

This short note sets out the key facts as I see them, and the issues that I wish to examine at the hearing. Schedule 4B of the Town and Country Planning Act (TCPA) 1990 [9 (1)] is clear that a hearing for a neighbourhood plan examination will not normally be required. I have determined that to ensure adequate examination of whether or not removing Site D from the review of the PGNP2017 meets the Basic Conditions, I need to consider oral representations from the identified parties, as allowed by the Schedule [9 (2)].

## **1. Background**

1.1 The Pyons Group Neighbourhood Development Plan (PGNP2017) was made in 2017 after a successful referendum on the 16<sup>th</sup> June 2017. In the view of the Examiner of this plan, it met the Basic Conditions with modifications, including being in general conformity with the development plan. The development plan then, and now, is the Herefordshire Local Plan Core Strategy (HCS) 2011-2031, adopted October 2015.

1.2 The qualifying body, Pyons Group Parish Council, began a review process of the PGNP2017 in 2020. A draft version of the PGNPR was approved for consultation under Regulation 14 (Reg14) of the Neighbourhood Planning Regulation 2012, which ran from the 1<sup>st</sup> February 2021 – 15<sup>th</sup> March 2021. The Review Plan (PGNPR) was submitted to the Local Planning Authority (LPA), Herefordshire Council, who undertook Reg16 publicity from the 28<sup>th</sup> November 2022 to the 23<sup>rd</sup> January 2023. The PGNPR then went to examination, as the changes proposed were agreed by both the LPA and the qualifying body to be significant enough to require both examination and another referendum. I am the second examiner appointed, as the first had to decline for personal reasons. We both agreed that a full examination and referendum were required.

1.3 The PGNPR is no longer allocating sites specifically for residential development, although the site for a new school (Policy PG11) allows for new housing of 2 dwellings if required for viability purposes. The settlement boundary has also been amended (policy PG1: Development Strategy), and now excludes the former allocation of Site D. Thus the allocation has effectively been removed, and the site is now proposed to be designated as land outside the settlement boundary. Although the policy does not make this clear, the HCS2015 Policy RA3 'Herefordshire's countryside' applies to land outside of settlements as defined in neighbourhood plans, and restricts residential development to agricultural use, or other exceptions defined in other policy.

1.4 A planning application for development on land that includes site D of the PGNP2017 was submitted on the 31<sup>st</sup> August 2021 (P/213332/F). At present there is a moratorium on determining development proposals within the catchment of the River Wye (including the River Lugg) Special Area of Conservation (SAC) due to current pollution concerns, and the application has not yet been

determined. Several issues including Landscape and highways require further negotiation, according to consultation responses. Should the planning application currently suspended be approved in due course, then that would supersede the settlement boundary proposed in the PGNPR, but it is not yet a permission that should be included within any proposed settlement boundary.

1.5 There was no formal site assessment process undertaken to inform the allocation of four sites in the PGNP2017. Two of the sites had already received planning permission prior to submission of the PGNP2017 to the LPA (Sites A and B). Site C was granted permission during the examination of the PGNP2017. The Strategic Housing Land Availability Assessment (SHLAA) Study of 2012 undertaken by consultants for the LPA had considered that Site D was not suitable for development during the period of the development plan. However it was legitimate for the PGNP2017 to decide that they wished to allocate the site, despite the SHLAA assessment, and they did.

1.6 During the process of drafting the PGNPR a Site Assessment Report was commissioned via Locality with AECOM Planning Consultants. This report, taking into account the recommendation of the SHLAA and their own analysis determined that Site D was in fact not suitable for residential development in the PGNPR. The Site Assessment for the PGNPR considered only sites that had been allocated in the PGNP2017. Of the seven sites in the 2012 SHLAA, two were deemed suitable and have been developed (Sites A and B), Site C was considered to have significant constraints, and four other sites, including Site D were considered to have no potential during the Plan Period (the HCS2015). Para 30 of the NPPF allows for non-strategic policies to be superseded by later development documents, and as the allocation of site D in the made neighbourhood plan is not strategic, the proposed removal of the site is not contrary to planning process.

