

PYRTON NEIGHBOURHOOD PLAN – 2018 - 2033

(Submission Version)

**Report of the Examination into the**  
**Pyrton Neighbourhood Plan**

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<b><u>Contents</u></b>	<b>Page(s)</b>
<b>1. Introduction</b>	<b>1-2</b>
- Neighbourhood planning	1
- Appointment and role	1 - 2
<b>2. Preliminary Matters</b>	<b>2</b>
- Public consultation	2
- Other statutory requirements	2
<b>3. The Extent and Limits of an Examiner's Role</b>	<b>2 - 4</b>
<b>4. Consideration of Representations</b>	<b>4 -5</b>
<b>5. Public Hearing and Site Visit</b>	<b>5</b>
<b>6. The Basic Conditions and Human Rights</b>	<b>5 - 7</b>
- Regard to national policies and advice	5
- Contributing to the achievement of sustainable development	6
- General conformity with the development plan	6 - 7
- EU obligations	7 - 8
- European sites	8
- Human rights	8
<b>7. General points</b>	<b>8 -</b>
- The nature of the parish	8 - 9
- Housing	9 - 10
- Local Green Spaces	10 – 11
- The Watlington Edge Road	11
- Gaps	12
- The contents of the Draft NDP	12 - 16
- Updating, etc	16
<b>8. Referendum Area</b>	<b>16</b>
<b>9. Summary of Main Findings</b>	<b>17</b>
<b>Appendix A: Recommended Modifications</b>	<b>18 - 19</b>
<b>Appendix B: Abbreviations</b>	<b>20</b>

# **Report of the Examination into the Pyrton Neighbourhood Plan**

## **1. Introduction**

### *Neighbourhood planning*

1. The Localism Act 2011 Part 6 Chapter 3 introduced neighbourhood planning, including provision for neighbourhood development plans. A neighbourhood development plan should reflect the needs and priorities of the community concerned and should set out a positive vision for the future, setting planning policies to determine decisions on planning applications. If approved by a referendum and made by the local planning authority, such plans form part of the Development Plan for the neighbourhood concerned. Applications for planning permission should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

*Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes... can use neighbourhood planning to: set planning policies through neighbourhood plans to determine decisions on planning applications...<sup>1</sup>*

2. This report concerns the Submission Version of the Pyrton Neighbourhood Development Plan 2018 - 2033 (“the Draft NDP”).

### *Appointment and role*

3. South Oxfordshire District Council (“SODC”), with the agreement of Pyrton Parish Council (“PPC”), has appointed me to examine the Draft NDP. I am a member of the planning bar and am independent of SODC, PPC, and of those who have made representations in respect of the Draft NDP. I have been trained and approved by the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). I do not have an interest in any land that may be affected by it.

4. My examination has involved considering written submissions and an unaccompanied site visit on Friday 12<sup>th</sup> October 2018. The site visit included views of all sites mentioned in this report and a view of the parish from Watlington Hill. It helped me to gain a sufficient impression of the nature of the parish for the purpose of my role. I have considered all the documents with which I have been provided.

5. My role may be summarised briefly as to consider whether certain statutory requirements have been met, to consider whether the Draft NDP meets the basic conditions, to consider human rights issues, to recommend which of the three options specified in paragraph 12 below applies and, if appropriate, to consider the referendum area. I must act

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<sup>1</sup> NPPF (2012), paragraph 183.

proportionately, recognising that Parliament has intended the neighbourhood plan process to be relatively inexpensive.

## **2. Preliminary Matters**

### *Public consultation*

6. I am satisfied that PPC took public consultation seriously and that sufficient consultation resulted. I bear in mind that parish councillors are democratically accountable, subject to a code of conduct and likely to be in close contact with the community they represent. I do not consider there has been any failure in consultation, let alone one that would have caused substantial prejudice. I noted on my site visit that there were documents relating to the draft NDP both in the church and on the village hall notice board. The consultation met the requirements of the Neighbourhood Planning (General) Regulations 2012 (“the General Regulations”).

### *Other statutory requirements*

7. I am also satisfied of the following matters:

- (1) The Draft NDP area is the parish of Pyrton, as it has existed since a boundary change on 1<sup>st</sup> April 2015. PPC is authorised to act in respect of this area (Town and Country Planning Act 1990 (“TCPA”) s61F (1) as read with the Planning and Compulsory Purchase Act 2004 (“PCPA”) s38C (2)(a));
- (2) The Draft NDP does not include provision about development that is excluded development (as defined in TCPA s61K), and does not relate to more than one neighbourhood area (PCPA s38B (1));
- (3) No other neighbourhood development plan has been made for the neighbourhood area (PCPA s38B (2));
- (4) There is no conflict with PCPA s38A and s38B (TCPA Sch 4B para 8(1)(b) and PCPA s38C (5)(b)); and
- (5) The draft NDP specifies the period for which it is to have effect, namely 2018 - 2033, as required by PCPA s38B(1)(a).

