

INDEPENDENT EXAMINATION OF THE PEBWORTH NEIGHBOURHOOD DEVELOPMENT PLAN

INDEPENDENT EXAMINER:
Christopher Collison BA(Hons) MBA MRTPI MIED MCFI IHBC

To Pebworth Parish Council and Wychavon District Council by email
Dated 15 March 2019

Dear John and Andrew

Pebworth Neighbourhood Development Plan Independent Examination – Examiner Initial Letter

Further to my appointment to undertake the Independent Examination of the Pebworth Neighbourhood Development Plan I am writing to clarify how I will conduct the examination which has now formally commenced.

1. Communications

It is essential that the examination process is open and transparent to all interested parties. I would be grateful if the District Council and the Parish Council could publish this email on their respective websites. I will address all future communication to the District Council and send a copy to the Parish Council. It would be helpful if the Parish Council could channel all communication to me through the District Council, and that, when writing to me, the District Council sends a copy to the Parish Council.

2. National Planning Policy Framework

A revised National Planning Policy Framework, that includes minor clarifications in respect of the July 2018 version, was published on 19 February 2019. Paragraph 214 of the 2019 revised Framework states *“The policies in the Framework published in March 2012 will apply for the purpose of examining plans, where those plans were submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.”* As a point of clarification, I confirm I will undertake the Pebworth NDP Independent Examination in the context of the National Planning Policy Framework published in March 2012.

3. Examination documents

The District Council has provided me with hard copies of the submission Neighbourhood Plan document and each of the Regulation 16 representations received during the publicity period. The District Council has published all representations received on their website. I would be grateful if the District Council could also send me a hard copy of the Basic Conditions Statement and the Consultation Statement.

All documents sent to me throughout the Independent Examination should be available for inspection by interested parties. This is best achieved through publication on the District Council website.

I have looked at the submission Plan document. Subject to my later detailed assessment I have not identified any obvious fundamental flaws in the submission document that would lead me to advise the examination should not proceed. If I find that there are significant issues which may prevent the Neighbourhood Plan meeting the basic conditions, I will let you know during the examination.

The District Council has advised me what comprises the Development Plan and has sent me a document that confirms what are regarded by the Local Planning Authority as the strategic policies of the Development Plan applying in the Pebworth Neighbourhood Area.

The District Council has provided me with a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Opinion (August 2018), and a copy of an undated letter sent to Natural England relating to an update on the HRA Screening Opinion following the EU Court of Justice ruling in *People Over Wind and Sweetman v Coillte Teoranta* (Judgement of the Court Seventh Chamber 12 April 2018) and the Court of Justice (Second Chamber) judgement of 25 July 2018 *Grace, Sweetman, and National Planning Appeals Board Ireland* (ECLI:EU:C2018:593). I would be grateful if the District Council could update me when a reply is received.

A revised Basic Condition was introduced by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 which came into force on 28 December 2018. The effect of the Regulations with respect to the making of Neighbourhood Plans (Regulation 3) is that the basic condition *"The making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects"* is replaced by a basic condition *"The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017."* I must undertake the Independent Examination of the Pebworth Neighbourhood Plan in the context of the new Basic Condition. You will no doubt consider the implications of this change of basic condition in terms of any further actions, including consultations, that become necessary. I should be grateful if the District Council and Parish Council would jointly confirm that the Neighbourhood Plan meets the revised Basic Condition.

I am providing an opportunity for the Parish Council to comment on the Regulation 16 representations of other parties. There is no obligation on the Parish Council to offer any comments but this opportunity can prove helpful where representations of other parties include matters that have not been raised earlier in the plan preparation process. The Parish Council should submit any comments to me via the District Council no later than 12.00 Noon on Wednesday 27 March 2019. The Parish Council may, at an earlier date,

submit its comments, or confirm it does not intend to submit any comments on the representations. Any Parish Council comments should be published on the District Council website. Parish Council comments must not include new evidence.

4. Independence

From my initial review of the Neighbourhood Plan documents it would appear that there are no conflicts of interest that would call into question my independent status. I will keep that matter under review throughout the examination.

