Dilwyn Neighbourhood Development Plan

Dilwyn Parish Council response to representations made at the Regulation 16 Stage, April 2019

(NB The representations listed are only those to which a response is considered necessary)

Dilwyn NPD

Representations

A number of representations provided support, no further or neutral comment in response to consultation. The Parish Council is, however, grateful for the organisations concerned in providing a response. They include:

- Herefordshire Council Strategic Planning Team
- The Coal Authority
- National Grid
- Natural England
- Highways England
- J Verdin, Garnstone farms

Ref	Representation By	Summary of Representation	Response
1	A Turner, Herefordshire Council Environmental Health (Air, Land and Water Protection)	 Ordnance survey historical plans indicate the two proposed housing sites (Policies DW3 & DW4) indicated in light brown on the 'Dilwyn Policies Map', appear to have had no previous historic potentially contaminative uses. It would make it easier to reference and identify sites in the next Dilwyn NDP if the proposed housing sites are given IDs on future plans. General comments: 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. It should be recognised that contamination is a material planning consideration and is referred to within the NPPF. I would recommend 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. Finally, it is also worth bearing in mind that the NPPF makes clear that the developer and/or landowner is 	 Noted. HC has produced the policies maps as per its 'house style' in order to be consistent with its County Policies Map. It has determined that individual sites should not be labelled. Noted – Policy DW11 g) covers the issue of contaminated land and would be relevant to applications where this may be an issue.

		responsible for securing safe development where a site is affected by contamination. These comments are provided on the basis that any other developments would be subject to application through the normal planning process.	
2	N Ryan, Dwr/Cymru – Welsh Water	We wish to clarify one point from within the Schedule of Representations which the Parish Council may have misunderstood. We advised in the Regulation 14 representation that if the proposed allocation 'Land south west of Orchard Close and Castle Mound' was to come forward, it would likely result in hydraulic overload of the Dilwyn WwTW. The Parish Council's response comment on this within the Schedule of Representations appears to imply that Welsh Water has committed to accommodating the growth set out. This is not the case and I can confirm there is no reinforcement scheme programmed at Dilwyn WwTW within our current Capital Investment Programme (AMP6 – 2015-2020), whilst at the current time we do not know what schemes will be within AMP7 (2020 – 2025). That being said, the wording of Policy DW9 is acceptable.	Apologies for the inaccuracy which should have referred to the PC'S understanding that Dwr Cymru has agreed with HC that its Core Strategy proportional housing growth requirements will be accommodated within the plan-period although there is currently no committed scheme. The PC is grateful for Dwr Cymru clarifying this point which is understood to mean that compliance with Policy DW9 would enable any developer to work with Dwr Cymru to bring forward a scheme earlier, or that it could be phased to allow development within the plan-period whenever the works are programmed, or a suitable alternative arrangement might be made. This would be in accordance with advice issued by Herefordshire Council in its Guidance Note 19 ¹ and Dwr Cymru's advice issued at the Regulation 14 consultation stage (see Appendix 3). It is assumed that any such restriction would apply to sites anywhere within the village required to meet the proportional growth requirements.
3	G Irwin Environment Agency	As part of the adopted Herefordshire Council Core Strategy updates were made to both the Strategic Flood Risk Assessment (SFRA) and Water Cycle Strategy (WCS). This evidence base ensured that the proposed development in Hereford City, and other strategic sites (Market Towns), was viable and achievable. The updated evidence base did not extend to Rural Parishes at	Dilwyn NDP is not a strategic planning document. The proportional housing growth requirements for Dilwyn were agreed with the EA within the Core Strategy. The site is not within the flood plain of any river. It is however recognised that there are some storm water/land drainage issues that need to be addressed. Policy DW9 will require any

