

Penn Parish Neighbourhood Development Plan 2022-2040

**A report to Buckinghamshire Council on the Penn
Parish Neighbourhood Development Plan**

**Andrew Ashcroft
Independent Examiner
BA (Hons) MA, DMS, MRTPI**

Director – Andrew Ashcroft Planning Limited

Executive Summary

- 1 I was appointed by Buckinghamshire Council in May 2024 to carry out the independent examination of the Penn Parish Neighbourhood Plan.
- 2 The examination was undertaken by way of written representations. I visited the neighbourhood area on 6 June 2024.
- 3 The Plan includes a variety of policies and seeks to bring forward positive and sustainable development in the neighbourhood area. It also includes policies to safeguard the built and historic environment and proposes a package of local green spaces. The Plan is commendably focused on a clear set of locally-distinctive issues.
- 4 The Plan has been underpinned by community support and engagement. All sections of the community have been engaged in its preparation.
- 5 Subject to a series of recommended modifications set out in this report, I have concluded that the Plan meets all the necessary legal requirements and should proceed to referendum.
- 6 I recommend that the referendum area should coincide with the neighbourhood area.

Andrew Ashcroft
Independent Examiner
20 January 2025

1 Introduction

- 1.1 This report sets out the findings of the independent examination of the Penn Parish Neighbourhood Development Plan 2022-2040 ('the Plan').
- 1.2 The Plan was submitted to Buckinghamshire Council (BC) by Penn Parish Council (PPC) in its capacity as the qualifying body responsible for preparing the neighbourhood plan. The neighbourhood area was designated on 2 July 2021.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework (NPPF) in 2012, 2018, 2019, 2021 and 2023. The NPPF continues to be the principal element of national planning policy.
- 1.4 The role of an independent examiner is clearly defined in the legislation. I have been appointed to examine whether the submitted Plan meets the basic conditions and Convention Rights and other statutory requirements. It is not within my remit to examine or to propose an alternative plan, or a potentially more sustainable plan except where this arises because of my recommended modifications to ensure that the plan meets the basic conditions and the other relevant requirements.
- 1.5 A neighbourhood plan can be narrow or broad in scope and can include whatever range of policies it sees as appropriate to its designated neighbourhood area. The submitted Plan has been designed to be distinctive in general terms, and to be complementary to the existing development plan. It seeks to provide a context in which the neighbourhood area can maintain its character and appearance.
- 1.6 Within the context set out above, this report assesses whether the Plan is legally compliant and meets the basic conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.
- 1.7 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome the Plan would then be used to determine planning applications within the neighbourhood area and will sit as part of the wider development plan.

2 The Role of the Independent Examiner

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by BC, with the consent of PPC, to conduct the examination of the Plan and to prepare this report. I am independent of both BC and PPC. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have 42 years' experience in various local authorities at either Head of Planning or Service Director level and more recently as an independent examiner. I have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral System.

Examination Outcomes

- 2.4 In my role as the independent examiner of the Plan, I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan as submitted should proceed to a referendum; or
 - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
 - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.
- 2.5 The outcome of the examination is set out in Section 8 of this report.

Other examination matters

- 2.6 In examining the Plan, I am required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
 - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
 - the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.
- 2.7 I have addressed the matters identified in paragraph 2.6 of this report and am satisfied that they have been met.

3 Procedural Matters

3.1 In undertaking this examination I have considered the following documents:

- the submitted Plan.
- the Basic Conditions Statement.
- the Consultation Statement.
- the Buckinghamshire Council SEA/HRA Screening report.
- the representations made to the Plan.
- PPC's responses to the clarification note.
- the saved policies Chiltern District Local Plan (1997)
- the adopted Core Strategy for Chiltern District (2011) (the Core Strategy)
- the National Planning Policy Framework (NPPF) (December 2023 and December 2024)
- Planning Practice Guidance.
- relevant Ministerial Statements.

3.2 I visited the neighbourhood area on 6 June 2024. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular.

3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations, I concluded that the Plan could be examined by written representations and that a hearing was not required.

The update of the NPPF

3.4 The NPPF was updated on 12 December 2024. Paragraph 239 of the NPPF 2024 sets out transitional arrangements for plan-making. It comments that the policies in the Framework will apply for the purpose of preparing neighbourhood plans from 12 March 2025 unless a neighbourhood plan proposal has been submitted to the local planning authority under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) on or before the 12 March 2025.

3.5 On this basis, the examination of the Plan against the basic condition that it should have regard to national policies and advice contained in guidance issued by the Secretary of State is based on the 2023 version of the NPPF. Plainly the Plan was submitted in 2024 in that context. Where NPPF paragraph numbers are used in this report, they refer to those in the December 2023 version.

3.6 Paragraph 6.2 of this report sets out full extent of the basic conditions against which a neighbourhood plan is examined.

4 Consultation

Consultation Process

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such, the regulations require neighbourhood plans to be supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended), PPC prepared a Consultation Statement. It is proportionate to the neighbourhood area and its policies. It is a short report which is supported by more detailed appendices. This is best practice.
- 4.3 Section 2 of the Statement records the various activities that were held to engage the local community and the feedback from each event. This includes a timeline of the comprehensive range of measures used to engage the community. They also comment on the consultation processes that took place on the pre-submission version of the Plan (June to July 2023).
- 4.4 Appendix G comment about the details of the way in which the Plan was refined because of the consultation on the pre-submission Plan. This analysis contributes to the legibility of the relevant information and helps to describe how the Plan has progressed to the submission stage.
- 4.5 Consultation has been an important element of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation. From all the evidence provided to me as part of the examination, I can see that the Plan has promoted an inclusive approach to seeking the opinions of all concerned throughout the process. BC has carried out its own assessment that the consultation process has complied with the requirements of the Regulations.

Consultation Responses

- 4.6 Consultation on the submitted plan was undertaken by BC which finished on 7 March 2024. This exercise generated representations from the following organisations:
- Hazlemere Parish Council
 - Natural England
 - Thames Water
 - Buckinghamshire Council
 - IQ Planning Consultants
 - Penn Parish Council
- 4.7 Comments were also received from several residents.

- 4.8 I have taken account of all the representations in preparing this report. Where it is appropriate to do so, I refer to specific representations on a policy-by-policy basis.

5. The Neighbourhood Area and the Development Plan Context

The Neighbourhood Area

- 5.1 The neighbourhood area is Penn Parish. It is located between Beaconsfield, Amersham, and High Wycombe. It was designated as a neighbourhood area in 2 July 2021. In 2011 its population was 3961 people living in 1627 homes.
- 5.2 The parish is largely rural, and 80% of its area is within The Chilterns National Landscape and London Metropolitan Green Belt. There are five main villages in the parish - Penn, Penn Street, Winchmore Hill, Knotty Green and Forty Green. Penn and Penn Street are designated conservation areas. The five communities are largely located on the periphery of the parish. The remainder is primarily agricultural land and woodland. The parish has an established network of footpaths and green spaces that provide a valuable recreational amenity for both the parish and neighbouring communities.
- 5.3 The parish is well-located for commuters to neighbouring towns and London, with proximity to the motorway network via M40/M25 and the railway network. Beaconsfield Station is 0.7 miles from the parish boundary in Knotty Green. High Wycombe station and Amersham Station (which also serves the London underground network) are both 3.7 miles respectively from the eastern and northern boundaries of the parish. Commuter traffic for employment is generally outward from the parish. However, there are established large light industrial sites in Winchmore Hill and Penn Street.