## **3. The Extent and Limits of an Examiner’s Role**

8. I am required to consider whether the Draft NDP meets the basic conditions specified in TCPA Sch 4B para 8(2) as varied for neighbourhood development plans, namely:

- (a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Plan;

- (d)<sup>2</sup> The making of the Plan contributes to the achievement of sustainable development;
- (e) The making of the Plan 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);
- (f) The making of the Plan does not breach, and is otherwise compatible with, EU obligations; and
- (g) Prescribed conditions are met in relation to the Plan and prescribed matters have been complied with in connection with the proposal for the Plan.

9. There is one prescribed basic condition:<sup>3</sup> *“The making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (either alone or in combination with other plans or projects)”*.

10. The combined effect of TCPA Sch 4B para 8(6) and para 10(3)(b) and of the Human Rights Act 1998 means that I must consider whether the Draft NDP is compatible with Convention rights. ‘*Convention rights*’ are defined in the Human Rights Act 1998 as (a) Articles 2 to 12 and 14 of the European Convention on Human Rights (“the Convention”), (b) Articles 1 to 3 of its First Protocol, and (c) Article 1 of its Thirteenth Protocol, as read with Articles 16 to 18 of the Convention. The Convention rights that are most likely to be relevant to town and country planning are those under the Convention’s Article 6(1), 8 and 14 and under its First Protocol Article 1.

11. In my examination of the substantial merits of the Draft NDP, I may not consider matters other than those specified in the last three paragraphs. In particular I may not consider whether any other test, such as the soundness test provided for in respect of examinations under PCPA s20, is met. Rather, it is clear that Parliament has decided not to use the soundness test, but to use the, to some extent, less demanding tests in the basic conditions. It is not my role to write or to rewrite a neighbourhood development plan to create the plan that I would have written for the parish of Pyrton.

12. Having considered the basic conditions and human rights, I have three options, which I must exercise in the light of my findings. These are: (1) that the Draft NDP proceeds to a referendum as submitted; (2) that the Draft NDP is modified to meet basic conditions and then the modified version proceeds to a referendum; or (3) that the Draft NDP does not proceed to referendum. If I determine that either of the first two options is appropriate, I must

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<sup>2</sup> The omission of (b) and (c) results from these clauses of paragraph 8(2) not applying to neighbourhood development plans (PCPA s38C (5)(d)).

<sup>3</sup> Sch 2 of the General Regulations prescribes this.

also consider whether the referendum area should be extended. My power to recommend modifications is limited by statute in the following terms:

*The only modifications that may be recommended are—*

*(a) modifications that the examiner considers need to be made to secure that the draft [NDP] meets the basic conditions mentioned in paragraph 8(2),*

*(b) modifications that the examiner considers need to be made to secure that the draft [NDP] is compatible with the Convention rights,*

*(c) modifications that the examiner considers need to be made to secure that the draft [NDP] complies with the provision made by or under sections 61E(2), 61J and 61L,*

*(d) modifications specifying a period under section 61L(2)(b) or (5), and*

*(e) modifications for the purpose of correcting errors.<sup>4</sup>*

13. The word “only” prevents me recommending any other modifications. The fact that a modification seems desirable is not a sufficient ground to recommend it. So, for example, a proposed modification which gives additional information cannot be justified simply because some would find that information helpful. It is not within my powers to recommend avoidance of repetition or other matters that some may consider unnecessary, unless it happens to come with one of the categories specified in the preceding paragraph. Lindblom LJ explained the extent of the power to make modification in his judgment in Kebbell Developments Ltd v. Leeds City Council.<sup>5</sup>

14. It is not my role to consider matters that are for the determination of other bodies such as SODC. In particular, it is not my role to consider whether the Pyrton Conservation Area should be extended or whether a property should become an Asset of Community Value. Nor is it my role to consider matters that an NDP could consider, but which are not considered in the draft NDP, unless this is necessary for my role as explained above. So, for example, it is not my role to consider whether there should be a local list of buildings and, if so, what it should contain. Comments in respect of these matters may nonetheless be relevant to my role.

#### **4 Consideration of Representations**

15. I have given all representations careful consideration, but have not felt it necessary to comment on most of them. Rather in accordance with the statutory requirement and bearing in mind the judgment of Lang J in R (Bewley Homes Plc) v. Waverley Borough Council,<sup>6</sup> I

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<sup>4</sup> TCPA Sch 4B, para 10(3).