¹<u>https://www.herefordshire.gov.uk/download/downloads/id/3710/guidance_note_19_sustainable_water_management.pdf</u>

		the NP level so it is important that these subsequent plans offer robust confirmation that development is not imp a cted by flooding and that there is sufficient waste water infrastructure in place to accommodate growth for the duration of the plan period. We would not, in the absence of specific sites allocated within areas of fluvial flooding, offer a bespoke comment at this time. You are advised to utilise the Environment Agency guidance and pro-forma which should assist you moving forward with your Plan.	developer of the site to undertake a detailed site-specific flood-risk assessment as required by NPPF para 162. The amount of development proposed for the site allows significant scope for drainage matters to be addressed satisfactorily. The landowner also owns adjacent land that could be utilised if necessary. Herefordshire Council is the LLFA and was consulted at both formal stages in the plan making process.
		However, it should be noted that the Flood Map provides an	
		indication of 'fluvial' flood risk only. You are advised to discuss matters relating to surface water (pluvial) flooding with your	
		drainage team as the Lead Local Flood Authority (LLFA).	
4	P Boland	Additional comments to those submitted in response to the	1. The first objection to the site allocation is that it should
	Historic England	Regulation 14 Consultation: (Summary)	not have been allocated before detailed archaeological
			work, including physical archaeological evaluation of an
		The Heritage Impact Assessment and a site visit to more fully	appropriate sample of deposits had been undertaken.
		assess the implications of the proposal for housing development	However, such assessment work would normally be
		on this site and the impact that could have on the significance of the Scheduled Ancient Monument, Castle Mound and its	undertaken as part of a planning application, as part of the process of preparing details of the development. This would
		environs was undertaken.	not normally be undertaken at the stage of preparing a Local
			or Neighbourhood Plan.
		Remain concerned that the proposal to include the land south	
		of the motte castle for housing is not sufficiently supported. The	Nevertheless, as Historic England advised, a Heritage Impact
		Lidar data appears to show earthworks in the area to the south	Assessment has been undertaken at a level considered
		of the motte, and although the land drainage pattern indicates	proportionate to that of plan making. This (Lidar) identified
		modern improvements within the land parcel the archaeological	that there may be notable archaeological remains in the
		potential is unknown. This is both in terms of buried	north-east corner of the site (south of the Scheduled
		archaeology and in terms of landscape understanding.	Monument) that ought to be investigated further in a more detailed assessment. The Lidar suggests this is not an

Was this site actually an outer bailey of the castle? There are traces of platforms and earthworks to the north-east, confirming that archaeological remains are not just confined to the motte itself. The archaeological potential of the proposed land parcel, however, is confirmed as unknown in the HIA (para 4.2).

In terms of setting (i.e. The area in which the motte is experienced) the potential impact seems to me to be potentially significant. Due to the recent development to the west and north of the motte the land to the south offers views of the motte in the context of the village. This is also a principal approach route into the village. This setting could be much altered and the view of the motte largely obscured. The overall impact may be to detach the motte from the village, with which it is strongly associated historically. In particular I do not agree that only 'a small part of the monument's agricultural setting would be affected' (para 4.3), or that the HIA currently can rightly conclude that the 'development should be capable of mitigation' (para 7.4.1). In overall terms I think we should be asking for a more detailed justification/ evidence base, that includes the factors mentioned in the HIA section 6 before we would be able to assess the appropriateness of this proposed allocation".

Our analysis, therefore, leads to the conclusion that Historic England cannot support the allocation of this site for housing development in the Neighbourhood Plan. This would be to accept the principle of development before it has been made clear what the actual impact of development would be on the Scheduled Ancient Monument, Castle Mound and its environs. This can only be demonstrated by further archaeological work **in advance of any allocation** undertaken by suitably qualified

extensive part of the site but it will reduce the area available for development, and this has been taken into account in terms of the numbers of dwellings and the policy requirements. The other evidence relating to field name, historical pattern of drainage (historically marshy ground), short life-span of the castle and probable relocation further up the slope, and the fact that it was based upon an agricultural community and did not develop as a historic town adds to the probability that there would be limited further archaeological remains, if any, across much of the proposed site. Nevertheless, a detailed archaeological evaluation would confirm whether this is the case and is required through both general and site-specific policy provisions. It should, however, be noted that even should some unidentified finds be made that require preservation in situ, such measures are not uncommon and there are many sites where this has been possible. Again the limited scale of development will assist with this.