1.7 Herefordshire Council have demonstrated a 5 year supply of housing land in a Position Statement of the 1<sup>st</sup> April 2022. The Pyons Group Parish has exceeded the 18% growth target in the HCS, which is of course a minimum level. The PGNPR is proposed to run until 2041, which is the end date of the Local Plan Review. It may be that as this document progresses the PGNPR could be superseded, but at present the Local Plan Review does not have formal weight in terms of clear proposals for the Pyon Group Parish. The Basic Conditions require a neighbourhood plan to be in general conformity with the Development Plan, and the Local Plan Review is not part of the Development Plan.

## **2. Remit and Authority of an Examiner at a Neighbourhood Plan Hearing**

2.1 Schedule 4B of the TCPA1990 [8 (6)] states that the Examiner is not to consider any matter not prescribed in the Schedule at 8 (1) and 8 (6). For the purposes of this neighbourhood plan hearing that means that my main consideration will be whether or not the revisions to the settlement boundary at Canon Pyon that now excludes Site D complies with the Basic Conditions. I cannot therefore consider the relative merits and dis-merits of the proposed development.

2.2 I am also not going to consider complaints about consultation and other process issues during the formulation of the PGNPR at this hearing. I am in receipt of documentation submitted at Reg16 detailing complaints, but do not need to consider the issues raised further at this hearing.

2.3 I am not prepared to enter into protracted discussion about the background facts as set out above, or deal with other matters beyond the scope of this note. If any point in section 1 is disputed you may raise this briefly to bring that to my notice. I am however prepared to have a brief final session where attendees that I agree can speak, may raise issues for me to consider, and I may ask for further information for clarification around the examination generally.

2.4 Schedule 4B, and Schedule A2 of the Planning and Compulsory Purchase Act 2004 (which deals specifically with the review of neighbourhood development plans) are both clear that a hearing is not a public consultation exercise. Its purpose is to allow the examiner to explore issues, with the help of identified attendees, that require an oral examination of evidence beyond the written evidence submitted. Schedule A2 12 (3) sets out who has a right to make oral representations, they are:

- The qualifying body – Pyons Group Parish Council
- The LPA – Herefordshire Council
- Any other party I nominate.

For this hearing I nominate in addition the following parties. They do not have to attend of course, but I would welcome their contribution:

- Oak Homes Ltd and their representative – Black Box Planning at Reg16 submission stage
- Any party that can demonstrate current ownership of the site or part of the site.

2.5 The hearing will be open to the public to attend. Schedule A2 [12 (5)] gives an examiner control over how long people may speak, and I will normally be the only person to question the oral evidence unless I agree otherwise in a particular circumstance. I propose to advise parties that their submissions on the points I wish addressed should be no longer than 15 minutes in the first instance.

2.6 The points I wish oral contributions to address are whether or not the revised settlement boundary at Canon Pyon which effectively removes the allocation of site D is consistent with the Basic Conditions requirements of a neighbourhood plan listed below (Schedule 4B: [8 (2)], and the particular issues the arise from these requirements that I have identified in para 2.7. The schedule refers to 'Orders', but this is expanded to include neighbourhood plans in other legislation):

(a) having regard to national policies and advice contained in guidance issues by the Secretary of State, it is appropriate to make the [plan] order,

(e) the making of the [plan] order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),

2.7 I am asking for oral evidence to concentrate on the following issues this Basic Conditions would cover:

- whether the removal of site D is positive and sustainable planning as required by the NPPF (para 16b) and NPPG (ID 41-005-20190509), but not to include detailed review of prospective Local Plan Review housing targets;
- Whether the evidence base is appropriate as required by the NPPG (ID 41-041-20140306);
- Whether any strategic policies in the HCS are undermined by the removal of site D contrary to para29 of the NPPF.

I look forward to exploring these issues on the afternoon of Friday 8<sup>th</sup> September 2023 at the Canon Pyon Village Hall.

**Abbreviations used in this note:**

GPNP2017	Made Pyons Group Neighbourhood Development Plan 2017
PGNPR	Review Pyons Group NDP – the subject of this hearing and examination
HCS	Herefordshire Local Plan Core Strategy 2015
NPPF	National Planning Policy Framework 2021
NPPG	National Planning Practice Guidance as updated.
Reg16	Regulation 16 Publicity
TCPA	Town and Country Planning Act 1990
SHLAA	Strategic Housing Land Availability Assessment
SAC	Special Area of Conservation