

PENN PARISH NEIGHBOURHOOD PLAN  
2022 - 2040

SEPTEMBER 2023

BASIC CONDITIONS STATEMENT

Published by Penn Parish Council under the Neighbourhood Planning (General) Regulations 2012 (as amended)

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## 1.INTRODUCTION

1.1 This statement has been prepared by Penn Parish Council (“the Parish Council”) to accompany its submission of the Penn Parish Neighbourhood Plan (“the Neighbourhood Plan”) to the local planning authority, Buckinghamshire Council (“the LPA”), under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (“the Regulations”).

1.2 The Neighbourhood Plan has been prepared by the Parish Council, the ‘Qualifying Body’, for the Neighbourhood Area (“the Area”), which coincides with the boundary of Penn Parish shown on Plan A below. The LPA designated the Area in July 2021.

1.3 The policies described in the Neighbourhood Plan relate to the development and use of land in the designated Area. They do not relate to ‘excluded development’, as defined by the Regulations. The plan period of the Neighbourhood Plan is from 2022 to 2040, the end date of which corresponds with the proposed plan period of the emerging Local Plan for Buckinghamshire (“the emerging Local Plan”).

1.4 The statement addresses each of the four ‘Basic Conditions’, which are relevant to this plan, required of the Regulations and explains how the submitted Neighbourhood Plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Town & Country Planning Act.

1.5 The Regulations state that a Neighbourhood Plan will be considered to have met the Conditions if:

- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Development Plan,
- b) (Not relevant for this Neighbourhood Plan),
- c) (Not relevant for this Neighbourhood Plan),
- d) The making of the Neighbourhood Development Plan contributes to the achievement of sustainable development,
- e) The making of the Neighbourhood Development Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
- f) The making of the Neighbourhood Development Plan does not breach and is otherwise compatible with retained EU obligations.

# Penn Parish Proposed Neighbourhood Area



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*Plan A: Designated Neighbourhood Area*

1.6 The responsibility for determining if a Neighbourhood Plan has had regard to national policy and is in general conformity with strategic policy rests with a combination of the qualifying body, the LPA and the independent examiner (Planning Practice Guidance §41-070 and §410-074). Case law, established in the Tattenhall Neighbourhood Plan in 2014 (see §82 of EWHC 1470) but endorsed by the Courts on a number of occasions since, makes clear that:

*“... the only statutory requirement imposed by Condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted Development Plan as a whole ... any tension between one policy in the Neighbourhood Plan and one element of the ... Local Plan (is) not a matter for the Examiner to determine.”*

1.7 The case acknowledged that there will often be tensions between different strategic policies when considered against the non-strategic policies of a specific local area covered by a Neighbourhood Plan. It sensibly concluded that such tensions can only be resolved by the qualifying body using its planning judgement to strike an appropriate balance across the plan as a whole. The examination tests the extent to which the qualifying body has exercised its judgement in a reasonable way. The fact that the LPA, in its representations on the plan, indicates that it would strike the balance differently, does not disable the qualifying body from doing so.

1.8 It is noted that the case law has not yet explicitly established the same principle for Condition (a) in respect of the regard to national policy, but it seems reasonable to expect the Courts would reach the same conclusion, given there will also be a range national policies influencing plan making, and that some of those policies may also be in tension. It is therefore expected that the examination of this Condition will take the same approach as Condition (e).

1.9 For these reasons, sections 3 and 5 of this Basic Conditions Statement highlight how policies of the Neighbourhood Plan are considered to meet Conditions (a) and/or (e), explaining how the qualifying body has exercised its judgement in those cases “where different parts of national policy need to be balanced” (§070) and how it has taken into account the criteria of §074 on general conformity. Finally, it explains how the Neighbourhood Plan as a whole meets Conditions (a) and (e).