More specifically Policy DW3 accepts that not all of the site can be developed and the level of development indicated for the site in terms of the contribution expected towards proportional housing growth (30 dwellings) is far less than would be accommodated for the whole of the site area. The site at 3.7 hectares would, if all was available, be capable of accommodating over 90 dwellings at the low end of medium density (25 dwellings per hectare; 10 dwellings per acre - NB Herefordshire Council is seeking an overall density of 30 to 50 dwellings per hectare – HCS policy SS2). The landowner has accepted this level of development (see Annex 1 to the Basic Condition Statement). Although higher than the SHLAA indication, the lower amount would result in the type of low density housing that would not benefit local needs, as

professionals and potentially including physical archaeological evaluation of an appropriate sample of the site deposits. This work could in itself require Scheduled Monument Consent and any strategy arrived at should be discussed in advance with Bill Klemperer.	 identified in the NDP, and smaller family housing in the form indicated within policy DW3 would potentially cover a similar area and better reflect the character of the adjacent dwellings which form part of its Conservation Area character in this location. The Heritage Impact Assessment now required through policy provisions will inform whether any greater number of dwellings might be accommodated. The estimated surplus would also take into account some reduction in provision should the suggested figure need to be reduced. When seeking informal advice from the Planning Office
	upon a smaller development of the site in line with the SHLAA level, it was suggested by the Planning Officer that a higher level of development be considered.
	2. The second area of concern is the effect on the setting of the Scheduled Ancient Monument. Historic England advice acknowledges that the extent of a heritage asset's setting is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate that significance or may be neutral ² . It combines setting with views.
	In terms of visibility, the monument is not visible from the south direction but its location, to those aware of its presence, is represented in the form of an unmanaged coppice. In terms of the way in which the motte is experienced, the development of this site will not sever the last link between the monument and its original setting as

² <u>https://historicengland.org.uk/images-books/publications/gpa3-setting-of-heritage-assets/heag180-gpa3-setting-heritage-assets/</u> (Part 1, 1st paragraph)

	antial areas to its east that will remain. Similarly views
	contribute more to understanding the significance of
	tage asset (page 6 of the settings document) are better
from th	he easterly direction along Venmore Lane where they
also en	ncompass platforms where it is thought a manorial
buildin	ng replacing the castle would have stood away from
then w	vetter areas. The eastern views, therefore, offer a
greater	er composition of the history relating to what was a
relative	ely short-lived castle, within a rural community and
replace	ed by a manorial building. This view is far more
import	tant than that to the south in that regard and given
greater	er regard in the assessment of site options.
Nevert	theless, it should still be possible to retain some of the
southe	ern setting, especially in the north-east corner of the
propos	sed housing site while accommodating the suggested
amoun	nt of housing. It should also be possible to provide
public	access to better appreciate the monument through
	ads, paths and open space that will be needed within
	evelopment whereas at present there is no public
	s to its edges.
	-
No adv	verse comments were received in relation to the
approa	ach put forward at either Regulation 14 or Regulation
	either the Council's Historic Building Officer or its
	eological Adviser despite the latter being copied into
	pondence with Historic England.
The NE	DP Heritage Impact Assessment did consider other
	ns that were available. Any choice of sites results from
	ing differing factors and the site assessments
	lered a range of key factors affecting choice of site.
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			There are other factors that also need to be taken into account in terms of ensuring the sustainability of the community through development, in particular new housing. These have been carefully weighed with the aim of ensuring the sustainability of the community which has fought hard to retain both its village school and public house and will continue to promote measures for the health and wellbeing of all its residents. It is understood the task of the Examiner is not to consider the soundness of the Plan and its allocations and choice but to consider whether the Plan has complied with the Basic Conditions. In this regard the NDP Steering Group has sought to balance needs with potential constraints. Herefordshire Council has indicated that it considers all the NDP policies comply with Herefordshire Local plan Core Strategy.
5	M Tansley Herefordshire Council, Development Management	The housing allocation on the west edge of the village will affect the setting of the sched mon from the main public vantage point. Historic Buildings Officer is better qualified than I to assess the extent of that impact.	No comments were received from Herefordshire Council's Historic Buildings Officer at either the Regulation 14 or Regulation 16 consultation stages. It is recognised that there will be some effect on the SAM's setting but it is considered this can be satisfactorily mitigated. It is also noted that no adverse comments were made in relation to some element of development upon this site within Herefordshire Council's SHLAA. In addition, it is also noted that Development Management Officers recommended a larger part of the site be proposed for development when advising the landowner's agent culminating in the outline approach presented in Annex 1 to the Basic Condition Statement.