5. Visit to the Neighbourhood Plan area

After I have thoroughly reviewed the Neighbourhood Plan documents, representations, and any comments of the Parish Council, I intend to visit the plan area as this will assist me in understanding the nature of the Neighbourhood Plan and points made in representations or comments, and help me decide if there are any issues to be clarified. I will undertake this visit on an unaccompanied basis as it is important that there should be no perception that I have heard additional representations.

6. Clarification procedure

I may at any time during the Independent Examination seek written clarification of any matters that I consider necessary. I will direct any request for clarification to the District Council, copying in the Parish Council. I will request any response is agreed as a joint response of the Parish and District Councils. Any request for clarification and any response should be published on the District Council website.

At this stage I have identified the following matters that require clarification and would be grateful if the Parish Council and District Council could send me a joint response to the following matters by 12.00 Noon on Wednesday 27 March 2019:

- a) Paragraph 2.1 of the Neighbourhood Plan states the Neighbourhood Area was designated by the District Council on 10 April 2013. A map of the Neighbourhood Plan boundary is included as Figure 2 of the Submission Version Plan where the designation of the Neighbourhood Area is stated to be 23 April 2013. Could you please confirm the date of designation?
- b) The Neighbourhood Plan includes reference to both the Pebworth Neighbourhood Plan and the Pebworth Parish Neighbourhood Plan. Could the Parish Council please confirm the Plan title?
- c) With respect to Policy P1:
 - could the Parish Council please direct me to any justification, additional to the content of paragraph 5.0 of the Neighbourhood Plan, for the requirement that a scheme should comprise approximately 10 to 12 dwellings;

- Could the Parish Council please confirm whether Part d) of the Policy relates to a footpath, or a footway adjacent to a carriageway, and how any land ownership issues associated with implementation are to be addressed;
 - The representation of the District Council Property Services refers to a development boundary. Could the District Council please confirm whether a settlement boundary policy exists;
 - Could the District Council please provide me with an update regarding the site that is stated in the Neighbourhood Plan to deliver 380 dwellings on the edge of the Parish.
- d) Local planning authorities may use nationally recognised optional technical standards where there is evidence to show these are required. However, Neighbourhood Plans may not be used to apply these (<https://www.gov.uk/guidance/housing-optional-technical-standards>). The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following: *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. Whilst Policy P3 relates to all development types these include dwellings which are likely to be the most common type of development occurring in the plan area over the plan period. Part 5 of Policy P3 includes technical standards that I recommend should be relegated to supporting text where they should be referred to as components that are “encouraged”. Could you jointly confirm this approach?
- e) The Green Space Background Paper states *“Policy SWDP2 also identifies and protects areas defined as Significant Gaps to ensure the retention of their open character. There is a relatively large area in the centre of the village of Pebworth identified and protected as a significant gap in the SWDP.”* Could you please direct me to this designation in the SWDP?
- f) Are the Parish Council in agreement to replace the viewpoint indicators on the Policies Map with a vista splay that illustrates the written descriptions in Policy P and the photographs included in Appendix 4?
- g) Is it intended Policy P6 should relate to all active travel routes (including footpaths, bridleways, cycle paths, and restricted byways)?
- h) Policy P7 Part c) includes a requirement for at least two years marketing. Where in the evidence base is this length of time justified?
- i) Policy P8 refers to “rural buildings”. Where is this term defined?
- j) Policy B9 appears to relate to all “existing businesses”. Could this be confirmed please?

As the Independent Examination proceeds I may identify other matters that require clarification.

I am proceeding on the basis that the examination can be concluded without the need for a hearing. At any time before I issue my final report, I may call a

hearing if I consider this is necessary to ensure adequate examination of any issue, or to allow a person a fair chance to put a case.

7. Examination timetable

The main determinants of how long the examination will take are firstly the number and complexity of the Neighbourhood Plan policies; the clarity of supporting evidence; and the number and nature of representations. Assuming a hearing will not be necessary I anticipate that during April 2019 I will be able to send a confidential draft of my report to the District Council and the Parish Council to allow an opportunity to check whether there are any factual errors. This will not be an opportunity for any further representations to be made.

8. Procedural questions

I would be pleased to address any questions relating to the examination process that the District Council or the Parish Council may have.

I should be grateful if the District Council and the Parish Council could acknowledge receipt of this email.

Best regards

Chris Collison
Independent Examiner
Planning and Management Ltd
collisonchris@aol.com