

Progression to Examination Decision Document



Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Welsh Newton and Llanrothal Neighbourhood Area
Parish Council	Welsh Newton and Llanrothal Parish Council
Draft Consultation period (Reg14)	25/10/15 to 07/12/15
Submission consultation period (Reg16)	07/11/16 to 19/12/16

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? <ul style="list-style-type: none"> • County matter • Any operation relating to waste development • National infrastructure project 	1990 61K / Schedule 1	No

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

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

<u>Department</u>	<u>Comments</u>
Strategic Planning	<p>Overall all of the policies are in conformity with the Core Strategy except for WN14, the full response in appendix 1.</p> <p>Policy only has an issue with WN14 - as it raises the issue of non-conformity, <i>any schemes will have to be supported by a "Yes" vote in a local Referendum. The Referendum will be paid for by the applicant and administered by the Parish Council</i>.</p> <p>Planning application decisions are the remit of the local planning authority and should not be determined by referendum voting organised by parish councils.</p>
Strategic Housing	<ul style="list-style-type: none"> • The majority of the plan Strategic Housing is happy with. • WNL5 is slightly irrelevant and not really required in the plan as no affordable housing has been identified for the village and no HCA secured so there won't be any dwellings built in the village that would have to meet the requirement by 2018. • There is also quite a section on the garage site at Welsh Newton, this has achieved planning permission for 5 open market so the stipulations around affordable are again irrelevant.
Environmental Health	No further comments to make.
Environmental Health	<ul style="list-style-type: none"> • Policy WNL9 Site Allocation – Former Garage Site” for housing, commercial and tourist use outlined in red on map 9 the “Former garage site, Welsh Newton” Records indicate the proposed site is located on a former garage/ filling station which has historically stored petrol tanks. • The garage site is a potentially contaminative use and will require consideration prior to any development. Petrol tanks, interceptors, pipe runs, spill areas, oil storage and inspection pits are all areas on a garage site where there is a possibility for contamination to occur. • Recommends any application that is submitted should include, as a minimum, a ‘desk top study’ considering risk from contamination in accordance with BS10175:2011 so that the proposal can be fully considered. With adequate information it is likely a condition would be recommended

such as that included below:

1. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice.

b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors.

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

2. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

Technical notes about the condition

1. The assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012.

2. EH require all investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.

1. The following draft policies, have not identified specific sites in the NDP but refer to the conversion or redevelopment of agricultural buildings:
 - "WNL8: Extensions to houses and residential conversions of former

	<p><i>agricultural buildings”</i></p> <ul style="list-style-type: none"> • “WNL10: New business development in former agricultural buildings” • Regarding any policies throughout the NDP that refer to conversions on former agricultural buildings I would add the following; <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><u>General comments:</u></p> <ul style="list-style-type: none"> • Developments such as hospitals, homes and schools may be considered ‘sensitive’ and as such consideration should be given to risk from contamination notwithstanding any comments. Please note that the above does not constitute a detailed investigation or desk study to consider risk from contamination. Should any information about the former uses of the proposed development areas be available I would recommend they be submitted for consideration as they may change the comments provided. • Contamination is a material planning consideration and is referred to within the NPPF. Recommends applicants and those involved in the parish plan refer to the pertinent parts of the NPPF and be familiar with the requirements and meanings given when considering risk from contamination during development.
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External Responses

Natural England	Natural England has no further comment to make on this draft neighbourhood plan.
Historic England	<p>Previous substantive Regulation 14 comments (3rd December 2015) remain entirely relevant, that is: Historic England are supportive of both the Vision set out in the Plan and the content of the document, particularly its’ emphasis on local distinctiveness and the maintenance of rural character.</p> <ul style="list-style-type: none"> • Commends the thorough approach taken to, inter alia, protecting and enhancing landscape character (Policy WNL1) and the retention of locally important buildings and orchards and the protection of archaeological remains. Equally commendable is the approach taken to Building Design (Policy WNL4) (NB now WNL5) including in relation to historic farmsteads. • Historic England considers that the identification of Welsh Newton Common as an area of quite distinct character, the definition of a settlement boundary here and the crafting of a bespoke Policy (WNL5) (NB now WNL6) for the areas protection and future management constitutes a quite exemplary approach. • 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”. • Beyond those observations we have no further substantive comments to make on what Historic England considers is a very good example of community led planning.
The Coal Authority	No substantive comments to make.

Environment Agency	No comments received.
Welsh Water	WW has no further comment to make over and above our Regulation 14 consultation response.
CPRE	Thank you for your email, which I have forwarded to volunteers for comment. No further comments have been received.
National Grid	<ul style="list-style-type: none"> • An assessment has been carried out with respect to National Grid's electricity and gas transmission apparatus which includes high voltage electricity assets and high pressure gas pipelines and also National Grid Gas Distribution's Intermediate / High Pressure apparatus. • National Grid has identified the following high voltage overhead powerlines as falling within the Neighbourhood area boundary: 4YU Route – 400kV from Walham substation in Tewkesbury to 4YU Route Tower (001 - 078)

Officer's Appraisal

This plan has met the requirements of the regulations as set out in the table above. No concern has been raised from external consultees with regards to the ability of the plan to meet the required minimum proportional growth contributing towards the deliverability of the Core Strategy. Strategic Planning have noted that the housing target is running short of 6 dwellings, however this is likely to be met through windfall allocations within the parish.

There is a site allocation in Welsh Newton on the former garage site for mixed use development with a preference to housing, farm shop/antique/tea shop café. The plan has reliance on windfalls and capacity within the settlement boundaries of Welsh Newton and Llanrothal. The plan allocates a settlement boundary in Welsh Newton, where the remaining minimum of 6 dwellings will be met through windfall. This has contributed along with commitments within Welsh Newton and Llanrothal to meeting close to the proportional growth minimum of 14.