Development Plan Context

- 5.4 The development plan for the neighbourhood area consists of the Chiltern District 1997 Local Plan, the Core Strategy for Chiltern District 2011, and the Buckinghamshire Minerals and Waste Local Plan 2019, taken as a whole. However, the Plan highlights the lengthening age of the plans produced by the former Chiltern District Council which predate the introduction of the NPPF.
- 5.5 The most significant factor on neighbourhood plan policy-making is the Green Belt which covers the whole parish, apart from areas of Knotty Green, Forty Green and Penn which are inset from its boundary. Policy GB2 of the 1997 Local Plan remains in accordance with the NPPF in this respect and there is no NPPF paragraph 145 ability to allow the submitted Plan to modify the Green Belt boundary. The Plan advises that more generally, it is the later Core Strategy that has been used to judge the relevance of strategic policy, rather than the saved policies of the 1997 Local Plan, which are generally non-strategic in nature.
- 5.6 The following policies in the Core Strategy have been particularly important in underpinning the approach taken in the submitted Plan:
- CS1 The Spatial Strategy
 - CS9 Affordable Housing in Rural Areas
 - CS19 Supporting the Rural Economy
 - CS20 Design and Environmental Quality

- CS22 Chilterns AONB
- CS24 Biodiversity
- CS27 Working for a Healthier Community

- 5.7 BC is working on an emerging Local Plan. The Local Development Scheme advises about the following timetable - plan preparation (April 25 to April 26), publication and submission (January to August 2026), examination (2026), and adoption (2027). In this context, the emerging Plan has not reached the stage at which neighbourhood plans in the county have been able to derive a significant steer in formulating their policies. Whilst its evidence base is currently evolving, the submitted Penn Plan advises that the Brownfield Call for Sites data (published in 2022) has largely confirmed PPC's own local intelligence that land within the parish is likely to become available for redevelopment in the later stages of the plan period. The submitted Plan advises that the eventual adoption of the Local Plan may be something the first review of a made neighbourhood plan may address.
- 5.8 The submitted Plan has been prepared within its up-to-date development plan context. In doing so, it has relied on up-to-date information and research that has underpinned existing planning policy documents. This is good practice and reflects key elements in Planning Practice Guidance on this matter. I am satisfied that the submitted Plan seeks to add value to the different components of the development plan and to give a local dimension to the delivery of its policies. This is captured in the Basic Conditions Statement.

Visit to the neighbourhood area

- 5.9 I visited the neighbourhood area on 6 June 2024. I approached from Beaconsfield to the south. This helped me to understand its position in the wider landscape in general and its accessibility to the road network in particular.
- 5.10 I looked initially at Knotty Green and Forty Green. I saw the scale and layout of the houses and their relationship with Beaconsfield.
- 5.11 I then drove to Penn. I saw its attractive layout along the B474 Church Road. I saw the attractive Church, the Village Hall and church car park and the Crown Inn PH. The significance of the designated conservation area was self-evident.
- 5.12 I then drove to Penn Street. I saw that it contained an interesting collection of buildings including Holy Trinity Church, the Hit or Miss PH, the Squirrel PH, the Penn Street Works, de Havilland Court, and the Curzon CoE School. I also saw the scale and significance of Penn Wood.
- 5.13 I then drove to Winchmore Hill. I saw its interesting association with The Common.
- 5.14 Throughout the visit I paid particular attention to the relationship between the various villages and the surrounding countryside and the wider significance of the Green Belt.

- 5.14 I left the neighbourhood area by driving to Amersham to the north and east. This part of the visit highlighted the relationship between the parish and another town in the immediate locality.

6 The Neighbourhood Plan and the Basic Conditions

- 6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has helped in the preparation of this section of the report. It is an informative and well-presented document.
- 6.2 As part of this process, I must consider whether the submitted Plan meets the basic conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contribute to the achievement of sustainable development;
 - be in general conformity with the strategic policies of the development plan in the area;
 - not breach, and otherwise be compatible with, the assimilated obligations of EU legislation (as consolidated in the Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023; and
 - not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

I assess the Plan against the basic conditions under the following headings:

National Planning Policies and Guidance

- 6.3 For the purposes of this examination the key elements of national policy relating to planning matters are set out in the National Planning Policy Framework December 2023 (NPPF).
- 6.4 The NPPF sets out a range of land-use planning principles to underpin both plan-making and decision-taking. The following are particularly relevant to the Penn Parish Neighbourhood Development Plan:
- a plan-led system - in this case the relationship between the neighbourhood plan and the saved policies of the Chiltern Local Plan (1997), and the Core Strategy (2011);
 - building a strong, competitive economy;
 - recognising the intrinsic character and beauty of the countryside and supporting thriving local communities;
 - taking account of the different roles and characters of different areas;
 - highlighting the importance of high-quality design and good standards of amenity for all future occupants of land and buildings; and
 - conserving heritage assets in a manner appropriate to their significance.
- 6.5 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development. Paragraph 13 of the NPPF

indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

- 6.6 In addition to the NPPF, I have also taken account of other elements of national planning policy including Planning Practice Guidance and the recent ministerial statements.
- 6.7 Having considered all the evidence and representations available as part of the examination, I am satisfied that the submitted Plan has had regard to national planning policies and guidance subject to the recommended modifications in this report. It sets out a positive vision for the future of the neighbourhood area. It includes a series of policies that address a range of development and environmental matters. It has a focus on safeguarding its historic built and natural environments and designating local green spaces.
- 6.8 At a more practical level, the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraph 16d). This was reinforced with the publication of Planning Practice Guidance. Paragraph ID:41-041-20140306 indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Planning practice guidance also advises that planning policies should be concise, precise, and supported by appropriate evidence.
- 6.9 As submitted, the Plan does not fully accord with this range of practical issues. Most of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

Contributing to sustainable development

- 6.10 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social, and environmental. I am satisfied that the submitted Plan has set out to achieve sustainable development in the neighbourhood area. In the economic dimension, the Plan includes policies for commercial assets (Policy PENN7). In the social dimension, it includes policies on smaller housing (Policy PENN4), Important Green Spaces (Policy PENN6), and community facilities (Policy PENN8). In the environmental dimension, the Plan positively seeks to protect its natural, built, and historic environment. It has policies on design (Policy PENN1), and on the carbon footprint of new development (Policy PENN3). This assessment overlaps with the details on this matter in the submitted Basic Conditions Statement.

General conformity with the strategic policies in the development plan

- 6.11 I have already commented in detail on the development plan context in this part of Buckinghamshire in paragraphs 5.4 to 5.8 of this report.

- 6.12 I consider that the submitted Plan delivers a local dimension to this strategic context and supplements the detail already included in the adopted development plan. Subject to the recommended modifications in this report, I am satisfied that the submitted Plan is in general conformity with the strategic policies in the development plan.

Strategic Environmental Assessment

- 6.13 The Neighbourhood Plan (General) (Amendment) Regulations 2015 require a qualifying body either to submit an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 or a statement of reasons why an environmental report is not required.
- 6.14 In order to comply with this requirement, BC undertook a screening exercise in April 2023 on the need or otherwise for a Strategic Environmental Assessment (SEA) to be prepared for the Plan. The report is thorough and well-constructed. It concludes that it is unlikely that significant environmental effects will arise from the implementation of the Plan and that SEA is not needed.

Habitats Regulations Assessment

- 6.15 BC prepared a Habitats Regulations Assessment (HRA) of the Plan at the same time. It advises that there are no areas of Natura 2000 sites (Special Areas of Conservation or Special Protection Areas) in the parish. Nevertheless, it assesses the potential impact of the Plan on nearby protected sites (as identified in its paragraph 90).
- 6.16 The HRA concludes that the neighbourhood plan will not give rise to likely significant effects on protected sites, either alone or in combination with other plans or projects, and that Appropriate Assessment is not required. It advises that in terms of Natura 2000 sites however there would not be any impact on the Natura 2000 sites given their distance from the parish.
- 6.17 Having reviewed the information provided to me as part of the examination, I am satisfied that a proportionate process has been undertaken in accordance with the various regulations. None of the statutory consultees have raised any concerns regarding either neighbourhood plan obligations. In the absence of any evidence to the contrary, I am entirely satisfied that the submitted Plan is compatible with this aspect of neighbourhood plan regulations.