<sup>5</sup> [2018] EWCA Civ 450, 14<sup>th</sup> March 2018, paragraphs 34 and 35.

<sup>6</sup> [2017] EWHC 1776 (Admin), Lang J, 18<sup>th</sup> July 2017.

have mainly concentrated on giving reasons for my recommendations.<sup>7</sup> Where I am required to consider the effect of the whole Draft NDP, I have borne it all in mind.

## **5. Public Hearing and Site Visit**

16. The general rule is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However an examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure (1) adequate examination of the issue or (2) a person has a fair chance to put a case. Since neither applied in this case, notwithstanding the representations that there should be one, I did not held a public hearing.

17. I did consider that an unaccompanied site visit was appropriate, particularly to gain a fuller understanding of the proposed Local Green Spaces (“LGSs”) and sites PYR1 and PYR2.

## **6. Basic conditions and human rights**

*Regard to national policies and advice*

18. The first basic condition requires that I consider whether it is appropriate that the plan should be made “*having regard to national policies and advice contained in guidance issued by the Secretary of State*”. A requirement to have regard to policies and advice does not require that such policy and advice must necessarily be followed, but it is intended to have and does have a significant effect.

19. The principal document in which national planning policy is contained is the National Planning Policy Framework (March 2012) (“the NPPF”) and I have borne that in mind. Other policy and advice that I have borne in mind includes national Planning Practice Guidance (“PPG”). A revised version of the NPPF was issued in July 2018. Its paragraph 214 provides: “*The policies in the previous Framework will apply for the purpose of examining plans, where those plans are 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.*” Its footnote 69 explains “*For neighbourhood plans, ‘submission’ in this context means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.*” That has occurred in this case. I have therefore considered the policies in the original NPPF.

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<sup>7</sup> TCPA Sch 4B, para 10(6).

*Contributing to the achievement of sustainable development*

20. The second basic condition means that I must consider whether the making of the Plan contributes to the achievement of sustainable development. Unless the Draft NDP, or the Draft NDP as modified, contributes to sustainable development, it cannot proceed to a referendum. This condition relates to the making of the Plan as a whole. It does not require that each policy in it must contribute to sustainable development. It does require me to consider whether constraints might prevent sustainable development and, if they might, whether the evidence justifies them. That involves consideration of site-specific constraints, both existing (as shown on the plan in paragraph 4.8.2) and those proposed in the draft NDP. The total effect of the constraints introduced by the draft NDP when read with existing constraints should not prevent the achievement of sustainable development.

21. The bulk of the NPPF constitutes guidance on sustainable development. Its paragraph 6 says, “*The policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development... means in practice for the planning system.*”

*General conformity with the development plan’s strategic policies*

22. The third basic condition means that I must consider whether the Draft NDP is in general conformity with the strategic policies contained in the development plan for the area of the authority.

23. The adjective ‘*general*’ allows a degree of (but by no means unlimited) flexibility and requires the exercise of planning judgement. This condition only applies to strategic policies - there is no conformity requirement in respect of non-strategic policies in the development plan or in respect of other local authority documents that do not form part of the development plan. In assessing whether a policy is strategic, I have borne in mind PPG advice. I have also borne in mind the relevant part of the judgment in R (Swan Quay LLP) v Swale Borough Council.<sup>8</sup>

24. The most relevant parts of the development plan are South Oxfordshire Core Strategy 2012 (“SOCS”) and the saved policies of South Oxfordshire Local Plan 2011 (2006). There is an emerging South Oxfordshire Local Plan 2011-2033 (“eSOLP”). This is not the development plan for the purpose of the third basic condition, but its reasoning and evidence may be relevant to other issues.

25. Relevant strategic policies, to which the third basic condition applies, include:

(1) SOCS policy CSS1 (the overall strategy), which among other things states:

*Proposals for development in South Oxfordshire should be consistent with the overall strategy of:*

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<sup>8</sup> [2017] EWHC 420 (Admin), para 29, Dove J, 27<sup>th</sup> January 2017.