Overall, 10 Responses have been received from 4 internal service providers and 6 from statutory consultees. No comments were received from the general public. The only concern raised by Herefordshire Council's Strategic Planning team was regarding part of WN14 policy. It recommends renewable energy schemes to have a referendum by the parish council, however this planning decision will be made by the Local Planning Authority and not the Parish Council. Therefore it is recommended to remove part of the policy at examination stage. After this removal it is assured that the policies within the HFSP plan comply with the Core Strategy please refer to comments section above. Development Management have not commented on the NDP at regulation 14 or 16.

External responses from technical bodies such as Historic England, Natural England, Welsh Water, National Grid and Environment Agency have raised no objection to the regulation 16 draft plan. However they have provided comments to enhance the policies drafted within the NDP. No comments have been received from residents.

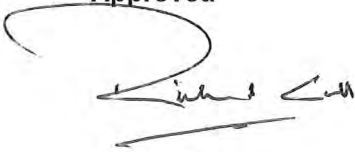
The view expressed by the Neighbourhood Planning team that the plan is in general conformity with the Core Strategy and overall meets the basic conditions. Therefore is recommended that the Welsh Newton and Llanrothal Neighbourhood Plan progresses to examination.

Programme 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

A handwritten signature in black ink, appearing to read 'Richard Gabb', with a large, sweeping flourish above the name.

Richard Gabb

Programme Director – Growth

Date: 13th January 2017

Appendix 1
Neighbourhood Development Plan – conformity assessment

Name of NDP Welsh Newton and Llanrothal

 Date 15th December 2016

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
WNL1 Protecting and Enhancing Local Landscape Character	SS1, SS6, SD1, MT1, RA2, RA5, LD1, LD2, LD3, LD4, SD4	Y	
WNL2 Green Infrastructure	SS6, LD2, LD3	Y	
WNL3 Protecting and Enhancing Local Wildlife and Habitats	SS6, LD3	Y	
WNL4 – Local Greenspace Protection	SS6, LD3,	Y	Number labelling of maps 6 & 7 but referred to maps 5 & 6.
WNL5 Building Design Principles	SS1, SD1, RA2, RA3, LD4,	Y	First sentence in criterion 1 & 2 are essentially the same with reference to the scale and mass of both criterion when looking at area distinctiveness and enhancement. Could this be refined more to avoid repetition and make the criteria more succinct.
WNL6 Welsh Newton Common Settlement Boundary and New Housing	RA2, RA3, RA4, H2, LD4,	Y	Cross reference to map number incorrect.
WNL7 Rural Exception Housing	H2, RA3, RA4, SD1	Y	Last sentence 'All ancillary buildings should likewise be constructed of timber' is overly prescriptive. There could be a broader focus on solutions to reduce impacts of such buildings such as orientation, planting etc.
WNL8 Extensions to	RA5, SD1,	Y	

Houses and Residential Conversions of Former Agricultural Buildings			
WNL9 Site Allocation – Former Garage Site, Welsh Newton	H1, H3, RA2,	Y	<p>Observations</p> <p>"Some market housing may be permitted as part of the development in order to subsidise affordable housing provision".</p> <p>"The affordable housing element should be offered at a market rent until such time as a local person needs it. The houses in the affordable part of the scheme should not exceed 3 bedrooms". Is there evidence to support this particular requirement? Needs may be subject to change over time and the Strategic Housing Team should be consulted on this element.</p>
WNL10 – New business development in former agricultural buildings	RA3, RA6, SD3,SD4,E1,	Y	PAR – please abbreviate
WNL11 – Polytunnels	RA6	Y	<p>Observations</p> <p>Polytunnels or associated developments (works, storage, servicing, accesses, toilets etc.) should be sited outside a minimum distance of 30m of the boundary of any residential curtilage and 50m of any dwelling,</p> <p>Polytunnels will not be permitted on sites within 2 metres of the centre line of a public right of way and no polytunnels will be permitted on sites within 3 metres of the centre line of a bridleway.</p> <p>Just to note - Polytunnels are considered to be a 'less vulnerable' development in the 'flood risk vulnerability classification' Table 2 National Planning Practice Guidance (NPPG) Whether this is in flood zone 3a or 3b will have a bearing on what may be permitted.</p>
WNL12 – Supporting New Communications Technologies and Broadband	RA6	-	<p>Observations and questionable whether this is enforceable.</p> <p>Road reinstatement works following works by utility companies will be required to be guaranteed to last for 10 years and faults due to poor work and or materials will be required to be made good at the contractors' expense.</p> <p>Have utility companies been consulted on this policy?</p>
WNL13 – Supporting Community-Led Low Carbon Energy	SS1, SS7, RA6, SD2, LD1, LD2		Following a fundamental <u>review of technical housing standards</u> , the government has withdrawn the Code for Sustainable Homes, aside from the management of legacy cases

Schemes			
WNL14 – Renewable Energy Schemes	SS1, SS6, SS7, RA6, SD2, MT1, LD1, LD2,	N	<p>“Any schemes will have to be supported by a “Yes” vote in a local Referendum. The Referendum will be paid for by the applicant and administered by the Parish Council”.</p> <p>Planning application decisions are the remit of the local planning authority and should not be determined by referendum voting organised by parish councils.</p>
WNL15 – Improving Local Footpaths, Bridleways, Cycleways and other Public Rights of Way	MT1	Y	
WNL16 - Provision And Protection Of Local Community Facilities	SC1	Y	

Other comments/conformity issues:

- Cross references to maps in the text and labels need checking.
- Para 1.9 update information on referendum date.
- Observation: the requirement for at least a further 6 dwellings over the Plan period is set out in paragraph 5.2.3.