## **2.BACKGROUND**

2.1 In early 2021 Penn Parish decided to draw up a Neighbourhood Plan after looking at other nearby parish plans and considering the potential benefits to residents. There is no legal requirement for the parish to have a Neighbourhood Plan. The perceived benefits were less obvious in years past, but with the merger of Chiltern District Council with other areas to create Buckinghamshire Council there was a desire to draw up sensible plans which would benefit the parish and be aligned with Buckinghamshire's local plan.

2.2 A steering group was formed comprising the residents and Parish Council representatives. The group has been delegated authority by the Parish Council to make day-to-day decisions on the preparation of the Neighbourhood Plan. However, as the qualifying body, the Parish Council approved the publication of the Pre-Submission plan in May 2023 and the Submission Plan now.

2.3 The Parish Council has consulted local communities extensively over the duration of the project. It has also sought to work closely with officers of the LPA to collate and examine the evidence base, to design and iterate policy proposals and to define the proper relationship between the Neighbourhood Plan, the adopted development plan and the emerging Local Plan. The outcome of that work is the submission version of the Neighbourhood Plan.

2.4 The Neighbourhood Plan contains 9 land use policies (PENN1 – PENN9), which are defined on the Policies Map where they apply to a specific part of the Area. The Plan has deliberately avoided containing policies that duplicate saved or forthcoming development plan policies or national policies that are already or will be used to determine planning applications. The policies are therefore covering development management matters that seek to refine and/or update existing policies.

### **3. CONDITION (A): REGARD TO NATIONAL PLANNING POLICY**

3.1 The Neighbourhood Plan has been prepared with full regard to national policies as set out in the National Planning Policy Framework (NPPF) and is mindful of the Planning Practice Guidance (PPG) in respect of formulating Neighbourhood Plans. In overall terms, there are four NPPF paragraphs that provide general guidance on neighbourhood planning, to which the Neighbourhood Plan has directly responded:

#### General Paragraphs

3.2 The Parish Council believes the Neighbourhood Plan “support(s) the delivery of strategic policies contained in (the) local plan ... and ... shape(s) and direct(s) development that is outside of these strategic policies” (§13), although such policies are now more than a decade old. It considers the Neighbourhood Plan contains only non-strategic policy proposals or proposals that refine strategic policy to fit the circumstances of the Area without undermining the purpose and intent of those strategic policies (§18). It considers that the Neighbourhood Plan sets out more “detailed policies for specific areas” including “the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies” (§28).

3.3 The Parish Council considers that its Neighbourhood Plan has provided its community with the power to develop a shared vision for the Area that will shape, direct, and help to deliver sustainable development, albeit in a modest way and focused within the parish’s built up area, by influencing local planning decisions as part of the development plan. The Neighbourhood Plan contains no site allocation proposals nor any other policies that will unreasonably result in less development than set out in the strategic policies for the area (§29).

3.4 In this regard, the LPA has not been able to provide an ‘indicative housing figure’ for the Parish in accordance with the NPPF provisions of meeting local housing needs (as per §65/§66). But with all of the land in the Parish outside of the built-up areas of Knotty and Forty Green, such a figure is meaningless when the Neighbourhood Plan does not have the policy tools to meet the figure. Land within the built-up areas is deemed developable in principle as well as other settlements in line with the exceptions set out in national and strategic policies and therefore the focus of the Plan is shaping how such change can be successful as possible. The Plan is underpinned by relevant and up-to-date evidence. This is considered to be adequate and proportionate, focussed tightly on supporting and justifying the policies concerned (§31).

### Specific Paragraphs

3.5 Each policy engages one or more specific paragraphs of the NPPF. Those that are considered to be of the most relevance and substance are identified in Table A below.