Human Rights

- 6.18 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On this basis, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

Summary

- 6.19 On the basis of my assessment of the Plan in this section of my report, I am satisfied that it meets the basic conditions subject to the incorporation of the recommended modifications contained in this report.

7 The Neighbourhood Plan policies

- 7.1 This section of the report comments on the policies in the Plan. It makes a series of recommended modifications to ensure that the various policies have the necessary precision to meet the basic conditions.
- 7.2 The recommendations focus on the policies in the Plan given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is distinctive and proportionate to the neighbourhood area. The wider community and PPC have spent time and energy in identifying the issues and objectives that they wish to be included in their Plan. This sits at the heart of the localism agenda.
- 7.4 The Plan has been designed to reflect Planning Practice Guidance (Section 41-004-20190509) which indicates that neighbourhood plans must address the development and use of land.
- 7.5 I have addressed the policies in the order that they appear in the submitted Plan.
- 7.6 For clarity, this section of the report comments on all the policies.
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

The initial parts of the Plan (Sections 1-5)

- 7.8 The initial elements of the Plan set the scene for the policies. They are proportionate to the neighbourhood area and the subsequent policies.
- 7.9 The Introduction carefully sets the scene for the Plan. It identifies the neighbourhood area (in Plan A) and the Plan period (in paragraph 1.2). It includes a very clear visual chart which explains the basic conditions which apply to a neighbourhood plan.
- 7.10 Section 2 comments about the neighbourhood area to good effect. It provides information on its rural nature, its population, its age profile, and its housing tenures.
- 7.11 Section 3 comments comprehensively on the national and local planning contexts which have underpinned the production of the Plan.
- 7.12 Section 4 comments about community views. It overlaps with the submitted Consultation Statement.
- 7.13 Section 5 comments about the vision and objectives of the Plan. It makes a strong functional relationship between the objectives and the resulting policies. The Vision neatly summarises the approach taken as follows:

'To protect and enhance the character and identity of Penn Parish communities ensuring any development opportunities are sustainable and appropriate to the scale and nature of our Parish, and respects its historic, agricultural, and rural character.'

- 7.14 The remainder of this section of the report addresses each policy in turn in the context set out in paragraphs 7.5 to 7.7 of this report.

General comments on the policies

- 7.15 The Plan has been prepared to a very high standard. Its presentation is very clear, and the maps are first-class. The policies are appropriately accompanied by extensive supporting text. In addition, the Plan is underpinned by a series of technical appendices.
- 7.16 The Plan will sit very comfortably within the development plan if it is made by BC.

PENN1 The Penn Parish Design Code

- 7.17 This policy responds to the Government's encouragement that neighbourhood plans should set out local design guidance by refining saved Local Plan Policy GC1 'Design of Development' and Core Strategy Policy CS20 'Design and Environmental Quality'; and in respect of its Conservation Areas and Areas of Special Character by refining saved Local Plan Policy CA1 'Works to Buildings in Conservation Areas'; to provide a compendium of design guidance in the form of a Code that covers all of the Parish.
- 7.18 The Plan advises that the Code has brought together in one place a range of guidance published by the former Chiltern District and Buckinghamshire County Councils since 2007 but only some of which has been adopted as supplementary planning guidance for development management purposes. These include the adopted 1992 Penn Street Conservation Area Appraisal and the adopted 1992 Penn and Tylers Green Conservation Area Appraisal.
- 7.19 The policy comments that development proposals are required to have full regard to the Penn Parish Design Guidance and Codes, attached as Appendix A (Section 5), as relevant to their location, scale, and nature. The second part of the policy advises that development proposals should demonstrate that they have had full regard to protecting and enhancing local streetscape views that contribute to the character and quality of the area.
- 7.20 The fourth part of the policy comments that the Plan and the Design Guidance and Codes recognises that there are existing established Conservation Areas in Penn and Penn Street, and designates a series Areas of Special Character. The fifth part advises that development proposals in an Area of Special Character should demonstrate that they have had full regard to the essential characteristics which contribute to the significance of its local architectural and historic interest.
- 7.21 In general terms the policy takes a very positive approach to design and local character. It has regard to Section 14 of the NPPF. In the round, it provides a local iteration of national policy. The Design Guidance and Codes is an excellent document which properly captures the character of the parish. Within this overall context I recommend the following modifications to bring the clarity required by the NPPF and

to allow BC to be able to implement the various elements through the development management process:

- the inclusion of a proportionate element into the first and second parts; and
- the requirement for development proposals to respond positively to the features identified in the policy rather than the rather vague references to have regard to those characteristics. As a by-product of this recommended modification the first, second and fifth parts of the policy (as submitted) will use consistent wording.

7.22 The third part of the policy comments about the removal of permitted development rights from new or replacement dwellings. I raised with PPC whether it is properly the role of a neighbourhood plan to comment on the withdrawal of such rights and whether this a matter which will be considered by BC on a case-by-case basis. In its response to the clarification note, PPC commented that:

'(it) agrees that the matter will need to be considered by Buckinghamshire Council on a case-by-case basis and has acknowledged this in paragraph 5.10 of the Plan as noted by the examiner. Paragraph 5.10 of the Plan also highlights the nature of development proposals that are likely to come forward in the parish and why the consideration of the withdrawal of permitted development rights, on a case-by-case basis, is an important part of the design strategy for the parish. The Parish Council has not seen any evidence in historic decision-making reports that this matter is being considered on a case-by-case basis as set out in paragraph 5.11 of the Plan. Section C of Policy PENN1 is therefore considered necessary as a signal to decision-makers that the character of the locality in most cases is at a tipping point if future development proposals are not managed properly.'

7.23 I have considered this matter carefully. On the balance of the evidence I recommend that the third part of the policy is deleted. National policy provides permitted development rights, and such rights have been extended in recent years. Their removal should only be pursued in exceptional circumstances, and I am not satisfied that such circumstances exist in the parish. Equally it is not my role to make judgement about the way in which BC exercises its delivery of the development management process, or about PPC's perception of that process.

7.24 I have considered the appropriateness of paragraphs 5.10 and 5.11 (which address the permitted development rights issue) remaining in the Plan. I am satisfied that a single revised paragraph should remain as it highlights a community issue which has arisen as the Plan was being prepared.

7.25 Otherwise, the policy meets the basic conditions. It will contribute to the delivery of the social and environment dimensions of sustainable development.

Replace Parts A and B of the policy with:

'As appropriate to their scale, nature and location, development proposals should respond positively to the Penn Parish Design Guidance and Codes (Appendix A -Section 5).

As appropriate to their scale, nature and location, development proposals should demonstrate that they have protected and where practicable, enhanced local streetscape views that contribute to the character and quality of the area.'

Delete Part C of the policy

Replace Part E of the policy with: 'Development proposals in an Area of Special Character should respond positively to the essential characteristics which contribute to the significance of its local architectural and historic interest.'

Replace the final sentence of paragraph 5.10 with: 'Where appropriate, the Parish Council will encourage Buckinghamshire Council to remove permitted development rights on such proposals. The intention is therefore to ensure that applicants and decision-makers consider whether the nature, density, and layout of any future scheme requires stricter controls over the form of any additional development which may be proposed in the interest of maintaining a satisfactory residential environment as per Policy GC1 of the Local Plan and CS20 of the Core Strategy and maintaining and enhancing the character of the area as per Policy PENN1 and its Design Guidance and Codes.'

Delete paragraph 5.11.