*(iii) supporting and enhancing the larger villages of ... Watlington... as local service centres;*

*(iv) supporting other villages in the rest of the district by allowing for limited amounts of housing and employment and by the provision and retention of services; and*

*(v) outside the towns and villages, and other major developed sites, any change will need to relate to very specific needs such as those of the agricultural industry or enhancement of the environment.*

(2) SOCS policy CSH2 (density), which states

*On sites where housing development is acceptable in principle, a minimum density of 25 dwellings per hectare (net) will be required unless this would have an adverse effect on the character of the area.*

(2) Policy CSQ3 Design, which begins

*Planning permission will be granted for new development that is of a high quality and inclusive design that:*

- *responds positively to and respects the character of the site and its surroundings, particularly the historic significance and heritage values of the historic environment, enhancing local distinctiveness and ensuring that new development is of a scale, type and density appropriate to the site and its setting...*

(4) SOCS policy CSEN1 Landscape, which among other things states:

*The district's distinct landscape character and key features will be protected against inappropriate development and where possible enhanced ...*

*(ii) High priority will be given to conservation and enhancement of the Chilterns and North Wessex Downs Areas of Outstanding Natural Beauty (AONBs) and planning decisions will have regard to their setting. Proposals which support the economies and social well being of the AONBs and their communities, including affordable housing schemes, will be encouraged provided they do not conflict with the aims of conservation and enhancement. ...*

26. The settlement hierarchy established by policy CSS1 relates to the actual settlements, not to parishes. Much of Pyrton parish is in the lowest tier “*outside the towns and villages*”; Pyrton village and Christmas Common hamlet are in the “*other villages*” tier; and land adjoining Watlington but outside its parish is (subject to consideration of other factors) potentially capable of supporting and enhancing Watlington.

*EU obligations*

27. The fourth basic condition requires me to consider whether the Draft NDP breaches, or is otherwise incompatible with, EU obligations. I have in particular considered the following: the Strategic Environmental Assessment Directive (2001/42/EC); the

Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); the Water Framework Directive (2000/60/EC); and the General Data Protection Regulation.

28. I am satisfied that no issue arises in respect of equality under general principles of EU law or any EU equality directive. I am satisfied that the making of the NDP would not breach, and be otherwise incompatible with, EU obligations and that it is not necessary to consider the matter further in this report.

#### *European sites and European offshore marine sites*

29. The draft NDP is unlikely to give rise to significant environmental effects on these sites. I am satisfied that the making of the NDP would not be incompatible with the prescribed basic condition and that it is not necessary to consider the matter further in this report.

#### *Human Rights*

30. English planning law in general complies with the Convention. This matter can also be dealt with briefly in advance of detailed consideration of the contents of the Draft NDP. I have considered whether anything in the Draft NDP would cause a breach of any Convention right. In particular I have considered the Convention's Articles 6(1), 8 and 14 and its First Protocol Article 1. Nothing in my examination of the Draft NDP indicates any breach of a Convention right, so that no modifications need to be made to secure that the draft NDP is compatible with these rights. It is therefore not necessary to consider human rights in the parts of this report that deal with specific parts of the Draft NDP.

## **7. General Points**

### *The nature of the parish*

31. In considering the contents of the draft NDP I must consider the nature of the village, which is well explained in the draft NDP. It is in the '*other villages*' category in the SOCS<sup>9</sup> with limited facilities: a church with one service a week, a village hall that is in active use and retail that is limited to the market garden and a farm in the village selling milk, eggs and honey. There are no playing fields or public recreational land in or adjoining the village. Outdoor recreation of right is limited to public rights of way and the churchyard with its wooden bench for public use.

32. I must also consider the nature of the parish as a whole. This includes the edge of the settlement of Watlington, a 'larger village' in the settlement hierarchy SOCS.<sup>10</sup> With its

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<sup>9</sup> Appendix 4 page 151.

<sup>10</sup> Appendix 4 page 151.

shops, schools, cafés and public houses and bus services, this is considerably more sustainable than the village of Pyrton and is described in SOCS as one of the “*villages offering the most services and with the ability to act as local centres as part of the network of settlements*”<sup>11</sup> and as a local centre serving its immediate rural area.<sup>12</sup>

33. Site PYR1 does not adjoin Watlington, but it is within easy walking distance of the town along a pavement on its side of Shirburn Road (the B4009).

34. The hamlet of Christmas Common is also one of the ‘*other villages*’ in SOCS. It has the advantage of a public house and restaurant and also particularly attractive publicly accessible National Trust land at Watlington Hill, both a little outside the parish boundary; but with no bus service or other facilities, it depends overwhelmingly on private motorcar access to facilities some distance from it. The other hamlets in the parish, Clare, Golder and Standhill, do not have significant facilities. They are not mentioned in the SOCS and therefore come under sub-paragraph (v) of SOCS policy CSS1, the least sustainable category of settlement in the hierarchy.

35. No buses stop in the parish. There is a single once a week service along Shirburn Road to and from Thame, but this does not stop in the parish. The bus service mentioned on page 22 of the Draft Conservation Area Appraisal no longer runs.