<b>Table A: Neighbourhood Plan &amp; NPPF Conformity Summary</b>			
<b>No.</b>	<b>Policy Title</b>	<b>NPPF Ref.</b>	<b>Commentary</b>
PENN1	The Penn Parish Design Code	127, 128, 190	‘Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development’ (§127). The policy seeks to bring ‘clarity about design expectations’ within Penn Parish (§128) using the model approach recommended by the National Model Design Code (§128). The specific matters included in the policy ‘provide a framework for creating distinctive places’ to deliver a ‘consistent and high-quality standard of design’. Given there are two conservation areas in the parish, the code also incorporates character assessment and design guidance covering the historic environment (§190).
PENN2	Local Heritage Assets & Areas of Special Character	203	This policy identifies a number of local heritage assets to engage the provisions of §203. They have been derived from local history analysis and have been evaluated against the criteria advocated by Historic England.
PENN3	Reducing the Carbon Footprint and Ecological Impact of New Developments	56,131, 152, 155, 157, 174	This policy is a local response to a global challenge, the local community being convinced by the international evidence that ensuring zero carbon building performance through the PassivHaus standard is the most simple and cost-effective approach to take. It does not require that this standard is met but instead seeks to incentivise its use by exempting applicants using the standard from the requirement of the policy to provide a Post Occupancy Evaluation report. This provision for buildings is consistent with PINS model conditions of this type and is therefore considered in line with the use of planning conditions, as per §56. In doing so, it is consistent with the explicit climate change aims and provisions of §152, §155 and §157. It is inspired by innovative development plan making work in other parts of the country that has demonstrated this type of provision is necessary and possible in managing development proposals until national policy provisions are implemented. Other neighbourhood plans that have included this identical provision have been successfully examined and made elsewhere, including by this LPA. The policy also seeks to secure opportunities for trees to be retained and incorporated into new developments in line with the provisions of §131 and §174. Trees and woodland are fundamental in meeting the challenge of climate change and the policies seek to shape Penn in a way that contributes to radical reductions in greenhouse gas emissions, minimising vulnerability and improving resilience as per §152.



PENN4	Smaller Housing	61	This policy seeks to influence housing mix for housing developments to deliver a wide choice of homes that reflects local demand and to create a demographically balanced community (§61). It has been derived from the Housing Needs Assessment that was carried out as part of the Neighbourhood Plan.
PENN5	Green Infrastructure Network	153, 174, 179, 180	The policy defines the green infrastructure network as one means of ensuring the future resilience to climate change impacts and to support nature recovery (§153 and §174). The policy contributes to and enhances the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures through identifying, mapping, and safeguarding these components. It is therefore consistent with the aims of §174 and §179 in these respects. The policy also seeks to avoid the unnecessary loss of ancient woodland in accordance with the provisions of §180.
PENN6	Important Green Spaces	98,99, 101 - 103	This policy designates Local Green Spaces which meets the criteria in §102. All of the spaces are capable of enduring beyond the plan period. It is consistent with planning for sustainable development as any future consideration of growth in the Parish will be determined by the Local Plan making exceptional circumstances for releasing Green Belt land for development, which is not in the remit of the Neighbourhood Plan. With the villages being inset from the Green Belt, the pressure for development of land within their boundaries is high and the designation of these Spaces will prevent the loss of precious green spaces but leaving opportunities for plot redevelopment and intensification in line with the design and other policies of the development plan. The policy also seeks to identify important green space which lies within the Green Belt so that their contribution to open space, recreational, health and well-being, climate change and amenity provisions is recognised in accordance with the provisions of §98-§99.
PENN7	Safeguarding Commercial Assets	84	This policy seeks to protect the existing uses of commercial assets within the parish as accessible local services to the rural population in accordance with §84.
PENN8	Safeguarding Community Facilities and Public Houses	93	This policy seeks to protect and enhance popular and cherished community facilities within the parish in accordance with §93.
PENN9	Sustainable Travel Network	100, 104, 106	The policy requires that transport issues are considered from the earliest stages of development proposals so that opportunities to promote walking, cycling and public transport use are identified and pursued (§104). It also seeks to improve the use of public rights of way to encourage walking in the Parish, as per §100 and §106.

