

East Midlands CPD Event 6 July 2017

The Slightly Unusual World of Neighbourhood Plan Examinations !

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Neighbourhood Planning: A Shared Vision for All ?



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PART ONE: (NEARLY) 5 YEARS OF NEIGHBOURHOOD PLANNING

1. Some numbers

2. Some anomalies

3. A picture

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PART TWO: COMMON FAULTS, PROBLEMS & ISSUES AT EXAMINATION

1.The (very) Basic Conditions

**2.Familiar Objections to
Neighbourhood Plans**

**3.The Recurring Worries of Plan-
Makers and Another Picture**

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PART THREE: HEARINGS, A GOOD NEIGHBOURHOOD PLAN & SUCCESSFUL EXAMINATION

1.Public Hearings

2.A good Neighbourhood Plan

3.Successful Examination

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NEIGHBOURHOOD PLANNING IS NOW MAINSTREAM

Neighbourhood Plans Made: 308*

Neighbourhood Plans Examined: 397*

Designated Areas: 2,103*

(* As of 03/07/2017)



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ARE COMMUNITIES IN NEIGHBOURHOOD AREAS INTERESTED ?

Average Turnout at Referendum: 32%

High Turnouts: eg 60% Winslow, 59% Woodcote and 52% Tattenhall

Milton Keynes Central: Over 100,000 votes at Referendum

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ARE COMMUNITIES IN NEIGHBOURHOOD AREAS SUPPORTIVE ?

Average “YES” vote: 88%

**Some Overwhelming: eg 98% Winslow, 96%
Tattenhall and 96% Chapel-en-le-Frith**

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REFLECTIVE OF PARA 183, NATIONAL PLANNING POLICY FRAMEWORK

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”

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SOME ANOMOLIES:

- **Sandon and Burston, Stafford – “Unusual” engagement and consultation**
- **Wantage, Vale – “Protectionist” without robust evidence**
- **Coton Park, Rugby – “Dependent” on 3rd Parties**
- **Slaugham, Mid Sussex – “Incompatible” with EU requirements**
- **Swanwick, Amber Valley – 85% voted against at Referendum**

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BUT, IN GENERAL:

- **The basis of Neighbourhood Plan Examination is that a Neighbourhood Plan that meets the Basic Conditions will be recommended for Referendum**

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PART TWO: COMMON FAULTS, PROBLEMS & ISSUES AT EXAMINATION

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NOT A LOCAL PLAN EXAMINATION:

**NEIGHBOURHOOD PLAN EXAMINATION IS
LIMITED IN ITS SCOPE...**

**...TO CONSIDERATION AGAINST THE BASIC
CONDITIONS**

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THE BASIC CONDITIONS:

- ***HAVE REGARD*** to national policy
- Be in ***GENERAL CONFORMITY*** with the ***STRATEGIC*** policy of the development plan
- Contribute to the achievement of **Sustainable Development**
- Be compatible with **EU** and **Human Rights** obligations

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Representations – Familiar Objections:

- *This Plan's not sound*
- Our site's miles better than their site, their site's rubbish
- *The Local Plan's not up-to-date/there's no 5 Year Housing Land Supply, so everything has to stop, right now*
- *What Neighbourhood Plan ? What consultation ? I know nothing about anything.*
- *It's a disgrace*



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More Themes on Common Objections:

- **The Evidence Base is different to that of a Local Plan**
- Non-compliance with European Obligation 2194, Chapter 32(B), Sub-Section 6.23 of Note 64356, as amended by Statute 33.9643A/13 further to the Flemish-Walloon Treaty 01/554/94(G) comprises a *fatal flaw*...
- **We are experts, these, ugh, *local people*, are not.**
- Look at the size of our submission – we've filled several boxes with information, we must be right



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Some Plan-Making Worries:

- **How can a plan be Aspirational, Pragmatic *and* Deliverable ?**
- What does the Evidence Base need to comprise ?
- **What Technical Knowledge do we need ?**
- How can we be different to the Local Plan and be in General Conformity with it ? (What's the point ?)

