both the content of the document and the vision and objectives set out in it. We are pleased to note that the Plan evidence base is well informed by reference to the Herefordshire Historic Environment Record and other relevant sources such as Natural England's character mapping.</i></p> <p><i>The emphasis on the conservation of local distinctiveness through good design and the protection of heritage assets, archaeological remains and landscape character including green spaces and important views is to be applauded. The production of the Mortimers Cross Housing Site Design Guide is also commendable and will no doubt prove an invaluable aid to the sensitive implementation of that scheme".</i></p> <p>In conclusion, overall the plan reads as a well-considered, concise and fit for purpose document which we consider takes a suitably proportionate approach to the historic environment of the Parish.</p>

	Beyond those observations we have no further substantive comments to make on what Historic England considers is a good example of community led planning.
Natural England	<p>We are aware that in light of the recent changes to the HRA process following the <i>People Over Wind Ruling</i>, Herefordshire Council will be reviewing the Habitat Regulations Assessment (HRA) for this Neighbourhood Plan.</p> <p>Natural England advises that it is a matter for your Authority to decide whether an appropriate assessment is necessary in light of this ruling. In accordance with the Conservation of Habitats & Species Regulations 2017, Natural England must be consulted on any appropriate assessment your Authority may decide to make.</p> <p>We welcome re-consultation on the Neighbourhood Plan and its updated HRA, and will provide any substantive comments at this point.</p>
Coal Authority	No specific comments to make.
Welsh Water	We were consulted by the Parish Council as part of the Regulation 14 stage and as such have no further comment to make at this time.
National Grid	No record of apparatus within the Neighbourhood Plan area.
Environment Agency	In the absence of specific sites allocated within areas of fluvial flooding, not offer a bespoke comment at this time.
Highways England	There are no requirements to consult Highways England on applications where they are unlikely to have impact on the Strategic Road Network (SRN).
Herefordshire Council Responses	
Herefordshire Council – Conservation – Building Conservation	<p><u>AYH1</u> – Mortimers Cross Housing Design Guide: There may be ways to describe the required characteristics of the development without being too prescriptive, for example looking at solid to void ratios, massing (already covered to some extent), span depth ratios, proportions and verticality of openings, response to orientation etc. The Cork Rural Design Guide has some useful information on this approach and it allows for different approaches to development . e.g high quality contemporary contextual design.</p> <p><u>AYEnv3</u> – For section ‘C’ we would query the use of ‘protection’ as a word, there are heritage assets which cannot change without harm, yet these are rare. We would generally encourage looking at ‘conservation’ i.e. the</p>

	<p>careful management of change.</p> <p>For section 'E' we would recommend looking at the question of the setting of registered parks and gardens. RPG's have no statutory protection and only are a planning consideration when development is not PD. RPG's have no statutorily protected setting. As such the question of a setting for RPG's appears questionable. Listed buildings have a setting protected in statute, Conservation Areas do not. Also it is worth looking at the HE guidance on the setting of heritage assets. In terms of a planning consideration this is generally those aspects of the setting of an asset which contribute to its significance rather than the setting as a whole.</p> <p><u>AYEnv7a</u> – We would recommend looking at the Historic England guidance on the setting of heritage assets and 'Seeing History in the View' if considering heritage as the basis for the protected views. If heritage matters rather than Landscape are a consideration it is felt that the protection of the view of the Church needs greater justification and clarification. We would recommend using the criteria in the HE GPA on the setting of heritage assets and looking at what aspects of the setting (i.e. the way in which the asset is experienced) contribute to the significance of the asset. We would recommend also consulting our Landscape Team as advice on how the protected views are expressed (e.g. using LVIA methodology?) may be useful?</p>
<p>Herefordshire Council – Air, Land & Water Protection</p>	<p><u>Policy AYH1: Housing on Land at Mortimer's Cross</u></p> <p>no previous historic potentially contaminative uses.</p> <p><u>Policy AYH5: Conversion of Rural Buildings to Residential Use;</u></p> <p>Some farm buildings may be used for the storage of potentially contaminative substances (oils, herbicides, pesticides) or for the maintenance and repair of vehicles and machinery. As such it is possible that unforeseen contamination may be present on the site. Consideration should be given to the possibility of encountering contamination on the site as a result of its former uses and specialist advice be sought should any be encountered during the development.</p>
<p>Herefordshire Council – Strategic Planning</p>	<p>The plan's policies are in general conformity, however AYS1, the Core Strategy promotes a positive rather than restrictive approach to development. Setting a maximum number of dwellings for the site is not in conformity with this approach.</p> <p>In addition the equivalent Core Strategy policy to AYH4, H2, does not stipulate that such sites be adjacent to or</p>

