

Progression to Examination Decision Document

Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Pembridge Neighbourhood Area
Parish Council	Pembridge Parish Council
Draft Consultation period (Reg14)	11 August to 25 September 2017
Submission consultation period (Reg16)	1 August to 26 September 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 (1 and 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><i>Historic England is supportive of both the content of the document and the vision and objectives set out in it.</i></p> <p><i>The emphasis on the conservation of local distinctiveness and variations in local character through good design and the protection of locally significant buildings, historic farmsteads and landscape character including archaeological remains and the burgage layout of the village is to be applauded”.</i></p> <p>Overall the plan reads as a very well written, well-considered document which is eminently fit for purpose. We consider that the Plan takes an exemplary approach to the historic environment of the Parish and that it constitutes a very good example of community led planning.</p> <p>Those involved in the production of the Plan should be congratulated as in the view of Historic England it exemplifies “constructive conservation”.</p>
Coal Authority	No specific comments to make.
Welsh Water	As you will be aware, we were consulted by the Parish Council at the Regulation 14 stage of the process in 2017. We are pleased to note

	<p>that the Parish Council has taken on board our comments and has amended the wording of Policy PEM22.</p> <p>As such we have no further comments. Should you require further information, please let me know.</p>
<p>NFU West Midlands</p>	<p>The plan itself recognises that agriculture is one of the main types of business in the area, yet the NFU, one of the largest representative bodies in this area, was not consulted. The NFU, therefore, questions whether the consultation requirements have been properly complied with.</p> <p>Policy PEM11: Intensive Livestock Units. We feel that is currently unclear, duplicates existing policy and legislation and may be difficult to implement. It has the potential to unduly restrict the growth of farm businesses and curtail their ability to comply with legislation through the delivery of infrastructure for environmental management or animal welfare. Furthermore it is a duplication of Environment Agency activity regarding agricultural regulation.</p> <p>Manure spreading. Animal manures are a valuable resource of organic matter and play a key role in the physical, chemical and biological processes which underpin soil health. Manures build fertility by providing a valuable source of organic nutrient. This will allow the recipient farmland to reduce its reliance on artificial fertilisers, thereby reducing the carbon footprint of food production.</p> <p>Our specific concerns about Policy PEM 11 are:</p> <p>a) It is not clear what is meant by full mitigation? Does this only relate to landscape impacts?</p> <p>e) This section refers to manure spreading and is currently unclear. Please also be mindful that agricultural manure is not classed as a waste when spread to land and used as a fertiliser. It suggests that manure should be spread on land that is under the applicant's own control and in a location where this would not adversely affect residential amenity. It is not clear what the document means when it refers to land under an applicant's own control. For many farmers it will not always be practical to spread manures and slurry on land within their control. It is relatively common practice for manure to be exported to neighbouring farms. Farm land is also held under a variety of tenancies and licences and clarification is required. There is currently no requirement for a farmer to agree manure imports with the Planning Authority. Furthermore we do not know what is meant by a "purification system" or how this impacts upon the suitability of land? This policy is potentially a duplication of existing EA regulation.</p> <p>f) Manure spreading can be carried out on agricultural land, as a normal part of agricultural activities, without planning permission. There is no available data on where manure spreading takes place, and manure from a farm may be spread on different areas each year, depending on cropping cycles, nutrient needs etc. It is, therefore, impossible for farmers to carry out an in-combination assessment of manure spreading activities (as well as it going beyond what is legally required) as there is no data available to allow them to consider what other farms in the area may be doing. Further, there are numerous obligations which farmers have to comply with to control nutrient run-off, including Nitrate Vulnerable Zone requirements (where relevant) and the Farming Rules for Water, and these provisions can be used to</p>

