

Pirton Steering Group Note: (9/6/2016)

Development/village boundaries, housing development sites and housing numbers for Pirton

Hi Everyone,

I see there is a bit of confusion “out there” about development/village boundaries, and housing development sites, and housing numbers for Pirton. So at the risk of boring you all to death, let me do what will inevitably be a longish piece on the law, and planning practice, and how it’s being applied. I’ll cover what is happening now, and what will happen as North Herts moves forward with its new Local Plan, and we move forward with our Neighbourhood Plan.

Actually, I don’t find it boring at all. I think it’s fascinating, if at times very frustrating.

Ok. Basic law as at 09.06.2016: a development boundary is a development boundary. There can be no development outside of the boundary except in accordance with planning policy, and this (normally) means only exception sites such as that at Baulk Gardens catering for an identified need (after a housing needs survey) for affordable homes.

Except that.....

As I’ve pointed out in earlier posts, the Coalition Government introduced the Localism Act in 2011 in part to get Britain building houses. The provisions of the Act are filled out by government planning guidance, the major piece being the National Planning Policy Framework. (NPPF).

Very briefly, the combination of Act and NPPF adds a degree of uncertainty to every planning decision. All local authorities have been obliged to produce and share with government a document detailing how much housing development the relevant local authority area is going to need over a 20-year period (beginning 2011). The new local plan that all local authorities must produce must be capable, through its policies, of delivering this figure. Until such time as the local planning authority, in our case the NHDC, produces a new Local Plan or can persuade the government that it has identified enough development plots to give North Herts a definite 5-year housing supply, the NPPF provisions kick in. I’ll come to this in a minute.

Are you with me so far?

The NHDC has identified that it needs 14,400 new homes over the period 2011 to 2031. It needs to plan for more than this specifically for Luton overspill, but that figure need not trouble us today. The NHDC does not yet have a new Local Plan, nor an identified 5-year housing supply.

So – at the moment, when a planning application comes in for a development outside of the Pirton village boundary, the NHDC must apply its current policies, including “no development outside of the boundary”. Under normal circumstances it would come to the conclusion that it must decline an outside of boundary application.

But that is not the end of the story. Since the NHDC does not have a new Local Plan, or an identified 5-year housing supply, it must look to the provisions of the NPPF. There at paragraph 14 is a provision that says in these circumstances, there is a presumption in favour of development, unless the impact of the proposed development would significantly and demonstrably outweigh the benefit (of development) when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.

So the NHDC then weighs the strength of this presumption against the strength of current policies.

A couple of court cases in the last year (Crane, and Hopkins) give guidance on how to conduct this “weighing” exercise.

Suffice to say, in most, but by no means all, cases the presumption wins and development takes place outside of current boundary.

So – yes, Pirton has a current development boundary, and yes, the NHDC must consider it, and yes, in most cases it will not carry as much weight as the NPPF policy in paragraph 14. Up and down the country where there is no local plan and no 5-year housing supply, landowners and developers are having a bit of a free ride doing things they couldn't do before the Localism Act.

I hope that is clear. I'll return to the boundary issue in due course. First, let's turn now to the issue of housing numbers for Pirton.

Many of you will recall the surprise in reading within the NHDC Preferred Options Local Plan Consultation in late 2014/early 2015 that Pirton was expected to "take" something like 140 new houses over the period of the proposed new Local Plan. Most of you will have realised also that the development boundary for Pirton was proposed to be changed to enable this to happen by incorporating land at Elm Tree Farm and Priors Hill (shown as PT1 and PT2 on the map that came with the consultation - see below). As the Neighbourhood Plan Steering Group we sought a meeting with NHDC to find out what this actually meant.

It was explained to us that the figure was not a target figure based on "need" whether that was need for Pirton or need to contribute to the overall figure for North Hertfordshire. It was based solely on the fact that the NHDC had put out a call for sites on which housing development could take place. Two sites emerged for Pirton as a result of this "call for sites"; Elm Tree Farm and Priors Hill. The NHDC took a very notional figure of 20 dwellings to the hectare, and voila! The number of houses came to 77 at Priors Hill, and 42 (I think) at Elm Tree Farm. (This was later extended when the NHDC decided to widen the proposed boundary, allowing the landowner and developer to apply for planning permission for more housing). The numbers had nothing to do with "need" for Pirton, and everything to do with land availability contributing to the overall objectively assessed need for housing in North Herts. This approach has applied right across North Hertfordshire. Where too many sites come forward, preference for development was given to category A village with facilities as it is thought that development is more sustainable there. Pirton is a category A village. However, the NHDC will not allocate development even in a category A village where no site has been put forward.

Let's now look at the contribution Pirton is already set to make to development for the parish and for North Herts. Remember, Pirton currently is a village of some 525 houses. Planning permission is already granted for up to 82 at Elm Tree Farm; for 3 off Royal Oak Lane; for 2 off Shillington Road, and, because it occurred in the Neighbourhood Plan period, for 11 at Baulk Gardens. Before you blink, this parish and village is accepting 98 houses; this is an 18 percent increase. Already this is a very meaningful contribution.