	<p>within a settlement boundary. Rural Exception sites are an exception to normal housing policy, and may be permitted on land that would not normally be released for housing. They must still, however, offer reasonable access to the services in the existing settlement.</p> <p>Full details are contained within Appendix 1.</p>
<p>Herefordshire Council – Environmental Health and Trading Standards</p>	<p>One minor amendment to suggest to policy AYH3 Housing Development within Settlement Boundaries. This is to f) which currently states ‘f) It does not adversely affect the amenity of adjacent residential properties’ and to amend this by adding ‘and that local agricultural or commercial activity does not adversely affect the amenity of future occupants’</p> <p>This is to safeguard the amenity of future occupants.</p>
<p>Other Responses</p>	
<p>Gladman Developments</p>	<p><i>Policy AYS2 – Development Strategy</i> The policy notes appropriate developments within the settlement boundary will be permitted however Gladman submit that the policy as currently drafted lacks sufficient clarity and appropriate precision within the wording.</p> <p>Policy AYS2 is also in direct conflict with HCS Policy RA2 which states sustainable housing growth will be supported in or adjacent to identified settlements, including Aymestrey. We suggest increased flexibility is drafted in to the policy, supporting that additional sites adjacent to the settlement boundary should be considered as appropriate to respond to future needs.</p> <p><i>Policy AYEnv2 – Biodiversity and Geodiversity</i> Policy AYEnv2 states that all development should maintain and enhance the biodiversity of the Parish. As currently drafted, Gladman do not believe this policy fully aligns with the previous Framework. The policy fails to make a distinction and recognise that there are two separate balancing exercises which need to be undertaken for national and local designated sites and their settings.</p> <p><i>Policy AYEnv3 – Protecting Heritage Assets</i> As currently drafted the policy seems to apply to all Heritage Assets and does not distinguish between designated and non-designated assets. With regards to criterion C – E, Gladman have seen no evidence to support the protection of these views. We consider that for a view to be identified for protection there should be a demonstrable physical attribute that elevates a views importance out of the ordinary.</p> <p><i>Policy AYEnv4 – Sustainable Construction</i> Gladman are concerned that some of the criterion in the policy are overly prescriptive and could limit suitable sustainable development coming forwards. Gladman suggest more flexibility is provided in the policy wording to ensure high quality residential developments are not</p>

	<p>compromised by overly restrictive criteria.</p> <p>Gladman note that criterion A-G, H & I are duplicated from policy SD1 of the HCS. We suggest this element of the policy is best deleted</p> <p><i>Policy AYEnv7a – Protection of Views and Vistas</i> This policy seeks to protect the identified views from the adverse effects of development upon their character and appearance. In line with this we submit that new development can often be located in areas without eroding the views considered to be important to the local community and can be appropriately designed to take into consideration the wider landscape features of a surrounding area to provide new vistas and views. In addition, as set out in case law, to be valued, a view would need to have some form of physical attribute. This policy must allow a decision maker to come to a view as to whether particular locations contains physical attributes that would 'take it out of the ordinary' rather than selecting views which may not have any landscape significance and are based solely on community support. In its current draft the policy lacks the robust evidence required to demonstrate why these views are considered special and would likely lead to inconsistencies in the decision-making process.</p> <p><i>Policy AYH2 – Settlement Boundaries</i> Policy AYH2 reads almost as a duplicate of policy AYS2 and we suggest revisiting both policies and incorporating one policy within the other. Use of a settlement boundary to preclude otherwise sustainable development from coming forward does not accord with the positive approach to growth required</p> <p><i>Policy AYH3 – Housing Development within Settlement Boundaries</i> Policy AYH3 reads as a summary of policies already contained within the ANP, and their relation to proposed housing developments. Some of the criterion in the policy are overly prescriptive and could limit suitable sustainable development coming forwards.</p>
--	---

Please note the above are summaries of the response received during the submission consultation. Full copies of the representations will be sent to the examiner in due course.

Officer appraisal

This plan has met the requirements of the regulations as set out in the table above. All the requirements of regulation 14 were undertaken by the parish council and all the required documentation was submitted under regulation 15.