6	Tomkins	(Summary of detailed response)	
	Thomas	1. Land adjacent to Wood Stock Cottage, despite having been	1. When preparing the Plan, the NDP Steering Group noted
	planning on	refused planning permission is available for development and	that this site was not only refused planning permission, but
	behalf of	should be included within the settlement boundary.	it was also ruled out by Herefordshire Council within its
	I Hudson	2. Development of 4 cottages has been permitted opposite; it is commercial orchard where the contract has not been renewed.	Strategic Housing Land Availability Assessment (see Appendix 1).
		3. The County ecologist considered a modern orchard is not a	2. The development opposite was granted planning
		constraint to development, contrary to the NDP site	permission by Herefordshire Council before work
		assessment.	commenced in earnest upon the NDP and the NDP was not a
		4. The 10 dwelling scheme could offer some dwellings as low-	material consideration. It is assumed that its adverse effects
		cost market properties.	were sufficiently mitigated and outweighed by the design
		5. The development could comply with design requirements in	approach and other material considerations.
		terms of scale and phasing.	3. The assessment took into account both the loss of
		6. Disagrees with the analysis that development of the site fills a	orchard and the loss of hedgerow, both of which were
		gap that is important to the character and appearance of the	referred to in the Planning Officer's report (see Extract –
		Conservation Area siting that which has been permitted	Appendix 2 ³). The County's Ecologist points to the fact that
		opposite and conflicting with that approach to the gap and the	even though a commercial orchard, it is still a 'Habitat of
		argument is largely academic.	Principle Importance'. The loss of the hedgerow was rated
		7. The site adjacent to Orchard Close and Castle Mount is very	even more importance leading to his objection to the
		sensitive in relation to the Scheduled Ancient Monument.	proposal. The combination led to the rating indicated in the
		8. The significance of the effect on the landscape of	site assessment.
		development at site at Wood Stock Cottage is incorrectly	The representation mis-understands the purpose of the
		attributed to the modern commercial orchard.	assessment which is not to decide whether planning
		9. A sensitively designed scheme would overcome the reason	permission should be granted but to identify which are the
		for refusal in relation to the character and appearance of the	best sites and which the least-best.
		Conservation Area.	4. It is possible for a landowner to offer such benefits, but it
		10. Policy DW17 needs to be refined to refer to a certain scale of	cannot be required to provide them for developments of 10
		development.	dwellings and below.

³ For the full Officer's report and other related document on the planning application go to the link and use the links on the right hand side <u>https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=152567&search=Wood%20Stock%20Cottage</u>

