

## Progression to Examination Decision Document



### Neighbourhood Planning (General) (Amendment) Regulations 2012

Name of neighbourhood area	Brilley Neighbourhood Area
Parish Council	Brilley Parish Council
Draft Consultation period (Reg14)	9 December 2014 to 24 January 2015.
Second Consultation period (Reg14)	19 April 2016 to 3 June 2016.
Submission consultation period (Reg16)	27 July 2016 to 7 September 2016.

#### 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"> <li>• Map showing the area</li> <li>• The Neighbourhood Plan</li> <li>• Consultation Statement</li> <li>• SEA/HRA</li> <li>• Basic Condition statement</li> </ul>	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

<p>Are any 'excluded development' included?</p> <ul style="list-style-type: none"> <li>• County matter</li> <li>• Any operation relating to waste development</li> <li>• National infrastructure project</li> </ul>	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
<p>Is this a repeat proposal?</p> <ul style="list-style-type: none"> <li>• Has an proposal been refused in the last 2 years or</li> <li>• Has a referendum relating to a similar proposal had been held and</li> <li>• No significant change in national or local strategic policies since the refusal or referendum.</li> </ul>	Schedule 4B para 5	No

### Summary of comments received during submission consultation

<p><b>Herefordshire Council</b> <i>Transport</i></p>	<p>There are no comments from Herefordshire Council's transportation section.</p>
<p><b>Herefordshire Council</b> <i>Strategic Planning</i></p>	<p>Two conformity issues were found in BR4 and BR14 however to make these policies to be in conformity with the Core Strategy will require minor wording.</p> <p>See appendix 1 for full details.</p>
<p><b>Herefordshire Council</b> <i>Economic Development</i></p>	<p>No issues with Brilley Reg 16.</p>
<p><b>Herefordshire Council</b> <i>Environmental Health</i> <i>Air Water Waste</i></p>	<p>The two sites (Site 1 &amp; 2) highlighted in light brown in the 'Brilley Village Proposals Map' appear from a review of Ordnance survey historical plans to have no previous historic potentially contaminative uses.</p> <p><u>General comments:</u></p> <p>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</p>

	<p>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.</p> <p>It should be recognised that contamination is a material planning consideration and is referred to within the NPPF. EH 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.</p> <p>Finally it is also worth bearing in mind that the NPPF makes clear that the developer and/or landowner is responsible for securing safe development where a site is affected by contamination.</p> <p>These comments are provided on the basis that any other developments would be subject to application through the normal planning process.</p>
<b>Herefordshire Council Development Management</b>	See appendix 2 for full details.
<b>Herefordshire Council Environmental Health</b>	From a noise and nuisance perspective, EH has no further comments to make.
<b>Coal Authority</b>	Coal Authority has no specific comments to make on it.
<b>Historic England</b>	<p>Historic England is supportive of both the content of the document and the vision and objectives set out in it. The emphasis on the conservation of local distinctiveness and the protection of rural landscape character including archaeological remains and important views is applauded.</p> <p>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>
<b>National Grid</b>	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 and High Pressure apparatus. National Grid has identified that it has no record of such apparatus within the Neighbourhood Plan area.
<b>Welsh Water</b>	Welsh Water has no further comment to make over and above our Regulation 14 consultation response.
<b>Natural England</b>	Natural England does not consider that this plan poses any likely significant risk to internationally or nationally designated nature conservation or landscape sites and so does not wish to make and further comments on the plan. Natural England previously commented on this matter in their letter of the 3rd of June and have no further comments to make at this stage. The lack of more detailed comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment.
<b>Sport England</b>	Generic comment regarding links to guidance

**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's Appraisal**

The Brilley NDP has met the require regulations as highlighted above.

No major concern had been raised from both internal and 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. To meet housing growth target there are two site allocations for the plan as well as placing reliance on windfall and space within the settlement boundary of Brilley.

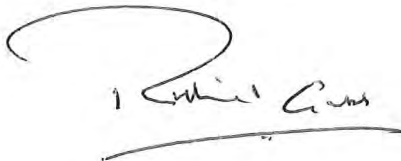
Overall we had 12 responses from the regulation 16 consultation both internal and external consultees. No comments were an objection to the plan or its process; the majority of the comments received were quite general. Historic England, Natural England and Welsh Water have no objections to the Brilley NDP. HC Strategic Planning team have confirmed that majority of the policies are in general conformity with the Core Strategy. However they have suggested policies BR4 and BR14 need minor word changes in order to conform fully to the Core Strategy. Development Management have also raised the issue of BR4, stating that the small housing sites were unlikely to accommodate affordable housing.

These issues can be addressed as part of the examination process.

### **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.**

A handwritten signature in black ink, appearing to read 'Richard Gabb', with a horizontal line underneath it.