No major concerns have been raised from neither internal nor external responses with regards to the ability of the plan to meet the required minimum proportional growth contributing towards the

deliverability of the Core Strategy. Therefore the plan is considered to meet the general conformity requirements of the Core Strategy and comments are generally supportive.

External responses from technical bodies such as Historic England, Natural England, National Grid, Coal Authority, Environment Agency and Welsh Water have raised no objection to the Regulation 16 draft plan.

There was one response from Gladman Development, which outlines concerns that the plan in its current form does not comply with basic conditions (a), (d) and (e). The plan does not conform with national policy and guidance and in its current form does not contribute to the achievement of sustainable development.

Assistant Director's comments

Decision under Regulation 17 of the Neighbourhood Planning (General) Regulations 2012.

The decision to progress to appoint an examiner for the above neighbourhood plan has been Approved.



Richard Gabb

Programme Director – Housing and Growth

Date: 4th September 2018

Neighbourhood Development Plan (NDP) – Core Strategy Conformity Assessment

From Herefordshire Council Strategic Planning Team

Name of NDP: Aymestrey- Regulation 16 submission draft

Date: 27/07/18

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
AYS1- Promoting Sustainable Development	SS1	Y/N	<p>Minor suggestion: <i>“Limited #New housing will be accommodated within the capacity of the local environment, village character and the highway network.”</i></p> <p>The Core Strategy promotes a positive approach to growth. Whilst it is true that the above factors will determine the appropriate level of growth, use of the word “limited” here implies a restrictive approach, as though a defined cap would be placed on development. This would not therefore be considered to be in complete conformity with the overall objectives and approach taken by the Core Strategy or the NPPF.</p>
AYS2- Development Strategy	SS2; RA2; RA3; RA4; RA5	Y	
AYEnv1- Landscape	SS6; LD1-LD4	Y	
AYEnv2- Biodiversity and Geodiversity	SS6; LD2	Y	Point G- Supporting AONB designation would not generally be considered within the remit or scope of a Neighbourhood Development Plan.
AYEnv3- Protecting Heritage Assets	SS6; LD4	Y	
AYEnv4- Sustainable Construction	SS1; SS6; SD1	Y	This policy adds little to the equivalent Core Strategy policy SD1, and largely repeats it. NDP policies are more effective acting as a localised supplement to those in the CS. If they echo the same criteria, their inclusion is not strictly necessary as the issues are already covered by existing policy.

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
AYEnv5: Addressing Climate Change	SS7; SD1; SD2	Y	
AYEnv6- Waste Water Treatment	SS6; SD4	Y	In the first instance, new developments should seek to connect to the mains sewerage network.
AYEnv7- Protection of Local Green Space	SS6; OS3; LD3	Y	
AYEnv7a- Protection of Views and Vistas	SS6; LD1	Y	
AYEnv8- Protection from Flood Risk	SS6; SD3	Y	
AYT1- Traffic Measures within the Parish	SS4; MT1	Y	
AYT2- Highway Design Requirements	SS4; MT1	Y	
AYJE1- Re-use of Employment Land at Mortimers Cross	SS5; E2	Y	
AYJE2- Business, Farming and Employment	SS5; RA5; RA6; E1	Y	
AYJE3- Tourism Development	SS5; RA6; E4	Y	
AYJE4- Working from Home	SS5; E3	Y	
AYH1- Housing on Land at Mortimers Cross	SS2; RA2; LD1-LD4; SD1-SD4	N	As previously mentioned in my comments to AYS1, the Core Strategy promotes a positive rather than restrictive approach to development. Setting a maximum number of dwellings for the site is not in conformity with this approach. A suggestion would be to allocate a minimum or "around" number of dwellings.
AYH2- Settlement Boundaries	SS2; RA2	Y	

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
AYH3- Housing Development within Settlement Boundaries	SS2; RA2; LD1-LD4; SD1-SD4	Y	
AYH4- Exceptional Sites for Affordable Housing	SS2; H2	N	The equivalent Core Strategy policy, H2, does not stipulate that such sites be adjacent to or within a settlement boundary. Rural Exception sites are an exception to normal housing policy, and may be permitted on land that would not normally be released for housing. They must still, however, offer reasonable access to the services in the existing settlement.
AYH5- Conversion of Rural Buildings to Residential Use	SS2; RA3; RA5	Y	
AYH6- Affordable and Intermediate Homes	SS2; H1; H3	Y	