PENN2 Local Heritage Assets & Areas of Special Character

- 7.26 The policy identifies several buildings and structures which are regarded as 'non-designated' heritage assets in the parish that, whilst not statutorily listed, have some local heritage value. The Plan advises that local volunteers identified candidate local heritage assets as part of the preparation of the evidence base supporting the Neighbourhood Plan, and that they have been assessed against criteria advocated by Historic England in its 2019 guidance note. A description of the value of each asset is provided in Appendix B.
- 7.27 The policy comments that proposals that will result in harm to, or unnecessary loss of, a Local Heritage Asset, will be resisted, unless it can be demonstrated that there is a public benefit that outweighs the harm or loss.
- 7.28 I am satisfied that the proposed Local Heritage Assets have been appropriately identified. The information in Appendix A is proportionate to their character and significance.
- 7.29 In general terms, the policy has regard to Section 16 of the NPPF. Nevertheless, I recommend that the second sentence is replaced with one which follows the approach in paragraph 209 of the NPPF. This highlights the balanced judgement which is required rather than the reference to the 'public benefit' as included in the submitted policy. I also recommend that the specific reference to paragraph numbers of the NPPF identified in the supporting text is made more general. This acknowledges that other elements of Section 16 of the NPPF will affect the outcome of planning applications affecting local heritage assets.

- 7.30 Otherwise, the policy meets the basic conditions. It will contribute to the delivery of the social and environment dimensions of sustainable development.

Replace the second sentence with: ‘The effect of a development proposal on the significance of a Local Heritage Asset will be taken into account in determining the relevant application. In weighing applications that directly or indirectly affect the identified assets in Appendix A, a balanced judgement will be taken having regard to the scale of any harm or loss and the significance of the heritage asset.’

In paragraph 5.16 replace ‘provisions of §203 and §204 of the NPPF’ with ‘approach in Section 16 of the NPPF’

PENN3 Reducing the Carbon Footprint and Ecological Impact of New Developments

- 7.31 This policy is arranged into five parts. The combination of the first three parts is intended to deliver a step-change in the energy performance of new developments in the Parish and, in doing so, encourage and incentivise the use of ‘Zero Carbon’, ‘Passivhaus’ or equivalent standards of building design. The fourth and fifth parts are designed to preserve the green networks and biodiversity of the built-up environment in the Parish and the rural nature of the various settlements. I address the two parts of the policy separately.

Energy Performance for new buildings

- 7.32 Paragraph 5.17 of the Plan advises that the context to the approach taken is that:

‘there is a need to act locally to reduce carbon emissions. There is a significant opportunity to aim for ‘Net Zero Building’ for new developments and this policy aims to address this. Every new build in the Neighbourhood Area provides an opportunity to make a difference and to contribute towards meeting climate change targets. This requirement need not be an unreasonable expectation for new buildings. Land values in the Penn Parish are high relative to build-costs and ought to be sufficient to ensure that requirements to tackle improving energy and carbon performance are viable.’

- 7.33 Clause A of the policy requires developers to ensure they address the Government’s climate change targets and energy performance at the very initial stages of design. ‘Zero Carbon Ready by Design’ means making spatial decisions on layout and orientation of buildings at the outset to maximise the passive design benefits (‘free heat’) of a site and avoids leaving this to technical choices and assessment at the Building Regulation stage, by which time the opportunity may have been lost.
- 7.34 Clause B requires all new development schemes (not householder extensions) to use the Passivhaus Planning Package (PHPP) or equivalent design methodology for all buildings where it is feasible to do so. The policy explains that this means that the applicant must demonstrate those factors that make its use unfeasible, for example, the topography and orientation of the site.
- 7.35 Clause C operates where the developer cannot or chooses not to use the Passivhaus or equivalent standard. It requires that every building in the consented scheme is subject to a Post-Occupancy Evaluation (POE) including actual metered energy use,

and to submit the report to the local planning authority. This provision is implemented by a planning condition being attached to the planning permission, which will only be discharged once the report has been submitted and any recommended actions to rectify any performance gap with the design stage assessment are carried out by the developer. Further guidance on the purpose and operation of Clause C is contained in Appendix C.

- 7.36 The approach taken on these matters is both comprehensive and ambitious.
- 7.37 I sought PPC's views in the clarification note on the extent to which it had considered the extent to which the policy has regard to the content of the Written Ministerial Statement (Local Energy Efficiency Standards Update) (WMS) which was published in December 2023. In its response to the clarification note, it drew my attention to counsel's open opinion, and commented that:

'Policy PENN3 does not set a Local Energy Efficiency Standard and therefore the Parish Council does not consider it necessary to address the matters relating to the WMS (2023). Policy PENN3 is intended to incentivise higher standards in two ways. Firstly, by allowing some flexibility in applying the Penn Parish Design Code. Secondly, by releasing such schemes from a post-occupancy evaluation. The post-occupancy clause of the policy is intended to try to deal with the performance gap, not set a particular standard. Schemes can continue to choose whichever energy efficiency standard they see fit. The Parish Council does however accept that the policy wording may give the impression that it is seeking to set standards and would, therefore, welcome the examiner's consideration of a modification to clarify the policy in this respect.'

- 7.38 I have considered the policy and the responses to the clarification note very carefully. In doing so, I have looked in detail at national and local policies on this matter.
- 7.39 National policy is set out in the NPPF. Its paragraph 158 sets the scene in commenting that plans should take a proactive approach to mitigating and adapting to climate change. Paragraph 160 continues by commenting that (amongst other things) that plans should help increase the use and supply of renewable and low carbon energy and heat, by providing a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts).
- 7.40 Planning Practice guidance (PPG) considers these matters in further detail. PPG ID:6-009-20150327 comments that:

'The [National Planning Policy Framework](#) expects local planning authorities when setting any local requirement for a building's sustainability to do so in a way consistent with the government's zero carbon buildings policy and adopt nationally described standards. Local requirements should form part of a [Local Plan](#) following engagement with appropriate partners, and will need to be based on robust and credible evidence and pay careful attention to [viability](#). In this respect, planning authorities will need to take account of government decisions on the [Housing Standards Review](#) when considering a local requirement relating to new homes. If considering policies on local requirements for the sustainability of other buildings, local planning authorities will wish

to consider if there are nationally described standards and the impact on viability of development.’

7.41 PPG ID:6-012-20190315 comments that:

‘The [Planning and Energy Act 2008](#) allows local planning authorities to set energy efficiency standards in their development plan policies that exceed the energy efficiency requirements of the building regulations. Such policies must not be inconsistent with relevant national policies for England. [Section 43 of the Deregulation Act 2015](#) would amend this provision, but is not yet in force. The [Written Ministerial Statement on Plan Making](#) dated 25 March 2015 clarified the use of plan policies and conditions on energy performance standards for new housing developments. The statement sets out the government’s expectation that such policies should not be used to set conditions on planning permissions with requirements above the equivalent of the energy requirement of Level 4 of the Code for Sustainable Homes (this is approximately 20% above current Building Regulations across the build mix).’

7.42 Policy CS4 of the Chiltern Core Strategy provides local guidance on the issue. Amongst other matters, paragraph 8.3 of the Plan advises that the aim is that (the then) Chiltern District should contribute proportionally in terms of reducing domestic energy consumption and CO2 emissions. Thereafter, paragraph 8.6 of the Plan provides the context for the approach taken. It comments that:

‘guidance from national Government suggests that homes in the UK contribute approximately 27% of the UK’s total carbon emissions. It is therefore recognised that one of the most effective ways to minimise the local impact of development on the surrounding environment and help reduce carbon emissions, is to support and encourage sustainable methods of design and construction. In general terms, this relies on measures being undertaken to; reduce the emission of pollutants (including contamination of groundwater); reduce water consumption; maximise the use of locally produced building materials; minimise energy consumption; reduce flood risk; utilise sustainable construction technologies; and minimise waste.’

7.43 Policy CS4 comments that to ensure long-term sustainability of development and help contribute towards national targets to reduce overall CO2 emissions, the Council will expect all new developments to have regard to the sustainable development principles set out in an associated table. One of the principles (r) is an active contribution to the national targets for reducing CO2 emissions set out in paragraph 8.3 of the Plan.