	<p>provide the required environmental safeguards. This requirement should, therefore, be removed from the plan.</p> <p>Comment on para 6.8</p> <p>Paragraph 6.8 refers to the restriction of hours of operation. This will be very challenging for livestock farmers to implement as many agricultural activities take place in the early morning or late at night, These can include, calving, monitoring and harvesting operations to name just a few. Out of hours work is particularly important when it is necessary for animal welfare. The paragraph also refers to protection zones and it is not clear what these are or their function.</p>
Environment Agency	In the absence of specific sites allocated within areas of fluvial flooding, no comment at this time.
Sport England	No specific comment
Herefordshire Council Responses	
Herefordshire Council – Conservation – Building Conservation	No comments to make
Herefordshire Council – Air, Land & Water Protection	<p>A review of Ordnance survey historical plans indicate that the following three allocated housing sites (policy PEM4) are within 250 metres of a known closed landfill site, a site that may be considered a potentially contaminative use. The former landfill site would therefore require consideration prior to any development.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Site 2: Land off Manley Crescent (PEM 4ii). <input type="checkbox"/> Site 3: Land off Sandiford Ploc (PEM 4iii). <input type="checkbox"/> Site 7: Land to the west of Manley Lane (PEM 4vii). <p>Any future redevelopment of the above mentioned sites would be considered by the Planning Services Division of the Council however, if consulted it is likely this division would recommend 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.</p> <p>In my previous correspondence for the 14 draft NDP I incorrectly included the following sites within 250m of the former landfill site:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Site 5: To the rear of The Gables (PEM 4v). <input type="checkbox"/> Site 6: Land at Townsend (PEM 4vi). <p>Having reviewed the location of these sites in this NDP, I confirm they are not within 250m of the former landfill site.</p>
Herefordshire Council Strategic Planning	The plan's policies are in general conformity. See appendix 1 for full details.

<p>Herefordshire Council</p> <p>Environmental Health and Trading Standards</p>	<p>In our response to the Regulation 14 consultation on 22nd August 2017 we stated as follows:</p> <p>'Our comments are with reference to the potential impact on the amenity – in terms of noise, dust, odours or general nuisance to residential occupants that might arise as a result of any new development and also the impact that existing activities might have on the amenity of any new residential occupiers.</p> <p>We suggest an amendment to housing policy reference PEM5 g). 'Properties that enable people to work from home, including live/work units where this will not affect the amenity of adjacent properties and where the new housing development will not be adversely impacted by existing agricultural or commercial activities</p> <p>This would be to safeguard the amenity of future occupiers.</p> <p>We would recommend a similar amendment to housing policy reference PEM6 g), again to safeguard the amenity of future occupiers.'</p> <p>In response to the Regulation 16 consultation we note that PEM6 g) has been amended as per our recommendation but that PEM5 g) has not. We recommend that the above suggestion be given further consideration as there is the potential for live/work sites to be adversely impacted by existing agricultural or commercial activities. There is the potential for a live/work occupant to be nuisanced by existing activities (for example, kept awake at night by noise), the upshot being that if a Statutory Nuisance was subsequently determined restrictions could be placed on the business causing the nuisance.</p>
<p>Resident Responses</p>	
<p>Pembridge Village Hall Trustee Committee</p>	<p>The Village Hall is located on the very edge of the village and successfully serves the Parish and wider community. It is an exceptionally well used resource managed completely by the volunteer trustee committee at no cost to the parish.</p> <p>It is our responsibility as a trustee group to protect and maintain the Village Hall as an amenity for the benefit of all parishioners both now and in the future.</p> <p>We note that the NDP has proposed significant changes of land use on three sides of the village hall - all of which could have a negative impact on our ability to manage this facility successfully.</p> <p>Housing development (the largest allocation proposed in the NDP) is suggested on two sides of the hall. Although we are not opposed to the principle of housing development around the village hall we have some concerns about the potential impact and implications for the management of the Village Hall.</p> <p>1. We would like to ask that a specific policy be added to ensure a suitable undeveloped and landscaped 'buffer' can be located between any housing/gardens and the village hall and car park - in order to avoid any conflict of use in the future. The Hall is regularly hired for parties, evening events, weddings and larger scale events with significant attendance - these bookings are fundamental to our finances and popular with existing parishioners.</p>

2. Conversely there may be opportunities for 'positive impact' upon the village hall from the housing development planned across the village - ranging from financial contributions to enhanced footpath connections - we would be keen to see the NDP support any positive impact opportunities more explicitly if possible.