Because of the confusion still in many minds over what exactly development at Pirton means, I, with Ann Webb and Tom Gammell, met with the NHDC planning officer responsible for neighbourhood planning just this Monday past (6 June). It was confirmed to us that North Herts has not set a "target" figure for housing development for any village (or town) in North Hertfordshire. I copy below an NHDC email setting out the official position:

"Following our discussions yesterday, I am writing to confirm how the Council has approached the distribution of housing in the Local Plan. As you are aware, the National Planning Policy Framework (NPPF) requires each local plan to identify the objectively assessed need for housing in its area. The Council has updated the Strategic Housing Market Assessment which indicates that the objectively assessed need for the District is 14,400 dwellings, (Cabinet report - November 2015). The approach in the Local Plan Preferred Options was to identify strategic sites across the District and to allocate the most appropriate sites across the District, taking into account the level of services, suitability of sites, infrastructure constraints etc. At no time in this process has the District Council set out a target for a village or Parish. I do not anticipate that this approach will be changed in the preparation of the pre-submission version of the Local Plan.

So there is no hard and fast number that Pirton is expected to meet. The loss of 77 potential dwellings at Priors Hill due to the decision by the Secretary of State for Culture, Media and Sport to designate the site as a Scheduled Monument does not mean that Pirton has to fill the gap; the gap, if indeed there is one, will be filled elsewhere following a new “call for sites” made by the NHDC last autumn (closing date 1 March 2016.)

What remains for the Pirton Neighbourhood Plan from today’s date is really infill sites within the “new” development boundary. As it was put to the Steering Group and the Parish Council by an independent planning consultant at a meeting last Saturday, by having a new clear development boundary Pirton is demonstrating one large site allocation – the village, where development can be accommodated through infill sites. Additionally, the Neighbourhood Plan mirrors the Local Plan by running from 2011, so the Neighbourhood Plan accepts the contribution to growth that is made by the Elm Tree Farm site and more recent smaller sites. It is therefore, as it must be, a Plan that promotes and supports sustainable growth over the period of the Plan.

I hope that is clear on “numbers”. Now let’s look at the Neighbourhood Plan proposal to adopt the proposed new Local Plan boundary for Pirton.

This is an issue that has taken up a substantial amount of Steering Group time and debate. So why are we widening the boundary?

1. A Neighbourhood Plan must, by law, be in general conformity with the (current) Local Plan. You would be right to point out that this would indicate retaining the current boundary. However, a Neighbourhood Plan must also demonstrate how it reflects the strategic policies in an emerging Local Plan. Frankly, by the time our draft Neighbourhood Plan is considered by the independent Examiner, the NHDC draft Local Plan will be close to its examination too. We will be expected to show how we’ve taken account of draft Local Plan issues and policies. The boundary is a strategic issue.
2. The NHDC will probably object to our Plan at Examination as not being in general conformity with the strategic policies in the Emerging Local Plan if we retain the current boundary.
3. We do not want to take the risk of the Neighbourhood Plan being rejected at Examination, in whole or in part. We want to avoid the risk of being accused of not having a genuine growth strategy, if the retention of the current boundary could give rise to accusations of adversely constraining development. By adopting the Local Plan approach to growth we can avoid this challenge. And we know there will be serious challenges at examination. We have an opportunity now to ensure that any challenge is weak and unwarranted.
4. Were we to be successful before the Examiner in keeping the current boundary, our Neighbourhood Plan policies relating to boundaries and development contingent on the boundary issue would be redundant once the new Local Plan comes in to force. As a matter of law, the strategic policies in the new Local Plan will outweigh any conflicting policies in a Neighbourhood Plan.
5. And we are being pragmatic; we cannot turn the clock back on the outline planning permission already granted for Elm Tree Farm.
6. For all of the above reasons, our expert independent planning consultants advised us to adopt the proposed Local Plan boundaries.

Phew!

The above is a gallop through the law and planning policy and practice that has influenced our thinking and led to the policies you have read in the draft Neighbourhood Plan. Thank you for sticking with me all the way through.

PS Helen, I think, asked if the Neighbourhood Plan can influence the number, type and style of housing following outline permission at Elm Tree Farm. The answer is a little complex, but keeping it simple, here goes:

If the Neighbourhood Plan is adopted by the NHDC following referendum, then yes, the policies relating to design, density, type etc. of the Neighbourhood Plan will need to be followed.

If the Neighbourhood Plan hasn't got that far, it is still possible for the Parish Council, and indeed members of the community, to urge and try to persuade both developer and NHDC to take note of the provisions in the Neighbourhood Plan. The further along the process it has gone, the more notice should be taken of the provisions of the Neighbourhood Plan. A good developer would want to reflect the community's policies, just as a good developer would want to have taken note of the (still relevant) Village Design Statement.

I hope this is helpful.

Diane Burleigh OBE

Chair PNPSG