36. The south-eastern end of the parish, including Christmas Common, is in the Chilterns Area of Outstanding Natural Beauty.

### *Housing*

37. As one of the other villages, there is no expectation that a substantial number of new homes will be provided in or next to Pyrton village. The provision of some housing in those other villages that have a small number of facilities may well be wise – such facilities can have significant problems, or be lost altogether, without any growth in the number of houses. The PNP steering group has supported a contribution of 15-20 houses towards the wider area housing need.<sup>13</sup>

38. Watlington is more sustainable and under both the adopted and emerging policy is expected to make a significant contribution to meeting housing need. It is not inevitable that this contribution will be met solely within the boundaries of the parish of Watlington.

39. Both open market and affordable housing are needed. The latter will not be provided on the sites for two and three houses.<sup>14</sup> The provision of affordable housing on larger sites

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<sup>11</sup> Paragraph 7.17.

<sup>12</sup> Policy CST1 Town centres and shopping, page 60

<sup>13</sup> Draft NDP paragraph 2.4 (3).

<sup>14</sup> Draft NDP paragraph 6.4.2.2 (3).

can be reduced (or removed altogether) if constraints reduce viability to the extent that the required proportion of affordable housing renders the site unviable.

40. A density around 7 to 8 dwellings per hectare (“dph”) is very low indeed by modern standards and well below the adopted Core Strategy’s general minimum figure 25 dph. It raises the problem of making best use of land – a low density means that more land will be needed elsewhere – and may inhibit the provision of affordable housing. It may nonetheless be justified in particularly sensitive locations, such as the vicinity of a listed building.

41. The draft NDP seeks predominantly detached or semi-detached houses. This is based on existing housing.<sup>15</sup> It would limit the variety of houses available contrary to the NPPF’s intention to deliver a wide choice of homes and could make the provision of affordable housing more difficult. Given that most new housing is to be provided on PYR1, a brownfield, former MoD site that is away from existing housing, the evidence does not justify such a policy. Terraced housing should not be excluded. Since I share the view that buildings that than two storeys would generally be inappropriate in the parish, I am not recommending any change to policy D1 (2)(a).

#### *Local Green Spaces*

42. Government Policy that applies to designating land as an LGS is contained, for the purpose of this examination, in the NPPF paragraphs 76 and 77.

*76. Local communities through ... neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.*

*77. The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic*

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<sup>15</sup> I note that the Draft Conservation Area Appraisal twice (pages 20 and 25) refers to a 1738 estate map showing what appears to be a roadside terrace of cottages.

*significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*

- *where the green area concerned is local in character and is not an extensive tract of land.*

43. The judgment of Dove J in R. (Legard) v. Kensington and Chelsea RBC<sup>16</sup> considered the relationship between the indents in paragraph 77 and I shall of course follow that. I have also borne in mind the advice in the PPG.

44. The charity field is fairly large with an area of 1.507 hectares and does not immediately adjoin the village. It is currently under short-term lease to a farmer and there is no public right of access to it. On the other hand its proximity to the village has enabled it to be used a parking area for the village fete, weddings, and other local functions. Its western end provides some benefit to the setting of the Pyrton Conservation Area and the draft Pyrton Conservation Area Appraisal describes it as vital to protecting the setting of the proposed extended Conservation Area. It is immediately across the road that connects the village to the B4009 from the Shirburn Castle registered park and garden. This road is used by walkers on the Oxfordshire Way.<sup>17</sup> Having seen it on my site visit, I have reached the conclusion that the designation is consistent with the basic conditions and should therefore remain in the NDP.

45. The field opposite Pyrton village hall is smaller and is clearly visible from Knightsbridge Lane. There is no public right of access to it. I note that Historic England has provided reasoned support for its LGS designation and that nobody has objected to this. Having seen it on my site visit, I have reached the conclusion that the designation is consistent with the basic conditions and should therefore remain in the NDP.

#### *The Watlington Edge Road*

46. I note that the eSOLP provides for safeguarding of the route for the proposed Watlington Edge Road. Whether this proposed road and the proposed safeguarded route are appropriate will be considered in the examination into the eSOLP, by an examining inspector who has the benefit of considering the district as a whole. While I note that it has been considered favourably by the Watlington NDP examiner and that the Watlington NDP has been made, I have not reached any firm conclusions on it, other than that it is a significant rather than a fanciful possibility and that the NDP should not pre-empt matters by preventing (or rendering unnecessarily expensive) the construction of the road. If a new Local Plan that contains supports the Edge Road is adopted, that will become development plan policy that will prevail over the NDP.