3. On the third side of the hall there is a parcel of ground which is allocated in the NDP as 'Local Green Space'. We have tried to investigate who is responsible for this piece of land and historic deeds would indicate that the Parish Council own it and are responsible for the management and cost of it. In practice it is the village hall committee who maintain this large area, which is currently grassed with orchard trees and hedging to the edges, and it can act as overspill car park if needed. In the recent past we have struggled with misuse of the land around the village hall including dog fouling, theft of oil, vandalism and illegal occupation of the car park.

Our current annual maintenance commitments for this parcel of ground are also worth noting. We would be uncomfortable with any designation that increased our public responsibility, encouraged more public use or added greater expectations or costs to the running of the VH.

4. We are also concerned that this Local Green Space allocation may prevent the hall from expanding or diversifying if required. We do not feel that this piece of land is in need of designation or protection and are concerned that this designation/protection will have implications for the good running of the hall and our finances in the future. Consequently we object to this land becoming 'Local Green Space' in the PNDP without understanding what this will entail specifically. For example: it may prevent us looking at adding to parish facilities (for example a community tennis court or additional car park area). It may prevent us applying for grant funding for other projects or may expose us to increased insurance liabilities.

5. Furthermore we understand that any development of housing on the land allocated around the village hall may be obligated (under normal planning policies within the Core Strategy) to provide on site 'local green space' within their proposal, and so we have concerns that a developer may argue that Open Green Space is already provided at the hall - and as trustees we would then have to manage this obligation and the cost. We also feel that this piece ground could be an asset, in the future, to the parish and the village hall in many ways which have not yet been explored fully - either for leisure use, community development projects or even community (affordable) housing - The Local Green Space designation and protection may prevent the community and VH from exploring these options in the future. We are also aware that as the Village Hall building gets older and hiring use patterns change we may have other costs and obligations that we need to address and we are worried that the designation will prevent this. Fortunately there is already a significant amount of Local Green Space in the parish elsewhere and this parcel of land is not required.

6. We would also like to say that the Village Hall is a central and much used facility for the whole parish and as the parish increases in housing numbers and residents it is likely that we will need to enlarge the hall to meet demand and offer more flexibility. It may be that a new Village Hall is needed if the parish expands significantly and we are open to this option if a proposal comes forward to facilitate this.

	<p>We would also like to point out that the Village Hall is coming to a point where it will require significant expenditure on the building (toilets, flooring, windows/doors, roof, main building, infrastructure and surroundings). We would like to suggest that any development around the village hall (or in the parish in general) is asked to contribute towards the costs of the village hall if at all possible so that we are able to meet the demands of a growing population. This may be from voluntary donations, improved infrastructure, s106 or CIL obligations, New Homes Bonus or other partnership arrangement.</p>
<p>Gladman Development Ltd</p>	<p>Policy PEM3 – Housing Development in Pembridge</p> <p>The use of a settlement boundary to preclude otherwise sustainable development from coming forward does not accord with the positive approach to growth required. By failing to support development adjacent to the settlement boundary, policy PEM3 is also in direct conflict with HCS Policy RA2</p> <p>Policy PEM6 – Design Criteria for Residential Development</p> <p>Policy sets out thirteen design criteria that all development proposals will be measured against. Concerned that some of the criterion in the policy are overly prescriptive and could limit suitable sustainable development coming forwards. Suggest more flexibility is provided in the policy wording to ensure high quality residential developments are not compromised by overly restrictive criteria.</p> <p>PEM18 – Retaining the Natural Environment and Landscape</p> <p>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. We therefore suggest that the policy is revisited</p> <p>Policy PEM19 – Protecting Heritage Assets</p> <p>Do not consider that the policy aligns with the policy tests required in relation to designated and non-designated heritage assets as set out in national policy.</p> <p>With reference to designated heritage assets, the Parish Council should refer specifically to paragraphs 133 and 134 of the previous Framework which sets out that Councils should assess the significance of the designated heritage asset and where there is less than substantial harm.</p> <p>For non-designated heritage assets, the policy must reflect the guidance set out within paragraph 135 of the previous Framework.</p> <p>Conclusions</p> <p>Gladman is concerned that the plan in its current form does not comply with basic conditions (a) 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.</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. 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 an agent, which outlined the issues with the plan as currently presented and its relationship with national and local planning policy and one from Pembridge Village Hall Trustee Committee, who commented with specific regard to the Village Hall and the proposed land use around the hall – PEM4. There is also a specific response from the National Farmers Union regarding the policy implications of Policy PEM11.