3.6 It is considered that all of the policies have had full regard to national policy, with no incidence of two or more national policies being in tension, nor of the Parish Council having to strike a balance between them. As a result, the Neighbourhood Plan, as a whole, meets Condition (a).

## 4. CONDITION (D): CONTRIBUTING TO ACHIEVING SUSTAINABLE DEVELOPMENT

4.1 The NPPF states that, “achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- Economic - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- Social - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and
- Environment - to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.”

4.2 As neither a Sustainability Appraisal nor Strategic Environmental Assessment Report have been required of the Neighbourhood Plan, the Statement sets out in Table B below how each of the policies contribute to the achievements of sustainable development. It does so by identifying the potential of each policy to lead to significantly positive (++), minor positive (+), neutral (0), minor adverse (-) or significant adverse (--) effects, taking into account the proposed mitigation measures.

4.3 In summary, the analysis shows that the Neighbourhood Plan will have a number of significant or moderate positive sustainability effects, with at least one such effect of every policy. Some policies will have neutral effects, primarily in terms of economic matters, as the scope and focus of the Plan is on delivering important environmental and social benefits. There are considered to be no adverse effects of any policy.

**Table B: Neighbourhood Plan & Sustainable Development**

Policy		Social	Economic	Environmental	Commentary
PENN1	The Penn Parish Design Code	+	0	++	The policy will have a significant positive environmental effect and a minor positive social effect in conserving the essential character of the parish, and some of its history, which local people care about. Its economic effect is neutral.
PENN2	Local Heritage Assets	+	0	++	The policy will have a significant positive environmental effect and a minor positive social effect in ensuring that features of local historic and/or architectural value are understood and kept as far as possible in new development proposals as part of retaining the character of the parish, for the enjoyment of the local community. Its economic effect is neutral.
PENN3	Reducing the Carbon Footprint and Ecological Impact of New Developments	++	++	++	The policy will have a significant positive environmental effect in maximising the zero-carbon performance of all new buildings. It will have increasingly positive social and economic effects in the ongoing financial savings to the building (residential and commercial) occupiers in very low energy costs.
PENN4	Smaller Housing	++	0	0	The policy will have a major positive social effect by addressing an increasing imbalance in the range of housing types in the parish, that may result in a more balanced demographic profile in the longer term. Its economic and environmental effect is neutral.
PENN5	Green Infrastructure Network	++	0	++	The policy will have a significantly positive environmental and social effects in protecting the defined Green Infrastructure Network which consists of a range of assets of biodiversity value in the Parish from inappropriate development. Its economic effect is neutral.
PENN6	Important Green Spaces	++	+	+	The policy will have a significant positive social effect in protecting a range of publicly accessible open spaces within the parish from inappropriate development. The policy will have a moderate environmental effect as some but not all the spaces have some environmental (e.g. biodiversity, heritage) value. Proximity to green spaces has a significant impact on house prices. If green spaces are lost particularly in Penn Parish, this could have a harmful economic effect on the parish. Research is clear that poor green space provision leads particularly to families seeking other places to live with green space for relaxation, recreation and sport.

PENN7	Safeguarding Commercial Assets	+	++	++	The policy will have positive economic effect in protecting the commercial assets in the parish. It will also have a minor positive social effect by retaining access to businesses in the parish. Its environmental effect is neutral. It will also have a positive environmental effect in reducing air pollution from traffic and car parking.
PENN8	Safeguarding Community Facilities and Public Houses	++	++	++	The policy will have significantly positive social and economic effects in seeking to protect the community facilities and public houses in the parish. It will also have a positive environmental effect in reducing air pollution from traffic and car parking.
PENN9	Sustainable Travel Network	++	+	++	The policy will have significant positive environmental and social effects in reducing traffic to improve air quality and in encouraging healthier lifestyles by walking and cycling. The economic effects of walking and cycling should be positive – the parish would be a more attractive as place to live with less congestion, better air quality and ease of getting around. This could impact house prices and retail/ office attractiveness.