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<sup>16</sup> [2018] EWHC 32 (Admin).

<sup>17</sup> A 65-mile public right of way running from the Cotswolds to the Chilterns.

## *Gaps*

47. Gap policies can be justified in appropriate cases. I have no doubt that it is highly desirable for the village of Pyrton to maintain its separate identity and note that Pyrton village is the closest village to Watlington and hence, of course, has the narrowest gap. However the provision of more housing in more sustainable settlements will often result in building on their edge that reduces the gap between them and nearby small villages. A balance has therefore to be struck between allowing the expansion of towns and maintaining the separate identity of villages and this balance means that sometimes gaps will be narrowed.

48. The boundary of an area subject to a gap policy (unlike the boundary of a Green Belt or LGS) does not have to be capable of enduring beyond the end of the plan period (in this case 2033). If within that period, a new local plan contains a policy that conflicts with the gap policy, the new local plan will prevail.<sup>18</sup>

49. In this case the proposed gap policy applies to PYR2, a large irregular shaped field in agricultural use that adjoins Watlington, but does not apply to any land adjoining the village of Pyrton. In respect of this I have three options in respect of recommendations, namely to approve a gap policy in respect of the whole of field, to approve one in respect of part of it on the basis of my own assessment or to reject the policy. Having seen it on my site visit, I have reached the conclusion that that the inclusion of the whole of the field is justified at present. It is right to provide some gap between Pyrton village and Watlington that is greater than the charity field by Pyrton Lane LGS and it would be inappropriate to seek to divide the field in some way before it is known whether the Watlington Edge Road will be built and, if so, what route it will follow. Were the whole field to be developed this would be an excessive reduction in the gap between Pyrton village and Watlington. The matter may be reconsidered in the emerging Local Plan process or in some future Local Plan process and should be reconsidered in the light of a change of circumstances such as the fixing of a route for the Edge Road when the Pyrton NDP is reviewed. While I am of the firm view that a gap should be maintained between the village of Pyrton and Watlington, the arguments for maintaining a gap between site PYR1 and Watlington once the situation with regards to the Edge Road is clear are significantly weaker.

### **The contents of the Draft NDP**

50. I recommend the following modifications to the draft NDP. To a substantial extent the reasoning for them is apparent from paragraphs 31 to 49 above.

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<sup>18</sup> This is as a result of PCPA s38(5) which states: “*If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.*”

Page 8, paragraph 2.4 (3)

51. For the reasons given in paragraph 41 above, the reference to “*predominantly detached or semi-detached*” should be removed.

Recommended modification 1

Replace the final sentence on page 8 with: “*Under PNP guidelines the new houses should use materials and be in styles consonant with the Chiltern vernacular.*”

Page 9, paragraph 2.5 (1)((c)

52. The limit of “*up to 15 houses*” would result in an excessively low density for this site unless coupled with a substantial amount of other development. It should be replaced with wording that is consistent with SOCS policy CSH2.

Recommended modification 2

Replace “*up to 25 houses*” with “*houses at a density that would not have an adverse effect on the character of the area*”.

Page 12

53. The final sentences on this page needs correcting.

Recommended modification 3

Replace the final sentence on page 12 with “*These are outlined and discussed in further detail in Chapter 5 below*”.

Page 25, paragraph 4.7 (3)

54. This needs updating.

Recommended modification 4

Replace the second and third sentences of *paragraph 4.7 (3)* with “*A final decision is awaited on an outline planning application (P16/S2576/O), currently under consideration and appeal, for the construction of up to 100 residential dwellings*”.

Page 28, paragraph 4.8.2, Fig. 14

55. The colours in the designations plan and in the text do not correspond. They should. The key to the figure mentions “*Special Area of*” without completing the phrase. It may refer to the Aston Rowan Special Area of Conservation, which is outside the area covered by Fig 14.

Recommended modification 5

Amend Fig 14, its supporting text or both so that the colouring corresponds and so that the words “*Special Area of*” are deleted.

*Page 29, paragraph 4.8.2 (2) (h)*

56. The draft NDP should be factually accurate.

Recommended modification 6

Delete “*and the sea*”.