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: **2/10/18**

Appendix 1

Neighbourhood Development Plan (NDP) – Core Strategy Conformity Assessment

From Herefordshire Council Strategic Planning Team

Name of NDP: Pembridge- Regulation 16 pre-submission draft

Date: 16/08/18

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
PEM1- Promoting Sustainable Development	SS1	Y	
PEM2- Development Strategy	SS1; SS2; RA2; RA3; RA4; RA5; RA6	Y	
PEM3- Housing Development in Pembridge Village	SS2; RA2	Y	
PEM4- Housing Sites in Pembridge	SS2; RA2	Y	
PEM5- Meeting Housing Needs	SS2; H3	Y	
PEM6- Design Criteria for Residential Development	SS6; SS7; LD1; LD2; LD3; SD1	Y	
PEM7- Providing for Local Housing Need	SS2; H1	Y	
PEM8- Reuse of Rural Buildings and Brownfield Land for Employment Enterprises	SS5; RA5; RA6	Y	
PEM9- Working from Home	SS5; RA6; E3	Y	
PEM10- Agricultural Diversification and Tourism Enterprises	SS5; RA6, E4	Y	
PEM11- Intensive Livestock Units	SS5; SS6; RA6	Y	Criterion C- Is there a clear basis for setting these particular distance thresholds? This may not be easy to enforce in practice.
PEM12- Supporting	N/A	Y	

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
Infrastructure			
PEM13- Development on Shobdon Airfield	SS5; E1; E2	Y	
PEM14- Renewable and Low Carbon Energy Generation	SS7; SD2	Y	
PEM15- Protection and Enhancement of Community Facilities and Services	SC1	Y	
PEM16- Safeguarding Local Green Space	N/A	Y	<p>Final sentence of first paragraph- A minor suggestion:</p> <p><i>"Proposals that will benefit their current utility will however be permitted provided there is no significant adverse effect on residential amenitythat they comply with all other relevant policies in this plan:"</i></p> <p>It is considered that this would sufficiently protect residential amenity together with a wider range of other factors through referring to their relevant, more detailed policies.</p>
PEM17- Contributions to Community Services, Youth Provision and Recreation Facilities	N/A	Y	
PEM18- Retaining the Natural Environment and Landscape	SS6; LD1-LD3	Y	
PEM19- Protecting Heritage Assets	SS6; LD4	Y	
PEM20- Development within Pembridge Conservation Area	SS6; LD4	Y	
PEM21- Protection from Flood Risk	SS7; SD3	Y	

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
PEM22- Sewage Infrastructure	SS6; SD4	Y	
PEM23- Sustainable Design	SS6; SS7; SD1	Y	
PEM24- Traffic Measures within the Parish	SS4; MT1	Y	
PEM25- Highway Design Requirements	SS4; MT1	Y	
PEM26- Protection and Development of Public Rights of Way	SS4; MT1	Y	