7.44 Taking account of all the information, I recommend that the policy is modified to ensure that it meets the basic conditions. The recommended modifications are underpinned by five related factors.

7.45 The first is that an independent examiner’s role is to assess a neighbourhood plan against the basic conditions. Whilst it widely anticipated that national policy on the energy efficiency of new houses (including ongoing updates to the Building Regulations) will change within the Plan period, it is not my role to seek to anticipate the details of any future approach. This would ultimately be a matter for any potential future review of a ‘made’ Plan to address.

- 7.46 The second is that there is no direct connection between the submitted policy and the approach taken in Policy CS4 of the Chiltern Core Strategy. Part of this issue is the dated nature of the Core Strategy. Nevertheless, the lack of a direct connection between the two policies will create fundamental problems in terms of the way in which they will be applied in the Plan period. As such, the proposed approach will not bring the clarity required by the NPPF.
- 7.47 The third is that the Written Ministerial Statement of December 2023 is an important and up-to-date element of government policy. It comments that:
- 'The improvement in standards already in force, alongside the ones which are due in 2025, demonstrates the Government's commitment to ensuring new properties have a much lower impact on the environment in the future. In this context, the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations. The proliferation of multiple, local standards by local authority area can add further costs to building new homes by adding complexity and undermining economies of scale.'*
- 7.48 Whilst I have taken account of PPC's responses to the clarification note, and the structure of the policy which does not explicitly require Passivhaus standards, I have concluded that to all intents and purposes the policy requires Passivhaus technology or some other technology which exceed that found in the Building Regulations. I have taken account of PPC suggested modifications in its response to the clarification note. However, they do not change this conclusion.
- 7.49 In addition whilst the approach taken refers to circumstances where such an approach is 'feasible', the policy does not offer any definitive guidance on how feasibility would be assessed. The effect of such an approach would be that BC and the developer concerned would need to engage in an onerous and detailed technical debate on this point.
- 7.50 In the round, I have concluded that the policy's approach does not have regard to the Written Ministerial Statement. In any event Passivhaus technology may be overtaken by other similar approaches to building efficiency which come forward within the Plan period. In reaching this conclusion I have noted that permission has now been given for an appeal against a High Court judgment ([2024] EWHC 1693 - July 2024) that supported the approach taken in the 2023 WMS. However, for the purposes of this examination I must have regard to the published Statement, and as considered in the High Court earlier this year.
- 7.51 The fourth is that PPC has offered no direct evidence or assurance about the effect of the policy on new development in the parish. Its reference on viability to paragraph 5.17 of the Plan is general rather than to specific local information. In addition, whilst I have noted PPC's response to the clarification note on this matter, there is no evidence available on this matter including any details from local or national developers. In addition, the Plan offers no specific detail on the extent to which the policy would be a reasonable expectation for new buildings, the extent to which local land values are high relative to build-costs and will be sufficient to ensure that requirements to tackle improving energy and carbon performance are viable.

- 7.52 This conclusion is reinforced by the commentary in the 2023 WMS which advises that any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned buildings regulation should be rejected at examination if they do not have a well-reasoned and robustly costed rationale that ensures that development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework and that the additional requirement is expressed as a percentage uplift of a dwelling's Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP). PPC has produced no such evidence
- 7.53 The fifth and final key factor is that part C of policy explains the proposed operation of the policy rather than being a land use policy. In this context, it overlaps with Appendix C of the Plan (which comments on Post Occupancy Evaluation). This raises two related issues. The first is that it is not the role of a neighbourhood plan to determine the way in which a local planning authority delivers its development management function. The second is that the suggested approach to the implementation of the Post Occupancy Evaluation through the imposition of a planning condition on relevant planning applications does not take account of the capacity of BC's development management team to administer the proposed process and/or the costs of doing so. Whilst I have noted PPC's responses to the clarification note on these matters, its assumptions are not evidence-based.
- 7.54 Taking account of all these circumstances, I recommend a package of modifications to both the policy and to the supporting text. The recommended modifications to the submitted policy would result in a situation where the neighbourhood plan would offer a supportive context for development proposals in the parish to achieve more sustainable solutions than those required by the Core Strategy policy rather than requiring this to be the case.
- 7.55 In specific terms, I recommend that the first three parts of the policy are recast so that they take on a less prescriptive format which has regard to national policy. The modifications have also been designed so that they will add value to Policy CS4 of the Core Strategy. In this context it is appropriate for a neighbourhood plan policy to offer support for carbon ready/Passivhaus buildings as opposed to requiring this to be the case. The third part of the policy incorporates a revised version of Part C of the submitted policy. It has been designed to apply to major developments. Whilst major residential developments are not anticipated to come forward in the parish in the Plan period the policy would provide the necessary safeguards if any such proposals were approved.
- 7.56 I also recommend a consequential package of modifications to the supporting text.

Biodiversity Elements

- 7.57 Parts D and E address biodiversity matters. Part D acknowledges that the need for biodiversity net gain is now embedded in national legislation.
- 7.58 In general terms these two elements of the policy have regard to Section 15 of the NPPF. However, Part D is unnecessarily restrictive, and seeks to exercise additional

control over trees already protected by Tree Preservation Orders. I recommend modifications to remedy these matters. I also recommend that the policy includes a proportionate element and acknowledges that its various contents will not always be practicable to achieve.

- 7.59 I also recommend modifications to Part E of the policy to ensure that it properly reflects the approach taken in the Environment Act (on biodiversity net gain) and to simplify the approach taken.
- 7.60 Finally, I recommend consequential modification to the supporting text. The modified text simplifies the complicated approach in the submitted Plan. Otherwise, the policy meets the basic conditions. It will contribute to the delivery of the social and environment dimensions of sustainable development.

Replace Parts A- C with:

‘Where practicable, new buildings should be ‘zero carbon ready’ by design and minimise the amount of energy needed to heat and cool buildings through landform, layout, building orientation, massing, and landscaping.

Development proposals for a Passivhaus or equivalent standard buildings will be supported. Proposals that maximise their potential to meet this standard by proposing the use of terraced and/or apartment building forms of plot size, plot coverage and layout that are different to those of in the immediate locality of the site within which the proposal is located will be supported, provided it can be demonstrated that they will not have an unacceptable effect on the character of that area.

Proposals for major development should be accompanied by a Whole-Life-Cycle Carbon Emission Assessment (using a recognised methodology) to demonstrate actions have been taken to reduce embodied carbon resulting from the construction and use of the building over its life.’

Replace Part D with:

‘Wherever practicable, development proposals should incorporate existing trees and natural vegetation into its layout and design.

As appropriate to their scale, nature, and location, and where practicable, landscape schemes associated with development proposals should:

- **achieve an increase of canopy cover from the existing level of the site.**
- **in addition, on sites of 0.5 ha or more, achieve a future canopy cover of at least 25% of the site area within ten years. This should principally be achieved through retention and planting of trees, but where it can be demonstrated that this is impractical the use of other green infrastructure (e.g. green roofs and walls) should be used to deliver equivalent benefit.’**

Replace Part E with:

‘Development proposals should deliver a minimum 10% biodiversity net gain. Proposals that require off-site compensation to mitigate for biodiversity loss should follow a sequential approach to its delivery. The gain should be delivered within or adjoining the Network, where the land is suited in principle for delivering the necessary gain. If this is not practicable, the gain should be delivered on other land elsewhere within the neighbourhood area (including contributing to the Gomm Valley Biodiversity Opportunity Area) before delivering the necessary gain elsewhere.’

Delete Appendix C.