*Page 34, paragraph 5.2.8 (5) and (6)*

57. For the reasons given in paragraph above a density as low as 7 to 8 dph is not justified.

Recommended modification 7

Replace paragraph 5.2.8 (5) and (6) with: “(5) *The density of development should avoid an adverse impact on the character of the area and on the parish’s heritage assets.*”

*Pages 38-39, paragraph 6.2.2. Policy BNE1 (Historic Environment) and its supporting text*

58. I have read the listing descriptions for Pyrton’s 20 listed building and for Shirburn Castle registered park and garden which is partly in Pyrton, looked at listed buildings in Pyrton village and the park and garden from the public highway and had a thorough look at the attractive medieval grade II\* Church of St Mary and the neglected two Grade II listed late 18<sup>th</sup> century limestone chest tombs in its well-screened churchyard. The church has particular historic importance as the place where John Hampden married. While not separately listed, the attractive lych-gate is within the curtilage of the church and so covered by its listing.

59. Policy BNE1 and its supporting text are part of the draft NDP’s strong emphasis on heritage,<sup>19</sup> which I welcome. This is consistent with the duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 and contributes to the environmental element of sustainable development.

*Page 39, paragraph 6.2.3.1 (3)*

60. The second line should be corrected.

Recommended modification 8

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<sup>19</sup> I note in particular paras 2.3, 4.1, 4.3, 4.8.2, 5.5, 6.2.6, 5.5.4.1 and 7.2.4.

Replace the second line of paragraph 6.2.3.1 (3) with: “*registered park and garden, the SSSI on Knightsbridge Lane, which supports one of the*”

*Page 48, paragraph 6.2.7. Policy BNE6 (Footpaths and bridleways) and its supporting text*

61. I welcome this support for walking, which contributes to the environmental element of sustainable development, as does support for cycling.<sup>20</sup> The paragraph numbering needs correcting.

Recommended modification 9

Replace in paragraph 6.2.7 “6.2.6.3.” with “6.2.7.3.” and “6.2.6.4.” with “6.2.7.4”.

*Page 51, paragraph 6.4.3 Policy H2*

62. These conflict with a strategic policy in the Core Strategy and with the national policy to make the most efficient use of brownfield sites, which decreases the pressure for development on greenfield sites. They would limit the provision of affordable housing. The evidence that seeks to justify them relates to the village, not the site PYR1 where most housing is expected

Recommended modification 10

Replace paragraph 6.4.3.1 with: “*The type of new housing should be in keeping with the area, avoiding an adverse impact on its character and on the parish’s heritage assets.*”

Replace paragraph 6.4.3.2 (1) “*This seeks to ensure that proposals are appropriate for the area and integrate suitably with it.*”

*Page 52, paragraph 6.5.2*

63. Having viewed the parish both close at hand and from Watlington Hill, I agree that development should predominantly have a maximum of two storeys. This limitation on development however increases the need to avoid an exceptionally demanding density policy. Criterion (c) is an aspect of that low-density approach and is not justified.

Recommended modification 11

Remove criterion (c) in paragraph 6.5.2.1 and make the consequential alterations to the labelling of criteria (d), (e) and (f).

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<sup>20</sup> As do paras 6.2.6.4 (2) 6.3.2.2 (2) and (5e) and 6.2.5.1 (5).

64. The limitation to around 15 units on this 1.9 hectare site is not justified unless accompanied by other development would fail to make the most efficient use of a brownfield site, increasing pressure for the development of greenfield sites.

Recommended modification 12

In paragraph 6.6.2.1, delete “*of around 15 units*”.

In paragraph 6.6.2.2 (1) replace “*of around 7.9 dwellings per hectare*” with “*that did not have an adverse effect on the character of the area.*”

In paragraph 6.6.6.2 (3), replace the whole of sub-paragraph (e) with “*A full detailed landscape and visual impact assessment will be required to inform the final capacity of the site. Inappropriate visual intrusion from the built form and significant harm to the rural character of this area should be avoided.*”

Delete the whole of 6.6.6.2 (3)(f) and make the consequential alterations to the labelling of criteria (g), (h) and (i).

**8. Updating, etc.**

65. Certain matters will need updating. This includes references to the document concerned being a submission draft, references to the eSOLP that are known to be incorrect and references to the Conservation Area Appraisal that are known to be incorrect and consequential renumbering of paragraphs. Nothing in this report should deter appropriate updating prior to the referendum in respect of incontrovertible issues of primary fact.

66. I understand that it is intended to alter figures 19 and 20 to make the extent of the areas covered by the LGS designation clearer. While this would be outwith my power to recommend as a modification, nothing in this report should deter the provision of these clearer plans.

**9. The Referendum Area**

67. I have considered whether the referendum area should be extended beyond the designated plan area, namely the parish of Pyrton, and borne in mind the representations that it should be. However I can see no sufficient reason to extent the area beyond the parish. I therefore recommend that the referendum area be limited to the parish.

## **10. Summary of Main Findings**

68. I commend the Draft NDP for being well written, logical, clear, appropriately concise and intelligible to a reasonably intelligent lay reader with no expertise in town and country planning.