## 5. CONDITION (E): GENERAL CONFORMITY WITH THE STRATEGIC POLICIES OF THE DEVELOPMENT PLAN

5.1 The Neighbourhood Plan has been prepared to ensure its general conformity with the strategic policies of the development plan for the former Chiltern District Council, that is the Chiltern District 1997 Local Plan (“the 1997 Local Plan”), the Core Strategy for Chiltern District 2011 (“the Core Strategy”) and the Bucks Minerals & Waste Local Plan 2019 (“the Minerals & Waste Plan”), taken as a whole. However, the Parish Council has been very mindful of the lengthening age of both plans, which predate the 2012 NPPF, and especially of some policies that are now more than 25 years old in their formulation.

5.2 The emerging Local Plan is in progress but has not reached the stage at which Neighbourhood Plans in the county have been able to derive a significant steer in formulating their policies. Its evidence base is currently limited but the Brownfield Call for Sites data published in 2022 has been insightful in confirming the Parish Council’s own local intelligence that land within the parish is likely to become available for redevelopment in the later stages of the plan period. Unfortunately, it has been too early for this version of the Neighbourhood Plan to make specific policy provision, but this may be something the first review of the Plan may address.

5.3 By far the most significant constraining factor on neighbourhood plan policy making is the designation of Green Belt which covers the whole parish, apart from areas of Knotty Green, Forty Green and Penn which are inset from this. Policy GB2 of the 1997 Local Plan remains in accordance with the NPPF in this respect and there is no NPPF §140 ‘hook’ to allow the Neighbourhood Plan to modify the Green Belt boundary. 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. In Table C below is set out a summary of the most relevant adopted strategic policies and commentary on the general conformity of the Neighbourhood Plan policies.

**Table C: Neighbourhood Plan & Development Plan Conformity Summary**

No.	Policy Title & Refs	Commentary
PENN1	The Penn Parish Design Code	The policy refines 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. The policy also designates Areas of Special Character, replacing the provisions of saved Policy H4 ‘Provision of New Dwellings in Established Residential Areas of Special Character’ and the subsequent Core Strategy Policy CS21 ‘Areas of Little Change’ covering development within the former Chiltern District Council.
PENN2	Local Heritage Assets	This policy builds upon the spirit and intention of Local Plan Policy LB1 ‘Protection Of Special Architectural Or Historic Interest Of Listed Buildings Throughout The District’ but focuses on non-designated heritage assets, rather than those already of nationally listed status. The policy wording is consistent with the NPPF which postdates that policy.
PENN3	Reducing the Carbon Footprint and Ecological Impact of New Developments	This policy builds upon Core Strategy Policies CS4 ‘Ensuring that Development is Sustainable’ and CS5 ‘Encouraging Renewable Energy Schemes’ by encouraging new developments to be certified to a Passivhaus or equivalent standard. This brings the policy context up to date with contemporary thinking and national policy provisions for tackling climate