11. The bounder site accompant is more from the stand bound	F Maataltaa aan achimus a biab staudaud af dasian a ul
11. The housing site assessment is perfunctory and have	5. Most sites can achieve a high standard of design and
reservations about certain of its outputs in particular effect	consequently is not a useful indicator in terms of
upon the built and historic environment.	differentiating between sites.
12. Development adjacent to Wood Stock Cottage complies with	6. The view and scoring indicated in the site assessment is
or does not conflict with many of the policies (referred to in the	consistent with advice offered to the Planning Officer by the
submission) within the NDP.	Council's Historic Building (Conservation) Officer – see
13. Should Historic England maintain its objection then the plan	Appendix 2.
will not deliver the housing required and Wood Stock Cottage	7. The assessment of the site adjacent to Orchard Close and
site will deliver a sensitive and high-quality scheme of 11	Castle Mount and its relationship with the Scheduled
dwellings or smaller development if required.	Ancient Monument take into account the advice within
	Herefordshire SHLAA in that it acknowledges that not all of
	the site should be developed. It is a very substantial area
	considered capable of some level of development to be
	informed by a Heritage Impact Assessment. The Scheduled
	Ancient Monument criterion (Criterion 1.1) took into
	account the setting of the monument and it was considered
	this could be satisfactorily mitigated. The site falls outside of
	Dilwyn Conservation Area (Criterion 1.4).
	8. The criterion relates both the landscape and the setting of
	the settlement. Its sensitivity is not attributed to the
	commercial orchard but to the green gap as indicated under
	criterion 1.2.
	9. The contribution that the site makes to the character and
	appearance is not down to design but the maintenance of
	the gap marking the point of difference between two
	settlement forms.
	10. This policy has been included and accepted in many
	other NDPs within the County. It does not define scale
	because provisions may change, especially should
	Herefordshire Council adopt a CIL scheme.
	11. The assessment follows an approach used and found to
	be appropriate for many other NDPs within the County. The
	process is not one of determining whether planning

permission should be granted but of a preference ranking of
sites in accordance with a range of criteria agreed by the
NDP Steering Group (and supported by the Parish Council)
following consultation with the community. The assessment
utilises information available within Herefordshire SHLAA
together with locally determined criteria in a proportionate
approach as in accordance with NPPG paragraph 004
Reference ID: 3-004-20140306. In the light of this, the site
assessment and options exercise has been undertaken that
complies with the requirements of the NPPG, and is
allocating housing that is certainly no less than that required
by the Development Plan – a requirement of the NPPF, but
in fact provides for a higher amount in a way that the
community feels meets the particular needs as evidenced in
the AECOM report included in the NDP evidence base.
12. The process of site assessment and choice of sites is not
one of determining a planning application. It is to identify
sufficient sites to meet strategic and community
requirements utilising what the community considers to be
the most appropriate sites.
13. The views of Historic England have been given significant
weight and the NDP Steering Group has undertaken a
Heritage Impact Assessment that has led to a change that it
believes should address that organisation's concerns. Those
concerns appear not to have been supported by
Herefordshire Council during the two statutory stages of
consultation. There are other sites and approaches that
might be considered should an alternative be required.
inght be considered should an alternative be required.
It is understood the task of the Examiner is not to consider
the soundness of the Plan and its allocations and choice but
to consider whether the Plan has complied with the Basic
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Conditions. In this regard the NDP Steering Group has

	sought to balance needs with potential constraints. Herefordshire Council has indicated that it considers all the NDP policies comply with Herefordshire Local plan Core Strategy.

Appendix 1: Extract from Herefordshire Council's Strategic Housing Land Availability Assessment for Dilwyn.



Appendix 2 – Extracts from Planning Officer's Report in relation to the site adjacent to Wood Stock Cottage relating to advice from the Council's Ecologist and Historic Building's (Conservation) Officer

The Council's Ecologist second submission of 29 October 2015 objected to the application:

I have read the response from Transport and note that there is a necessity to remove the largest portion of the southern hedgerow. The ecological report also notes that loss of a <u>portion</u> of the hedgerow would have a negative impact. Whilst I accept the findings of the ecological report and recommend the two conditions should approval be given, this requirement to lose the site's most significant natural asset is unacceptable. I have viewed the hedge this week; there are some seven woody species along its whole length and would concur that this it is species rich. As such it is a good example of hedgerow habitat listed under the NERC Act 2006 as UK Biodiversity Action Plan Habitat (now Habitat of Principal importance). As removal of this hedgerow appears to be central to the development I am afraid I now have to object on this basis. Also I believe that you have discerned this site to be flagged as a traditional orchard. Indeed this is the case and I have checked the mapping system which shows this to be so although not on the ecology workspace. It is on the landscape and biodiversity workspace and is registered as a Traditional Orchard within the Natural England database used.

I believe the evidence for it being a commercial orchard and declared with Defra as such ought to be sought. This is not my area of expertise and not-with-standing my comments regarding its commercial status, it would still rate as a Habitat of Principle Importance and therefore have presumption against development in policy. My objection would therefore be sustained on this basis as well.

