

# **Almeley Neighbourhood Development Plan**

## **Almeley PC response to representations made at the Regulation 16 Stage, September 2018**

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

Ref	Representation By	Summary of Representation	Response
1	Welsh Water	Welcome references to public sewerage network and policy ALM17.	Noted and welcome. Only Almeley has a public sewer and public waste water treatment works.
2	NFU West Midlands	<p>Concerned that policy ALM9 does not align with local and national policy. It may unduly restrict the growth of farm businesses and curtail the ability to comply with legislation through the delivery of infrastructure for environmental management and animal welfare. It is a duplication of Environment Agency activity regarding agricultural regulation. Also concerned that it refers to general purpose agricultural buildings.</p> <p>Phrase 'disposal of waste; is inappropriate language as manure is not classed as waste when spread to land, but a fertiliser and this is an error that undermines the plan. 'Sites and species of local importance to nature conservation in Almeley parish is very wide in scope and unduly restrictive. It is not reasonable or proportionate to restrict manure spreading on land abutting or within a conservation area. Manure spreading is a fundamental part of land management vital to support crop growth by returning sustainable nutrients to the land. Very concerned about section vi) as it provides an additional layer of constraint upon agricultural manure spreading. It is not clear what sort of evidence would be required as activities change from year to year depending upon cropping plans. Manure application is regulated by the Environment Agency. In vii) agricultural developments are</p>	<p>The policy affects general purpose agricultural buildings that require planning permission only in so far as Policy ALM9 points a), b) and d) are concerned. These are general planning considerations that would apply to development in the countryside for the protection of the landscape, highway safety and residential amenity.</p> <p>Investigations were undertaken to ascertain whether any adopted local plans had included policies that covered commercial waste disposal arising from intensive livestock units. This was considered an important issue given the extent of poultry units within the general locality, the effect they would have upon residential amenity and the effect they might have on water quality given that Almeley falls within the River Wye Catchment, and more importantly within the Wye sub-catchment (see Figure 5.4 in Herefordshire Local Plan Core Strategy). The River Wye is a Special Area of Conservation where there are specific problems in terms of nutrient management, including emissions of ammonia<sup>1</sup> to air. the example of Beverley Borough Local Plan – East Riding of Yorkshire was identified that was particularly relevant (see Consultation Statement (Section 3 – link using 'can be viewed here', Appendix 1 at this link). The explanation of why the Environmental Permitting regime falling to the Environment</p>

<sup>1</sup> See <file:///C:/Users/User/Downloads/NERR030%20edition%201%20-%20Chapter%206%20Nutrient%20and%20pollution%20management%20-%20intensive%20livestock.pdf>

		<p>not covered by waste management licensing conditions and therefore clarification is required about what this means in practice.</p> <p>In 7.5 it is not clear what DEFRA guidance is referred to hear.</p> <p>In 7.6 livestock manure is not a commercial waste product and this is a significant error that should be amended.</p>	<p>Agency does not cover fully the protection of residential amenity and biodiversity is also given in this Section 3 link under 'Evidence in support of Policy ALM9 Intensive Livestock Units' towards the end of this link.</p> <p>It is noticed that DEFRA Guidance to Local Authorities<sup>2</sup> on Odour that was quoted was recently withdrawn in September 2017, but it was relevant when the NDP was prepared. The notification has only recently appeared on the Government's website. It is replaced by more general guidance<sup>3</sup> although this does not explain the differences between what the pollution regime can address as opposed to the planning system in relation to 'residential amenity'.</p> <p>Evidence in relation to this issue was taken from this submission<sup>4</sup>.</p> <p>Shropshire Council has issued guidance on impact of ammonia and nitrogen from livestock units<sup>5</sup>.</p> <p>Two issues are particularly relevant and require attention through the planning system:</p> <ol style="list-style-type: none"> <li>1. The environmental permitting regime does not fully address the effect on residential amenity as it only requires the operator to achieve Best Available Technology/Techniques. The planning system and</li> </ol>
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<sup>2</sup> <https://www.gov.uk/government/publications/odour-guidance-for-local-authorities>

<sup>3</sup> <https://www.gov.uk/guidance/nuisance-smells-how-councils-deal-with-complaints>