		change through the energy performance of new buildings.
PENN4	Smaller Housing	This policy builds upon the spirit and intention of Core Strategy Policy CS11 ‘Affordable Housing Size’ by setting parameters for the proportion of smaller dwellings that must be delivered on new developments. PENN4 does not set requirements for affordable housing specifically, but instead encourages an emphasis on two or three-bedroom homes as the evidence shows that the market in the town is only delivering large homes (either new or extending existing, smaller homes) on infill or existing plots. The policy does not exclude the provision of larger dwellings and therefore continues to seek a mix of dwelling types and size.
PENN5	Green Infrastructure Network	This policy supports Core Strategy Policies CS32 ‘Green Infrastructure’ by identifying the green infrastructure network on a parish-scale and CS24 ‘Biodiversity’ by identifying opportunities for habitat network improvement. The policy is also in line with saved Local Plan Policy NC1 ‘Safeguarding of Nature Conservation Interests’ by resisting development proposals which harm the functionality or connectivity of the network. The policy is also in line with saved Local Plan Policy TW6 ‘Resistance to Loss of Woodland’ as it resists development proposals which harm irreplaceable habitats, including Ancient Woodland and ancient or veteran trees.
PENN6	Important Green Spaces	This policy replaces saved Chiltern Local Plan Policies R7 ‘Public Amenity Open Space and Common Land’ and R10 ‘Other Amenity Open Spaces’ in respect of all the other green spaces that are not considered to qualify as Local Green Spaces, as well as adding a small number of others.
PENN7	Safeguarding Commercial Assets	This policy refines saved Local Plan Policies E2 ‘Areas for Business, General Industrial and Storage or Distribution Development in the Built-Up Areas Excluded from the Green Belt As Defined on the Proposals Map’ and E3 ‘Areas for Business and Storage or Distribution Development in the Built-Up Areas Excluded from the Green Belt as Defined on the Proposals Map’ by identifying commercial, business and service uses in Penn Parish and requiring that they are retained at particular sites identified in the policy and on the policies map, except in certain circumstances.
PENN8	Safeguarding Community Facilities and Public Houses	This policy refines Core Strategy Policy CS29 ‘Community’ and Local Plan Policies GB24 ‘Redevelopment or Change of Use of Buildings Used for the Provision of Local Community Facilities in the Green Belt’ and CSF2 ‘Loss Of Community Services And Facilities In The Built-up Areas Excluded From The Green Belt’ by requiring that identified community facilities and public house must be retained for community use.
PENN9	Sustainable Travel Network	The aim is both to raise awareness of the routes to encourage safe and convenient use, and to identify future opportunities to improve their connectivity, in line with the spirit and intention of Core Strategy Policy CS26 ‘Requirements of new development’ on this matter.

5.5 It is considered that all of the policies are in general conformity with the strategic policies of the adopted development plan, with no incidence of two or more strategic policies being in tension, nor of the Parish Council having to strike a balance between them. As a result, the Neighbourhood Plan, as a whole, meets Condition (e).

## 6. CONDITION (F): COMPATABILITY WITH EU-DERIVED LEGISLATION

6.1 Bucks Council confirmed on 11 April 2023 that it agreed with the screening opinion produced and consulted on with statutory bodies that determined that a Strategic Environmental Assessment is not required, as per Regulation 9 of the Environmental Assessments of Plans and Programmes Regulations 2004 (as amended). A copy of the opinion is published separately – it concluded thus:

*“Based on the above assessment, the screening outcome is that the Penn Parish Neighbourhood Plan - Scope requires neither a Strategic Environmental Assessment (SEA) or a under HRA any need to proceed to Stage 2 of HRA- an Appropriate Assessment. The consultations received (see Section 11) concur with the Council’s draft screening recommendation.”*

6.3 The Parish Council has also met its obligations in relation to the provisions of the Conservation of Natural Habitats and Wild Flora and Conservation of Habitats and Species Regulations 2017 (as amended). In this regard, the Parish Council provided the LPA with all the necessary information it required for the purposes of determining whether an Appropriate Assessment was required or to carry out the Appropriate Assessment if one was required. The LPA’s Habitats Regulations Screening Assessment concludes that the making of the Neighbourhood Plan is not likely to have a significant effect on a European site (as defined in the 2017 Regulations) either alone or in combination with other plans or projects.

6.4 The Parish Council has been mindful of the fundamental rights and freedoms guaranteed under the European Convention on Human Rights in process of preparing the Neighbourhood Plan and considers that it complies with the Human Rights Act. The Neighbourhood Plan has been subject to extensive engagement with those people local to the area who could be affected by its policies and their views have been taken into account in finalising the Plan.