Replace paragraphs 5.20 to 5.24 as follows:

‘This policy is in five parts. The combination of the first three parts is intended to support a step-change in the energy performance of new developments in the parish and, in doing so, encourage and incentivise the use of ‘Zero Carbon’, ‘Passivhaus’ or equivalent standards of building design. Achieving this level of performance beyond those required in the Building Regulations will make a significant contribution to mitigating climate change within the parish. The last two parts are designed to preserve the green networks and biodiversity of the built-up environment in the Parish and the rural nature of our settlements.’

Policy CS4 of the adopted Core Strategy provide local guidance on energy efficiency. Paragraph 8.6 of that Plan provides the context for the approach taken and advises that guidance from national Government suggests that homes in the UK contribute approximately 27% of the UK’s total carbon emissions. It is therefore recognised that one of the most effective ways to minimise the local impact of development on the surrounding environment and help reduce carbon emissions, is to support and encourage sustainable methods of design and construction. In general terms, this relies on measures being undertaken to reduce the emission of pollutants (including contamination of groundwater); reduce water consumption; maximise the use of locally produced building materials; minimise energy consumption; reduce flood risk; utilise sustainable construction technologies; and minimise waste.

Policy PENN3 of this Plan builds on this established local approach. It will result in a situation where the neighbourhood plan would offer a supportive context for development proposals in the parish to achieve more sustainable solutions that those required by the Core Strategy policy. Plainly the wider situation may be affected by changes to national or local planning policies on these matters in the Plan period.’

The second part of the policy comments about the possible effects of sustainable buildings on the character of the immediate area. As part of the development of such projects, and their consideration through the development management process, full account should be taken of the defined Areas of Special Character and the two conservation areas as addressed in Policy PENN1.’

Replace paragraph 5.25 with:

'Section [insert revised letter] of Policy PENN 3 operates across the parish. Trees contribute to its distinctively wooded character. It is therefore important that the loss of any trees is avoided, unless it can be demonstrated that it is unavoidable and satisfactory mitigation measures are put in place. This part of the policy specifies how tree canopy cover will be assessed and how it expects mitigation for biodiversity loss to be provided. The policy comments about the ambition of an increase in canopy cover. The policy acknowledges that individual proposals will have differing abilities to meet its ambitions.'

Replace paragraph 5.26 with:

'Part E of Policy PENN3 sets out how the loss of biodiversity-value (which would be likely to arise in ant new developments on greenfield sites), will be addressed through a sequential approach. The new biodiversity net gain requirement of at least 10% (as set out in the Environment Act 2021) should be delivered either onsite or within or adjoining the Network so that the benefits of development are accrued as close as possible to the development site. In every case, attention should be paid to schemes avoiding undermining the openness of the Green Belt. However, it is accepted that the Network in the parish may not be suited to delivering every type of required off-site gain. In such cases the gain to be delivered in adjoining parishes or, as a final resort, on land elsewhere.'

PENN4 Smaller Housing

- 7.61 This policy has been designed to allow individuals, and smaller households to remain in the neighbourhood where they live, or wish to downsize from a larger property. The Housing Needs Assessment identifies the need for a higher proportion of smaller homes. It highlights that there are many larger residences but the balance needs adjustment to meet the needs of local people.
- 7.62 The policy comments that schemes of residential development comprising three or more net dwellings must allow for a high proportion of smaller dwellings that have two or three bedrooms and secure a greater number of smaller units than larger units on any given site. It also advises that this must be achieved without detriment to the amenities and the character of the locality and neighbouring properties as defined by the Penn Parish Design Guidance and Codes.
- 7.63 The ambitions of the policy are commendable. However, as submitted, its wording is unclear. Whilst the use of 'greater' and 'higher' are undefined in the policy, paragraph 5.29 advises that smaller properties should consist of 50% or more of the properties delivered. Inevitably this approach would work more comfortably (in mathematical terms) for larger developments. In addition, the policy takes no direct account of the practicability of achieving the proposed housing mix on a site-by-site basis or its effect on commercial viability.
- 7.64 I have considered the policy carefully. On the balance of the evidence I recommend that it takes a more general approach which acknowledges that its ambitions may not

always be practicable and/or commercially-viable. I also recommend a consequential modification to the supporting text.

- 7.65 Otherwise, the policy meets the basic conditions. It will contribute to the delivery of the social and environment dimensions of sustainable development.

Replace the policy with:

‘Wherever practicable and commercially-viable, development proposals for three or more houses should address identified housing needs and deliver a mix of housing types to include 1,2 and 3- bedroom dwellings whilst maintaining the character of the locality and neighbouring properties as defined by the Penn Parish Design Guidance and Codes.’

Replace paragraph 5.29 with:

‘The provision of a focus of smaller dwellings (greater than 50% of the total) on new residential developments will help to ensure an efficient use of scarce land in the built-up areas of the main settlements in the parish. Policy PENN4 acknowledges that such an approach may not always be practicable and/or commercially-viable. The need for smaller housing in the parish is clear, and the number of elderly households is projected to increase considerably through the Plan period. The policy also acknowledges the importance of delivering smaller homes without detriment to the amenities and the character of the locality and neighbouring properties as defined by the Penn Parish Design Guidance and Codes. This requirement may result in tensions between the two issues and they will need to be resolved through the development management process on a case-by-case basis.’

PENN5 Green Infrastructure Network

- 7.66 The policy defines the presence of green and blue infrastructure assets in the parish, derived from the Natural England Green Infrastructure evidence base and local knowledge, which have multiple roles including carbon sinking, flood alleviation and biodiversity net gain. By doing so it supports Core Strategy Policy CS32 ‘Green Infrastructure’ and is in line with saved Local Plan Policies NC1 ‘Safeguarding of Nature Conservation Interests’ and TW6 ‘Resistance to Loss of Woodland’ and Core Strategy Policies CS24 ‘Biodiversity’. The Policies Map shows the full extent of the Network, which allows applicants to determine if their proposals should take this policy into account.
- 7.67 The policy is comprehensive and has nine related parts.
- 7.68 The approach taken has attracted detailed commentary from BC. In its response to the clarification note, PPC advised about the work which it had undertaken with the Woodland Trust on Part H of the policy.
- 7.69 I have considered the policy carefully. In general terms, the policy has regard to Section 15 of the NPPF. In addition, the Network has been carefully assessed. However, the policy wording is very prescriptive and it frequently fails to acknowledge the flexibility which exists on such matters in national policy. In other places, the different elements

of the policy are repetitive. In addition, the final part of the policy is supporting text (in setting out a process) rather than a land use policy.

- 7.70 In these circumstances, I recommend that the policy is recast so that provide a local iteration of Section 15 of the NPPF and merges the different elements of the submitted policy. In addition, the recast elements have a positive approach rather than the negative approach of some of the elements of the submitted policy.
- 7.71 The recasting (and simplification) of the policy acknowledges the importance of the definition of a local Green Infrastructure network. In this context the policy largely relies on existing national and local planning policies on green infrastructure rather than seeking to restate such policies.
- 7.72 I also recommend consequential modifications to the supporting text. Otherwise, the policy meets the basic conditions. It will contribute to the delivery of the social and environment dimensions of sustainable development.

Replace the policy with:

‘The Neighbourhood Plan designates a Penn Parish Green Infrastructure network, as shown on the Green Infrastructure Network Map, for the purpose of promoting nature recovery and helping mitigate climate change. The network comprises land with known biodiversity value, woodlands, significant hedgerows and lines of trees, water courses and bodies of water.’

Development proposals that lie within or adjoining the network should respond positively to its importance and maintain and, where practicable, improve the functionality of the network, including delivering a net gain to biodiversity, in the design of their layouts and landscaping schemes. Proposals that would unacceptably harm the functionality or connectivity of the network, including the loss of Ancient Woodland, ancient and veteran trees, and ancient wood pasture will not be supported.

Development proposals that will lead to an extension of the network including the provision of allotments, and the proper management of Ancient Woodland, ancient and veteran trees, and ancient wood pasture as irreplaceable habitats, will be supported, where they are consistent with development plan policies.’