<sup>4</sup> <http://planning.northwarks.gov.uk/portal/servlets/AttachmentShowServlet?ImageName=310723>

<sup>5</sup> <https://shropshire.gov.uk/media/9752/interim-guidance-note-on-ammonia-emitting-developments-v1april2018-web-version.pdf>

			<p>policy requires there to be no significant adverse effects which is a different test.</p> <p>2. Local Planning Authorities are required under the Habitats Directive to consider ‘cumulative effects’. This includes looking at matters that may be covered by permitted development, with these provisions being withdrawn where they may adversely affect a Special Area of Conservation<sup>6</sup>. Given that it has previously been held that the spreading of manure may be covered by planning policies, it would be remiss not to cover this issue in relation to intensive livestock units where there may be effects on the River Wye SAC. In addition, regard should be had to Wealden District Council v. Secretary of State for Communities and Local Government, Lewes District Council and South Downs National Park Authority [2017] EWHC 351 (Admin).</p> <p>Should the waste be used elsewhere than by the poultry unit owner then it must involve a transaction, which by definition is commercial.</p>
3	Herefordshire Council Conservation	When looking at Registered Parks and Gardens, should the policy indicate ‘adversely affects <u>the significance of</u> registered parks and gardens’	Registered parks and gardens are not just heritage assets but also affect the landscape. It is noted that although Core Strategy policy LD4 refers to ‘significance’, policy LD1 requires their character to be protected and appropriate uses, design and management enabled with no reference to ‘significance’. If they were not significant then surely they would not be registered?
4	Herefordshire Council – Air,	Policy ALM13 – as possibly previously an orchard may be a legacy of contamination, including burial waste and	As indicated in the Schedule 2 to the Consultation statement, Policy ALM7(g) covers this issue from a planning policy perspective (Representation S.1).

<sup>6</sup> See <http://www.legislation.gov.uk/uksi/2010/490/regulation/73/made>

	Land and Water Protection	herbicides and should be considered when development proposed. Policies ALM13 and ALM14 – some farm buildings may have unforeseen contamination	
5	Herefordshire Council - Strategic Planning	<p>Question allocation of the Batch as LGS and farmstead policy with those equivalent in Herefordshire Core Strategy.</p> <p>The Batch –may be considered an extensive tract of land; already benefits from being a Special Wildlife Site and within Conservation Area.</p> <p>If farmstead policy refers to redundant farmstead buildings conversion must be supported by a structural survey to show they are capable of this without substantial alteration, extension, ancillary buildings, hard standings or other development that might have adverse impacts.</p>	<p>(Policy ALM5) The Batch is not considered an extensive tract of land. It is a small ‘dingle’ identified as important within Almeley Parish Plan. It was assessed against the criteria set for Local Green Space (see – <a href="http://almeleypc.org/local-green-space-assessments/">http://almeleypc.org/local-green-space-assessments/</a> ). The fact that it is a Special Wildlife Site should be seen as supporting the LGS designation. It should be noted that Special Wildlife Sites were designated in the 1970s and it is understood to be a trigger for further investigation because of their age. Similarly, inclusion within Almeley Conservation Area does not of itself offer full protection to the extent that LGS does in that it is only one material consideration.</p> <p>(Policy ALM14) – See Schedule 2 to the Consultation Statement representation S.1. It is understood Historic England was critical of Herefordshire Local Plan Core Strategy for not having a policy in relation to Historic farmsteads. In this respect it is noted that NPPF para 55 includes housing development as an exception to normal restrictions. In particular, this policy seeks to protect and enhance the heritage of historic farmsteads within the parish in relation to the following two specific provisions within that paragraph :</p> <ul style="list-style-type: none"> <li>• where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or</li> <li>• where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.</li> </ul>