**Richard Gabb**

**Programme Director – Growth**

Date:

## Appendix 1

### Neighbourhood Development Plan (NDP)- Core Strategy Conformity Assessment

From Herefordshire Council Strategic Planning Team

Name of NDP: Brilley– Regulation 16 submission draft

Date: 19/08/16

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
BR1/BR2	SS1, OS1, OS2, OS3	Yes	
BR3	SS2, RA1, RA2	Yes	Changes made since second reg 14 have addressed issues raised.
BR4	H1-H3	No	<p>Little change to this since previous version. BR4 – difficult to see how affordable housing will be brought forward. Allocated sites are too small to insist on an element of affordable housing therefore, the only vehicle to bring forward affordable housing would be through exception sites.</p> <p>I would suggest slight adjustment to wording to add “in accordance with policy H2 of the Herefordshire Core Strategy” between “affordable housing” and “may” in the first line of the second paragraph.</p>
BR5	SD1	Yes	Same comment as at reg 14 stage. Generally ok and not a conformity issue but applications could not be refused on the basis that the developer was not going to use local tradespeople.
BR6	LD1	Yes	
BR7	SD1	Yes	
BR8	SC1	Yes	
BR9	MT1	Yes	
BR10	MT1/ID1	Yes	It should be understood however that the scale/type of housing development proposed in the NDP may constitute <u>self-build</u> housing

Draft Neighbourhood plan policy	Equivalent CS policy(ies) (if appropriate)	In general conformity (Y/N)	Comments
			which does not qualify for CIL.
BR11	MT1	Yes	
BR12	SS4, E1, E2, E3,	Yes	Additional references reflect previous comments.
BR13	SS4, E1, E2, E3,	Yes	
BR14	E4	No	<p>Changes suggested at previous stage not incorporated with regards to demonstrating "need " for development in first criterion.</p> <p>Only in regards to first criterion which suggests a "need" should be demonstrated. It's not clear how such need would/could be demonstrated and needs assessments are not required by the Core Strategy.</p>

**Other comments/conformity issues:**

## Appendix 2

### Development Management Comments on Brilley Neighbourhood Development Plan

Name of NDP: Brilley– Regulation 16 submission draft

Policy	Comment
BR1	Ok
BR2	No problem with the policy as such. However, the two areas that have been identified do seem to be distant from the settlement and do not seem to be under any threat from development. With this being the case, is the policy really necessary?
BR3	<p>The pre-amble to Policy BR3 is well reasoned and the suggestion that allocations will not necessarily meet the minimum proportionate growth target is evidenced by the lack of local activity in the housing market over the previous plan period.</p> <p>The three sites that have come forward as a result of the call for sites are assessed and the justification for only part of each being allocated is sensible in terms of the local context – Brilley is a small settlement and accordingly new development should be of a small scale.</p> <p>The only comment is that the settlement boundary (Figure 6) should be drawn to encompass all of the allocated sites. As currently drawn it implies that they all lie outside of the boundary.</p>
BR4	Due to the limited growth envisaged and the small scale of the allocated sites, it is unlikely that any market housing proposals will deliver any affordable housing. This policy seems to raise an expectation that affordable housing will be delivered.
BR5	<p>Generally, the policy is clear and well worded. Comments in relation to specific criteria are as follows:</p> <ul style="list-style-type: none"> <li>a) Is there any brownfield land in the neighbourhood area? If not, is there a need for reference to it?</li> <li>b) The use of the word 'exploit' is unfortunate and should perhaps be re-considered. Should a policy promote the use of local tradespeople?</li> <li>h) The reference to 'artificial alternatives' should be removed.</li> </ul>
BR6, 7 & 8	All ok
BR9	This policy doesn't actually say anything that isn't already covered by BR5.
BR10	The schemes that are likely to come forward on the allocated sites are unlikely to be of a scale to attract S106 contributions. To do so would be contrary to the national Planning Policy Guidance.
BR11	Ok
BR12	<p>The first part of the policy (a to g) which sets a criteria-based approach for the expansion of existing employment sites is clear and precise.</p> <p>The second part about re-development seems unduly onerous given the rural nature of the area and the small scale of existing employment sites. It is suggested that this part of</p>

	the policy, together with criteria h and i is removed.
BR13	The policy is ok. Just wonder whether BR12 and 13 could have been combined.
BR14	<p>I am really pleased to see that a tourism policy has been included as it is an area that has been missed by a number of other NDPs. The only criticism relates to the first criteria. How is it proposed to determine the need for accommodation? I would suggest that this is removed.</p> <p>I would also suggest the inclusion of two additional criteria. The first should make reference to the scale of any new development to make sure that it is commensurate with the area. The second should advise that any permissions for accommodation will be subject to an occupancy condition. This then ties into the second part of the policy which considers proposals to change the use of existing tourist accommodation to full residential.</p>

#### Other comments

- The lack of a policy to assess residential extensions and development within residential curtilages is an oversight and needs to be addressed.
- The annex to the plan lists all of the listed buildings in the neighbourhood area but there is no policy to deal specifically with proposals that affect listed buildings and other heritage assets. This should be addressed.
- In light of the rural nature of the area and the significance of agriculture, I would have expected to see a policy that deals specifically with agricultural development.