In paragraph 5.33 replace ‘AONB’ with ‘Chilterns National Landscape’

Delete paragraph 5.34.

Replace paragraphs 5.37 to 5.39 with:

‘Policy PENN5 seeks to provide a local iteration of Section 15 of the NPPF. Its second part comments about the types of development which will and will not be supported. The third part of the policy advises that proposals which extend the identified network will be supported.’

The Policies Map shows those parts of the designated Network that are known or likely to have biodiversity value either as habitat areas; as hedgerows or lines of trees; or as

streams and rivers. In calculating biodiversity net gain requirements using DEFRA's latest metric, development proposals located within or adjoining that part of the network should anticipate achieving at least a medium distinctiveness multiplier score.'

PENN6 Important Green Spaces

- 7.73 The policy proposes the designation of local green spaces (LGS) and Amenity Open Spaces (AOS). Tables 1 & 2 provide details about the proposed LGSs and the AOSs, and any existing protections which they enjoy. The supporting text advises that LGS designation affords the same protection as Green Belt and as such is not relevant for areas of the parish that fall within the Green Belt. It also comments that areas are designated as Local Amenity Space where they have existing protection within the planning system, such as falling within the Green Belt or registered Common Land and are noteworthy given the nature of the amenity and/or its importance to the community.
- 7.74 In this context the policy proposes six LGSs and 28 AOSs. For clarity, I address the two elements of the policy in separate sections of this report.

Local Green Spaces

- 7.75 The policy has taken an appropriate and comprehensive approach to the designation of LGSs. The proposed LGSS are detailed in the Assessment. In addition, PPC has carefully avoided proposed designations in the Green Belt.
- 7.76 I looked carefully at the proposed LGSs during the visit. Based on all the evidence I am satisfied that LGSs i, ii, iii, v and vi are appropriate and meet the criteria in paragraphs 105 and 106 of the NPPF.
- 7.77 The Local Green Space Assessment describes the proposed LGS iv (Wichert Close Wood) as wooded area between Wichert Close and Penn Road. It advises that the area meets LGS criteria as an important habitat and biodiverse area and provides a green space in a built-up area. It also advises that the proposed LGS has historic value, shown by the presence of woodland in this location in the map included from 1876 - 1885
- 7.78 A representation from a planning consultant acting for the site owner advises that:
- 'the site is entirely in the private ownership of his family, and is not open to the general public for access. As the site has not been secured/fenced off, this may have enabled some local people to use it for walking. It is not entirely clear how the site is 'cherished' by the local community, since there does not appear to be any separate report available to view online which the NP indicates would provide this information.'*
- 7.79 The representation also advises that the owner recognises the important contribution that the site makes to the visual amenities of the area within the street view of Penn Road, and considers that a good compromise can be reached that would meet both the requirements of the family, and of the community. Plans were appended to the representation showing an initial design concept for the layout of a new dwelling on the site. The proposed house shown would comprise 4/5 bedrooms, with an attached single storey home office, and a detached triple garage to the north side, with off-street

parking in the courtyard area. There would be a garden area to the north side of the garage.

7.80 In its response to the clarification note, PPC commented that it:

'received an identical representation from IQ Planning Consultants dated 9th July 2023 following the Regulation 14 consultation. The representation suggests that the land proposed for Local Green Space designation does not meet the relevant tests set out in the National Planning Policy Framework (NPPF). Following the Regulation 14 consultation the Parish Council revisited its evidence base, in particular, the relevant NPPF tests and national guidance on Local Green Space designation. In doing so, the Parish Council acknowledged that land can be considered for designation even if there is no public access, as per Planning Practice Guidance (PPG) Paragraph: 017 Reference ID: 37-017-20140306. The Parish Council also noted that there remained brownfield and other redevelopment opportunities throughout the parish as submitted to Buckinghamshire Council in its Brownfield and Wider Call for Sites which will enable the Local Planning Authority to continue to contribute to local planning for sustainable development in the area through its plan-making procedures, or the Parish Council may choose to do so in a future review should this Neighbourhood Plan be made, as per PPG Paragraph: 007 Reference ID: 37-007-20140306. The Parish Council confirmed in its Table 1 Local Green Space assessment on page 49 of the Submission Plan the reasons why it considers Wichert Close Wood continues to meet the relevant NPPF tests. The land is an important habitat and biodiverse area and has contained woodland for over 100 years. It is one of the last remaining pockets of long-established woodland within the built-up area. Having given the representation careful consideration, the Parish Council maintains the position that the candidate meets the relevant tests of the NPPF.'

7.81 On the balance of the evidence, I am satisfied that it meets the three criteria in paragraph 106 of the NPPF. From the visit, I concluded that it is demonstrably special to the local community and holds a particular local significance due to the openness and attractive tree cover it provides in an otherwise built-up area. In reaching this judgement I have taken account of Planning practice guidance (ID: 37-017-20140306) which advises that public access is not necessary to justify the designation of LGSs.

7.82 I am also satisfied that the proposed LGS meets the more general tests in paragraph 105 of the NPPF. It is an established part of the local environment. There are no planning permissions on the site, and it is not within my remit to respond to the suggested compromise in the representation received.

7.83 The policy element (Part B) takes the matter-of-fact approach in paragraph 107 of the NPPF. As such it meets the basic conditions.

Amenity Open Spaces

7.84 The Plan advises that there are:

'a number of Public Amenity Open Space and Common Land and Other Amenity Open Spaces' which have been identified on the Chiltern Policies Map. There are other green spaces which have been identified through the Neighbourhood Plan. These have been

reviewed and those which are considered to qualify for designation as Local Green Spaces in line with the criteria of NPPF §102 are proposed as such (and shown on the Policies Map). Each is cherished by the local community for the reasons explained in the separate report and landowners have also been given an opportunity to respond to the proposed designation. The effect of the designation is to require the same 'very special circumstances' test as for inappropriate development proposals in the Green Belt (paragraph 5.41).'

7.85 This explanation creates a degree of uncertainty. On the one hand, the policy makes the distinction between LGSs and AOS (as described in Parts B and D respectively), However on the other hand, the supporting text comments that the effect of the designation of AOSs is to require the same 'very special circumstances' test as for inappropriate development proposals in the Green Belt. I recommend that the supporting text is modified so that it confirms the clear differences between the two sets of designations. In designing the policy will have come to a view that the proposed AOS do not meet the tests for LGS designation.

7.86 Within this wider context, I am satisfied that the proposed AOSs have been carefully identified and defined.

Summary (Overall Policy)

7.87 With the incorporation of the modification to paragraph 5.41, I am satisfied that the policy meets the basic conditions. It will contribute to the delivery of the social and environment dimensions of sustainable development.

Replace the final sentence of 5.41 with: 'Whilst Amenity Open Spaces perform an important role in the parish, they do not meet the exacting standards required for Local Green Space designation. Any development proposals affecting Amenity Open Spaces will be considered against the details in Part D of the policy.'

PENN7 Safeguarding Commercial Assets

7.88 This policy aims to protect the few local commercial, business and service uses in the parish from unnecessary loss. The Plan advises that they each provide a source of employment in the local community and that in an area of very high land values for housing, such premises are coming under increasing pressure.

7.89 The policy has two related parts. The first is that proposals to retain commercial, business and services uses (as shown on the Policies Map) will be supported where they do not harm residential amenity and that they conform to the other design requirements. The second is that proposals for the redevelopment or change of use of these premises to another use will be refused, unless there is clear evidence submitted that the existing premises and/or the use of those premises are no longer economically viable through the production of evidence that genuine and sustained efforts to promote, improve and market the commercial, business and service uses at a reasonable value have been undertaken over a twelve-month period.