The Council's Conservation Officer objected to the application:

The proposed development site forms part of the Dilwyn Conservation Area. No mention of this is made in the application material and there is therefore no resulting assessment of the impact of the proposed development on the character and appearance of the conservation area. I find the lack of information provided in this regard unacceptable and indeed, I would consider it inappropriate to consider a scheme of this size within the conservation area when it has only been presented in outline form.

Notwithstanding the nature and form of the application, I have an in principle objection to development in this location. The proposal would the development of a site that is currently planted as an orchard and that has always historically formed an area of open or planted land between the two settled parts of the conservation area. The development in its current form this valuable open space entirely and, as I understand it, involve the removal of a large part of a traditional orchard which undoubtedly makes a positive contribution to the character and appearance of the conservation area. The proposed development layout would be largely counter to the pattern of development in the local area and the conservation area as a whole. For reasons set out above, I object to the proposed application.

Appendix 3 – Regulation 14 stage response from Dwr Cymru, Welsh Water



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Dilwyn Parish Council Neighbourhood Plan FAO Peter Kyles Enquiries: Rhys Evans/Ryan Norman 0800 917 2652

19th October 2018 Sent via email

Dear Sir/Madam,

REGULATION 14 CONSULTATION ON DILWYN NEIGHBOURHOOD DEVELOPMENT PLAN -OCTOBER 2018

I refer to the above consultation. Welsh Water appreciates the opportunity to respond and offers the following representation:

Given that the Neighbourhood Development Plan has been prepared in accordance with the Core Strategy, we are supportive of the aims, objectives and policies set out.

Policy DW3: Housing sites in Dilwyn village

We understand through Policy DW2 that as the main settlement in the Parish Council area, Dilwyn is the focus of development growth and provision is made for a minimum of 46 dwellings, with two specific allocations set out under Policy DW3:

Land south west of Orchard Close and Castle Mound – minimum of 30 dwellings Water supply

There are no problems envisaged in providing this site with a water supply. The site is traversed by a 4" distribution water main for which protection measures will be required in the form of a diversion or easement width.

Sewerage

There are no problems envisaged with the public sewerage network accommodating the foul flows from this site. However, offsite sewers will be required to be laid to the curtilage of the site.

Wastewater treatment

A development of 30 dwellings (minimum) would represent a 19% increase in loadings at our Dilwyn Wastewater Treatment Works (WwTW) and this would likely result in hydraulic overload, and as such would not meet the requirements of Policy DW9 of the Neighbourhood Plan and Policy SD4 of the Core Strategy.

There is no reinforcement scheme proposed in our current Capital Investment Programme (AMP6 – 2015-2020) therefore should potential developers wish to deliver the site prior to any future regulatory investment on our part, they will need to fund a feasibility study which would identify the reinforcement works required to accommodate the foul flows from their site, before entering into a section 106 (of the Town and Country Planning Act 1990) agreement to fund the scheme.

Land east of Brookside Bungalow, Dilwyn Common Lane - minimum of 3 dwellings

Water supply

There are no problems envisaged in providing this site with a water supply.

Sewerage

There are no problems envisaged with the public sewerage network accommodating the foul flows from this site.

Wastewater treatment

There are no issues in Dilwyn WwTW accommodating the foul flows from this site.

Policy DW9: Foul and storm water drainage and flooding

We applaud the provisions of this policy which will ensure that development will only be allowed where there is sufficient capacity in the public sewerage system, and that if a development would hydraulically overload the public sewerage system then developers will need to work with Welsh Water to fund the required reinforcement works.

We also welcome the requirement for developers to utilise sustainable drainage systems (SUDs) in new development as this will ensure that the public sewerage system only accommodates foul-only flows, thereby capacity is not taken up by surface water. We hope that the above information will assist you as you continue to progress the Neighbourhood Plan. In the meantime, should you require any further information please do not hesitate to contact us at <u>Forward Plans@dwrcymru.com</u> or via telephone on 0800 917 2652.

Yours faithfully.

Ryan Norman Forward Plans Officer Developer Services