			Enabling development should apply equally to historic farmsteads as much as large country houses.
6	B Eacock on behalf of Mr Mokler	<p>Wrote seeking inclusion of another site in the NDP but mentioned owner had been pursuing planning permission on land adjacent to The Manor in accordance with Inspector's report upon Herefordshire Unitary Development Plan suggesting that the land should be included within the settlement boundary. Inspectors report page 52, paragraph 5.40.7 refers. The settlement boundary omits this land despite the clear conclusion of the UDP Inspector. This contradicts his comments in para 5.40.8 that the settlement boundary should be amended 'as soon as priorities allow'. The NDP is the first opportunity. There have been no material changes to the NPPF against the UDP Inspectors assessment that warrants a different conclusion to be drawn.</p>	<p>It is understood that Herefordshire Unitary Development Plan (with the exception of its minerals waste policies) is no longer relevant and that will also apply to the Inspectors report. It has been superseded by Herefordshire Local Plan Core Strategy which removes settlement boundaries. In relation to Almeley Parish, settlement boundaries (or reasonable alternatives) (see Core Strategy paragraph 4.8.23) can only be replaced through Almeley Neighbourhood Development Plan (NDP). This NDP must accord with Herefordshire Local Plan Core Strategy, and most particularly policy RA2. This requires settlement boundaries that take into account 'the main built up area' of the settlement. This is different to the criteria used in the UDP (see UDP paragraph 5.4.36). In addition, with specific regard to the Inspector's comments upon the site referred to in Almeley, he did not take into account the statutory duty to consider whether the boundary 'preserved or enhance the character or appearance' of Almeley Conservation Area. It is understood that elsewhere, Herefordshire Council has advised that this is an important criterion that must be considered (See Herefordshire Council's comments on Kingsland Neighbourhood Development Plan).</p> <p>In preparing the NDP, Almeley Parish Council was aware of the decision by Herefordshire Council in relation to a planning application upon this site (reference 163430) which was refused partly on the basis of adverse effects on Almeley Conservation Area. In addition, Herefordshire Council had produced a draft Conservation Area Appraisal for Almeley and the NDP utilised and incorporated this into its NDP (Appendix 1 – and Policy ALM4 refers). No objections to this assessment</p>

			<p>and inclusion within the NDP were submitted at either the Regulation 14 or Regulation 16 consultations. This included Herefordshire Council. Historic England were particularly supportive of the approach taken. Having been included within the NDP that had proceeded through two rounds of consultation, it is considered that the assessment has the status of Supplementary planning Guidance. Herefordshire Council's advice in relation to the character area within which this site sits was utilised in reviewing the settlement boundary in this location. It was also noted that not only did Herefordshire Unitary Development Plan exclude this area, but so did the previous Leominster District Local Plan. This reflects a long-established concern about the importance of this area to the settlement's character and appearance.</p> <p>Herefordshire Council has had to be reminded of its statutory duty to consider whether proposals 'preserve or enhance the character or appearance' of the conservation area and not just the heritage asset.</p>
7	MR Edwards on behalf of J Mills	Object to omission of land granted planning permission and situated south west of The Orchards, Woonton from the settlement boundary	<p>Almeley NDP must comply with Herefordshire Local plan Core Strategy. Woonton is a small settlement identified in Table 4.15 of Herefordshire Local Plan Core Strategy. Housing development within settlements listed within this table should be 'proportionate'. In addition, a specific requirement set out in Core Strategy Policy RA2 indicates that <i>'proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned.'</i></p> <p>Herefordshire Council has suggested that there are 28 dwellings in the settlement (See Rural Housing background</p>

			<p>paper, March 2013). Although this is considered an overestimate, 12% housing growth based on this figure would amount to 4 dwellings. However, despite the NDP allocation on Woonton Farm, which part is considered a brownfield site of a former brickworks (site for 5 dwellings) , Herefordshire Council granted planning permission on two other sites that amounted to 9 dwellings (Codes P162312/F and P161919/F). This represents a 50% expansion of the small hamlet.</p> <p>Permission at the Orchards has been granted under code P173699/F for a further 5 dwellings. It was approved on 27<sup>th</sup> June 2018. The site was not submitted through the 'call for sites' and was not therefore assessed for consideration as a site to be included either as an allocation or for consideration to be included within the settlement boundary. It was not presented to the community either at Regulation 14 by Almeley Parish council or by Herefordshire Council at Regulation 16. No representations for its inclusion were received at the Regulation 14 stage.</p> <p>Should it have been submitted for consideration, it is considered that the site would not have met the provision to <i>'demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement'</i> in that it has a significant adverse effect on the historic character of the area comprising the setting of Listed Buildings, namely Woonton Farm and Poole Cottage and associated Poole Common and the rural setting within which they sit.</p> <p>It is understood that a judicial review of the decision is being sought.</p>
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