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Some More Plan-Making Worries:

- **Policies – do we write in plain language or “policy-speak”**
- What will happen in the hearing, how can we “compete” with professional teams ?
- **What’s “have regard to...general conformity...a strategic policy...a European obligation...”**

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SORRY IF THIS IS “SUCKING EGGS”:

- **The basic conditions are the result of very careful wording**
- Neighbourhood plans are not about simply repeating existing national and local policy
- **Have regard to - *bear in mind, be conscious of, consider, think about, take into account, don't do the complete opposite of***
- General conformity – purposefully not “*the same as*” but provides for differences, albeit *along the same lines/upholding the general principle of*
- **A policy in general conformity *does not undermine***



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A “STRATEGIC POLICY”:

- **Strategic matters are wide-ranging (Para 156 in NPPF covers practically everything and anything)**
- About over-arching direction and objectives, the broad characteristics of development
- **Can include requirements that are essential to achieving the vision/aspirations of the plan**

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GENERAL “ANSWERS”:

- **Plans should demonstrate rationale and provide justification**
- Evidence should be “proportionate” – a Neighbourhood Plan is NOT a Local Plan. Examination are not as rigorous, but simply limited to meeting the basic conditions
- **Where there is conflict, the LPA’s role and view is very important – but it is not “final.” The Qualifying Body determines the content of the plan (though Examination determines whether it meets the BC’s)**
- The Local Planning Authority must provide advice and assistance...constructively engage and be proactive in providing information

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CAN BE CONFLICT, BUT MUST BE JUSTIFIED:

- **Within reason, communities “*have the power*” to do what they want**
- If there is conflict – proportionate evidence, that has been widely consulted upon, should set out the rationale for the policy and demonstrate why it is reasonable
- ***“...in recent years, planning has tended to exclude, rather than to include, people and communities...we are allowing communities and people back into planning.” (NPPF)***

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DON'T GET IN A MINISTERIAL PICKLE

Consistent, strong Ministerial and Judicial support for Neighbourhood Planning legislation, but...

Rolleston-on-Dove challenge successful in High Court

- **PICKLE AVOIDANCE STRATEGY FOR MINISTERS 1 – Don't ignore an adopted Local Plan allocation**

Hurstpierpoint & Sayers Common challenge successful in High Court

- **PICKLE AVOIDANCE STRATEGY FOR MINISTERS 2 – Don't give full weight to emerging plans (but plans carry increasing weight as they emerge)**

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SOME COMMON PROBLEMS

- **Plans only rarely fail to reach Referendum. However, Policies are frequently modified and even deleted, due to:**
- **Non land use planning matters**
- **Confusing language – neither clear nor precise**
- **Simply repeat national or local policy (why bother)**
- **Cumbersome cross-referencing (Plan should be read as a whole)**
- **Another organisation's area of responsibility**



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SOME MORE COMMON PROBLEMS

- **Policy tries to achieve a hundred different (sometimes conflicting) things - especially design policies**
- **Unviable, undeliverable, unimplimentable**
- **Mis-applying national policy, especially Local Green Space**
- **Requiring the conservation and enhancement of everywhere**
- **(Indirectly) promoting less development than the Local Plan**

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EVEN MORE COMMON PROBLEMS

- ***“Views will be protected”***
- **Development *“will be permitted”* and/or *“will not be permitted”***
- ***“No development outside the village...”***
- **“Development that (eg provides a new footpath/shop/community centre) will be supported”**
- **(Indirectly) promoting less development than the Local Plan**

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NEIGHBOURHOOD PLAN HEARINGS
ARE FUN...

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**...DAMENTALLY DIFFERENT TO LOCAL PLAN
EXAMINATIONS IN PUBLIC**

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A GOOD NEIGHBOURHOOD PLAN...

- Reflects the views of local people
- Is distinctive
- Reflects civic pride
- Is **Aspirational** – it makes a difference
- Is pragmatic and deliverable
- Achieves what it set out to do in the first place



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A GOOD NEIGHBOURHOOD PLAN...

- **Balances aspirations with the basic conditions**
- **Plans for more not less**
- **Safeguards precious resources / protects what's special**
- **Achieves tangible things**

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Policy 1: Development will make places better



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Policy 2: Development will protect nice places



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Policy 3: Please refer to Policies 1 and 2

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GOOD PRACTICE

- **Regular LPA involvement. No need for agreement, but a positive, robust, relationship and a “shared vision” is helpful**
- **Focus energies on what counts – the Policies. Tremendous amount of wasted time and resources on background, non-planning and often abortive matters**
- **Clear goals – why are we doing the Plan ?**
- **Stick to the basic conditions**
- **Healthy cynicism re: advisors and experts**

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A SUCCESSFUL EXAMINATION

- **If the Plan meets the basic conditions it will be recommended for Referendum**
- **Not about site comparisons...planning merits...technical assessments...opening new debates**
- **Is about QB working collaboratively – with LPA, communities, landowners, developers, consultees, advisors...**
- **Is about rationale and justification for distinctive approaches**
- **Demonstrates openness, fairness, listening**



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MORE IMPORTANTLY...A SUCCESSFUL PLAN

- The Plan meets the basic conditions
- It is deliverable
- It is the **Neighbourhood's Plan**
- It achieves the community's aspirations

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The logo for Erimax, featuring the word "ERIMAX" in a bold, sans-serif font, enclosed within a rectangular border.

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