7.90 The policy has been carefully designed. It identifies specific facilities throughout the parish. It has regard to Sections 6 and 8 of the NPPF.

- 7.91 In addition, the two parts of the policy strike an appropriate balance between allow the commercial assets to adapt and change on the one hand whilst safeguarding residential amenities on the other hand. The second part of the policy also acknowledges that the commercial viability of the identified premises may change in the Plan period.
- 7.92 I recommend a modification to the wording used in the first part of the policy to bring the clarity required by the NPPF. They reflect PPC’s response to the clarification note. I also recommend modifications to the wording used in Part B of the policy for the same reason. The first acknowledges that some development proposals may be permitted development. Paragraph 5.46 of the Plan also advises that PPC will monitor the effects of any further updates to the GPDO during the Plan period. This is best practice.
- 7.93 Otherwise, the policy meets the basic conditions. It will contribute to the delivery of each the three dimensions of sustainable development.

In Part A of the policy replace ‘retain’ with ‘expand or adapt’

In Part B replace:

- **‘Proposals’ with ‘Insofar as planning permission is required. Proposals’**
- **‘be refused’ with ‘not be supported’**

PENN8 Safeguarding Community Facilities and Public Houses

- 7.94 This policy supports the retention of community facilities and public houses which are of value to a community’s health and wellbeing and in doing so refines Policies CS16, CS28, CS29 of the Chiltern Core Strategy which seeks to avoid the loss of community facilities and to encourage healthy living. The Use Class Order of September 2020 now considers such uses as either Class F2 (‘Local Community Uses’) or in the case of the schools and churches, F1 (‘Learning Institutions’). Public houses are now considered as ‘sui generis’ (i.e. not included in any class of uses). PPC’s view is that all community facilities are essential for community life and the community cannot thrive without them.
- 7.95 The policy comments that buildings (including their entire curtilage) or land currently or last occupied for community use must be retained in community use.
- 7.96 I sought PPC’s comments on the extent to which the policy brings any added value beyond the approach in Part B of Policy PENN 7. In its response to the clarification note, PPC advised that it:

‘has decided to include two distinct and separate policies in PENN7 and PENN8. PENN7 relates to commercial assets sitting mainly within Classes E/B2 and other Sui Generis uses. PENN8 relates to community facilities and public houses sitting mainly within Classes F1/F2 and with public houses as Sui Generis Uses. Separating these distinct uses in this way is standard practice for planning policies in Buckinghamshire. The Parish Council acknowledges that for both policies the main objective is to protect these essential uses from unnecessary loss and therefore acknowledge that the examiner may consider it appropriate to combine these two policies.’

- 7.97 On the balance of the evidence, I am satisfied that this policy should remain in the Plan. It serves a subtly different purpose to that of Policy PENN7. Nevertheless, I recommend that it is expanded so that it includes an identical element to that in Part B of Policy PENN7. Plainly the commercial viability of the identified premises may change in the Plan period in the same way as the commercial properties identified in Policy PENN7.
- 7.98 Otherwise, the policy meets the basic conditions. It will contribute to the delivery of the social and environment dimensions of sustainable development.

Replace the policy with:

‘Proposals for the use of the buildings or land currently or last occupied for community use (as shown on the Policies Map and listed in the table below) for non-community uses will not be supported unless there is clear evidence submitted that the existing premises and/or the associated land are no longer economically viable through the production of evidence that genuine and sustained efforts to promote, improve and market the commercial, business and service uses at a reasonable value have been undertaken over a twelve-month period.’

PENN9 Sustainable Travel Network

- 7.99 The supporting text comments that identifying the existing sustainable travel network, and where there are opportunities for improvements, will help direct investment to encourage walking, cycling and the use of public transport. The policy maps a network of walking and cycling routes through the parish where many routes continue to connect with neighbouring settlements and with the countryside. The Policies Map shows the full extent of the Network, which allows applicants to determine if their proposals should take this policy into account. Where proposals include provision for landscaping, new means of access or new layouts, there may be an opportunity to relate the land better to the Network and/or improve the attractiveness of rural routes.
- 7.100 The policy itself comments that the Plan identifies the existing sustainable travel network for the purpose of supporting healthy and safe active travel opportunities in the parish. It then advises that development proposals should sustain, and where practicable, enhance the functionality of the network by virtue of their layout and means of access and landscape treatment.
- 7.101 I am satisfied that the Network has been appropriately and sensitively defined. It responds positively to the rural nature of the parish.
- 7.102 I recommend two modifications to bring the clarity required by the NPPF. The first introduces a proportionate element into part B of the policy. This acknowledges that it is likely that minor and domestic proposals will have minimal (or no) effect on the network. The second proposes a recasting of Part C of the policy so that it uses language more appropriate to a neighbourhood plan.
- 7.103 Otherwise, the policy meets the basic conditions. It will contribute to the delivery of the social and environment dimensions of sustainable development.

In Part B replace ‘Development proposals’ with ‘As appropriate to their scale, nature and location, development proposals’

Replace Part C with: ‘Development proposals that would unacceptably harm the functioning or connectivity of the network will not be supported.’

Other Matters – General

7.104 This report has recommended a series of modifications both to the policies and to the supporting text in the submitted Plan. Where consequential changes to the text are required directly because of my recommended modification to the policy concerned, I have highlighted them in this report. However other changes to the general text may be required elsewhere in the Plan because of the recommended modifications to the policies. Similarly, changes may be necessary to paragraph numbers in the Plan or to accommodate other administrative matters. It will be appropriate for BC and PPC to have the flexibility to make any necessary consequential changes to the general text. I recommend accordingly.

Modification of general text (where necessary) to achieve consistency with the modified policies and to accommodate any administrative and technical changes.

Other Matters – Specific

7.105 BC has made a series of helpful comments on the Plan. I have included them in the recommended modifications on a policy-by-policy basis where they are required to ensure that the Plan meets the basic conditions.

7.106 I also recommend modifications to the text of the Plan based on BC’s comments to ensure that the Plan meets the basic conditions. They relate to the more general parts of the Plan. For convenience I list the relevant parts of the Plan using BC’s reference system in its representation to the Plan:

- Foreword
- Glossary (both references)
- Paragraph 1.2
- Paragraph 1.3
- Paragraph 2.1
- Paragraph 2.11
- Paragraph 3.6
- Paragraph 3.8
- Plan G
- Paragraphs 3.12 to 3.14
- Paragraph 5.38
- Paragraph 5.39

7.107 BC also raise a series of other matters. Their incorporation into the Plan would extend its coverage and addresses such issues in greater detail and to good effect. Nevertheless, the matters concerned are not necessary to ensure that the Plan meets the basic conditions. Neighbourhood plan legislation has given considerable flexibility to qualifying bodies to include the issues which they see fit to feature in their plans. As such it is beyond my remit to recommend modifications to the Plan so that it is expanded beyond the scope as chosen by PPC.

8 Summary and Conclusions

Summary

- 8.1 The Plan sets out a range of policies to guide and direct development proposals in the period up to 2040. It is distinctive in addressing a specific set of issues that have been identified and refined by the wider community to safeguard the character and setting of the neighbourhood area and to designate a package of Local Green Spaces.
- 8.2 Following the independent examination of the Plan, I have concluded that the Penn Parish Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.

Conclusion

- 8.3 On the basis of the findings in this report, I recommend to Buckinghamshire Council that subject to the incorporation of the modifications set out in this report that the Penn Parish Neighbourhood Development Plan should proceed to referendum.

Other Matters

- 8.4 I am required to consider whether the referendum area should be extended beyond the neighbourhood area. In my view, the neighbourhood area is entirely appropriate for this purpose and no evidence has been submitted to suggest that this is not the case. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as approved on 2 July 2021.
- 8.5 I am grateful to everyone who has helped in any way to ensure that this examination has run in a smooth way.

Andrew Ashcroft
Independent Examiner
20 January 2025