

PP147A

27 March 2019

Chris Collison  
Independent Examiner  
Planning and Management Ltd

Dear Chris

## **Pebworth Neighbourhood Development Plan Independent Examination – Parish Council Query**

Please find the response below made on behalf of the Parish Council and District Council to the question set out in your letter of 15 March 2019. The Parish Council's response is provided in blue and the District Council's response in green script below.

### 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.

*Noted the Parish Council will channel responses through the District 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 Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the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.

*Noted.*

### 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.

The District Council has yet to receive a response to the email dated 15 March 2019 to Natural England but will notify the Examiner as soon as any correspondence is received from the statutory body.

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.

It is understood that the Neighbourhood Plan meets the Revised Basic Condition and no further action is required. Wychavon are awaiting confirmation from the HRA assessment (see above) which will feed into this response. Due to the distance of the Neighbourhood Area from European designated wildlife sites the Plan is not considered to have a significant effect on a European site,

nor does it propose any mitigation measures as they are not required. [Please see the response provided above by the District Council.](#)

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.

The Parish Council only wishes to make comments on two representations.

#### [Representation 6 Wychavon District Council Property Department](#)

The site known as Land to the west of Chapel Road has been fully considered in the Plan making process. It was assessed as part of the process for allocating sites. All the details with regard to the assessment are contained within the Housing Background Paper. A summary is provided at paragraph 8.15 and Appendix 1 page 28 SHLAA ref 69.11; the full assessment can be found in Appendix 2 on page 54 – 58 where the previous refused applications are referred to and the reasons for not allocating the site are stated.

The Parish Council are unable to find anywhere within the submitted documentation that refers to the land being used as a community orchard as referred to in this representation.

#### [Representation 17 Worcestershire County Council - Representation / Ward Profile](#)

Unfortunately the County Council's representation to the Regulation 14 consultation, appended to the submission at Appendix A, was never received by the Parish Council. However it is considered that the matters it raised have been satisfactorily addressed in the Submission Plan.

#### 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?

The area was designated on 10 April 2013. The map has the wrong date on it and a revised version can be provided by the District Council.

- 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?

Pebworth Parish Neighbourhood Plan.

- 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;

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- Chapter 4 The Local Context paragraphs 4.13 to 4.15 set out the development context for the parish.
- Chapter 5 Issues and Evidence – *Housing* paragraphs 5.10 to 5.11 summarise the housing need and questionnaire response.

Housing Background Paper

- Chapter 2 Policy Background paragraph 2.9 onward regarding Local Plan requirement.
- Chapter 4 Residents' Questionnaire Findings summarising the scale of sites that would be supported by the community
- Chapter 5 Housing Supply – Large scale commitments already in the parish.

Consultation Statement

- There are a number of responses from the Steering Group relating to this matter. Primarily dealt with on page 69 response to Andrew Ford and page 70-72 responses to Richard Cooke.

- 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;

This relates to a footway adjacent to the carriageway. It is understood that the land belongs to the local highway authority and that any developer would enter into an agreement with the local highway authority.

- 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;

The development boundary is identified through Policy SWDP2 C and shown on the Interactive Policies Map for the SWDP.

<http://swdp.addresscafe.com/app/exploreit/default.aspx>

- 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.

Following grant of outline planning permission ref. no. 13/00132 by Sec of State, RM details relating to the employment element of the scheme (called Phase 6) have now been approved. There are four RM applications for the residential/community elements of the scheme, but effectively the focus is only on two of these; 16/01618 which is Phase 1 and proposes just 16 dwellings and 17/01269 which covers phases 2 to 5 and proposes 364 dwelling (making up the 380 units allowed under the outline application).

The RM applications have been held up for a number of reasons (inc. appeal against affordable housing provision, appeal against refusal of connectivity scheme required by a condition attached to the outline permission). Although these have been resolved there is no date set for the RM applications to go before the Planning Committee.

- 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?

The Parish Council wish to thank the examiner for providing clarification on this question in the response of 20 March 2019. In relation to Policy 3 Part 5 paragraphs (e) and (f) the Parish Council would like to propose that they remain in the policy but that they would read as follows:

*“e) features that contribute to the efficient use of water and reduce surface water run-off including water butts and where possible rainwater harvesting will be supported and are encouraged;*

*f) where appropriate the use of renewable energy to generate power for example Photo Voltaic panels and tiles, solar panels and air source heat pumps to reduce the reliance on fossil fuels are encouraged;”*

Wychavon District Council supports this revised wording.

- 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?

It can be found on the SWDP [interactive policies map](#) and is covered by paragraph D of SWDP2 and paragraph 8 of the Reasoned Justification.

- 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?

Yes indicative arrows can be added – descriptions of the direction are set out in Appendix 4 within the assessment table along with a photograph and full description of each view to aid the applicant or decision maker.

- g. Is it intended Policy P6 should relate to all active travel routes (including footpaths, bridleways, cycle paths, and restricted byways)?

Yes.

- 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?

The justification is based on the Parish Council’s own recent experience with the closure and then sale of the local Public House, the Mason Arms. An explanation is set out in paragraph 2.0 of the Reasoned Justification of Policy 7. It took two years to find a purchaser for the pub, which is now open in the village of Pebworth. Had there been a policy requirement for the site to be marketed for a shorter period in place at the time, it is likely that the community would have lost this valuable community facility.

The length of time taken to find a purchaser and an explanation of parish concerns is also explained within the Issues and Evidence Chapter paragraph 5.45. This matter was also addressed in the Consultation Statement in response to a comment by Andrew Ford on page 95.

- i. Policy P8 refers to “rural buildings”. Where is this term defined?

Rural Buildings are considered to be farm/agricultural buildings as explained within paragraph 1.0 of the Reasoned Justification.

j. Policy B9 appears to relate to all “existing businesses”. Could this be confirmed please?

Yes it refers to all existing businesses.

The District Council and Parish Council hope the above responses have answered the queries that you have raised in full but if further clarification is required please get back to the councils directly.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Ford', with a large initial 'A' and a smaller 'F'.

Andrew Ford

Cc. John Stedman, Clerk to the Pebworth Parish Council