69. I recommend that the draft NDP be modified in the terms specified in Appendix A to this report in order to meet basic conditions and to correct errors. I am satisfied with all parts of the draft NDP to which I am not recommending modifications.

70. With those modifications the draft NDP will meet all the basic conditions and human rights obligations. Specifically

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the NDP;
- The making of the NDP contributes to the achievement of sustainable development;
- The making of the NDP is in general conformity with the strategic policies contained in the development plan for the area of Pyrton (or any part of that area);
- The making of the NDP does not breach, and is not otherwise incompatible with, EU obligations;
- The making of the NDP 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); and
- The modified draft NDP is in all respects fully compatible with Convention rights contained in the Human Rights Act 1998.

71. I recommend that the modified NDP proceed to a referendum, the referendum area being the parish of Pyrton.

Timothy Jones, Barrister, FCI Arb,

Independent Examiner,

No 5 Chambers

22<sup>nd</sup> November 2018.

## **Appendix A: Recommended Modifications**

### Recommended modification 1

Replace the final sentence on page 8 with: *“Under PNP guidelines the new houses should use materials and be in styles consonant with the Chiltern vernacular.”*

### Recommended modification 2

Replace *“up to 25 houses”* with *“houses at a density that would not have an adverse effect on the character of the area”*.

### Recommended modification 3

Replace the final sentence on page 12 with *“These are outlined and discussed in further detail in Chapter 5 below”*.

### Recommended modification 4

Replace the second and third sentences of paragraph 4.7 (3) with *“A final decision is awaited on an outline planning application (P16/S2576/O), currently under consideration and appeal, for the construction of up to 100 residential dwellings”*.

### Recommended modification 5

Amend Fig 14, its supporting text or both so that the colouring corresponds and so that the words *“Special Area of”* are deleted.

### Recommended modification 6

Delete *“and the sea”*.

### Recommended modification 7

Replace paragraph 5.2.8 (5) and (6) with: *“(5) The density of development should avoid an adverse impact on the character of the area and on the parish’s heritage assets.”*

### Recommended modification 8

Replace the second line of paragraph 6.2.3.1 (3) with: *“registered park and garden, the SSSI on Knightsbridge Lane, which supports one of the”*

### Recommended modification 9

Replace in paragraph 6.2.7 “6.2.6.3.” with “6.2.7.3.” and “6.2.6.4.” with “6.2.7.4”.

### Recommended modification 10

Replace paragraph 6.4.3.1 with: *“The type of new housing should be in keeping with the area, avoiding an adverse impact on its character and on the parish’s heritage assets.”*

Replace paragraph 6.4.3.2 (1) *“This seeks to ensure that proposals are appropriate for the area and integrate suitably with it.”*

### Recommended modification 11

Remove criterion (c) in paragraph 6.5.2.1 and make the consequential alterations to the labelling of criteria (d), (e) and (f).

### Recommended modification 12

In paragraph 6.6.2.1, delete *“of around 15 units”*.

In paragraph 6.6.2.2 (1) replace *“of around 7.9 dwellings per hectare”* with *“that did not have an adverse effect on the character of the area.”*

In paragraph 6.6.6.2 (3), replace the whole of sub-paragraph (e) with *“A full detailed landscape and visual impact assessment will be required to inform the final capacity of the site. Inappropriate visual intrusion from the built form and significant harm to the rural character of this area should be avoided.”*

Delete the whole of 6.6.6.2 (3)(f) and make the consequential alterations to the labelling of criteria (g), (h) and (i).

## **Appendix B: Abbreviations**

The following abbreviations are used in this report:

AONB	Area of Outstanding Beauty
Convention	European Convention on Human Rights
dph	dwellings per hectare
Draft NDP	The Submission version of the Pyrton Neighbourhood Plan 2018 - 2033
eSOLP	Emerging South Oxfordshire Local Plan 2011-2033 (Final Publication version, October 2017)
EU	European Union
General Regulations	Neighbourhood Planning (General) Regulations 2012 (as amended)
LGS	Local Green Space
NDP	Neighbourhood Development Plan
NPPF	National Planning Policy Framework (March 2012)
p	page
para	paragraph
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
PPC	Pyrton Parish Council
PPG	national Planning Practice Guidance
s	section
Sch	Schedule
SOCS	South Oxfordshire Core Strategy December 2012
SODC	South Oxfordshire District Council
TCPA	Town and Country Planning Act 1990 (as amended)

Where I use the verb *'include'*, I am not using it to mean *'comprise'*. The words that follow are not necessarily exclusive.