

# The Secret to Successful Neighbourhood Plan Examinations

RTPI NW  
Neighbourhood Planning Seminar  
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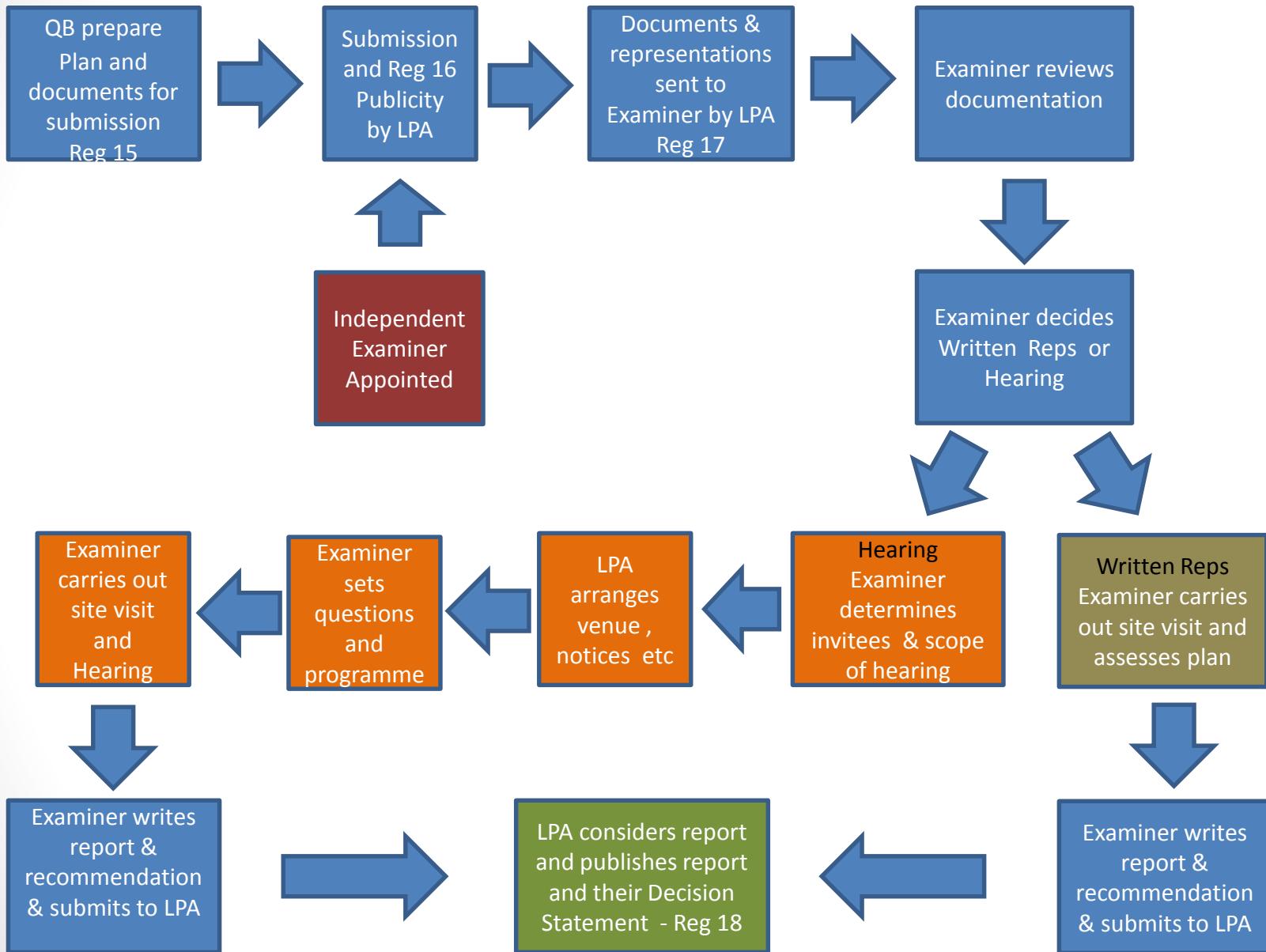
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# The Secret to Successful Neighbourhood Plan Examinations

- Neighbourhood Plan examination process
- What will Examiner be looking at?
- Preparing for examinations
- Setting up for examination
- Documentation for examination
- Carrying out examination
- Final stages
- Learning points from examinations to date
- Recipe for success



# Examination Process



# What will Examiner be looking at?

- What an examiner can consider is precisely defined in legislation and regulations.
- Examiners can only consider the basic conditions :–
  - Having regard to national policies and advice it is appropriate to make the neighbourhood plan;
  - Making of the neighbourhood plan contributes to achievement of sustainable development;
  - Making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan;
  - Making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations;
  - Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with

2018 NP Regs amendment introduced following prescribed condition:

*Making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.*

- Unlike Inspectors at local plan examinations, Examiners are **NOT** considering whether the plan is **SOUND**.
- This means onus is on QB to ensure plan policies are **SOUND BEFORE** submitting

# Preparing for Examination



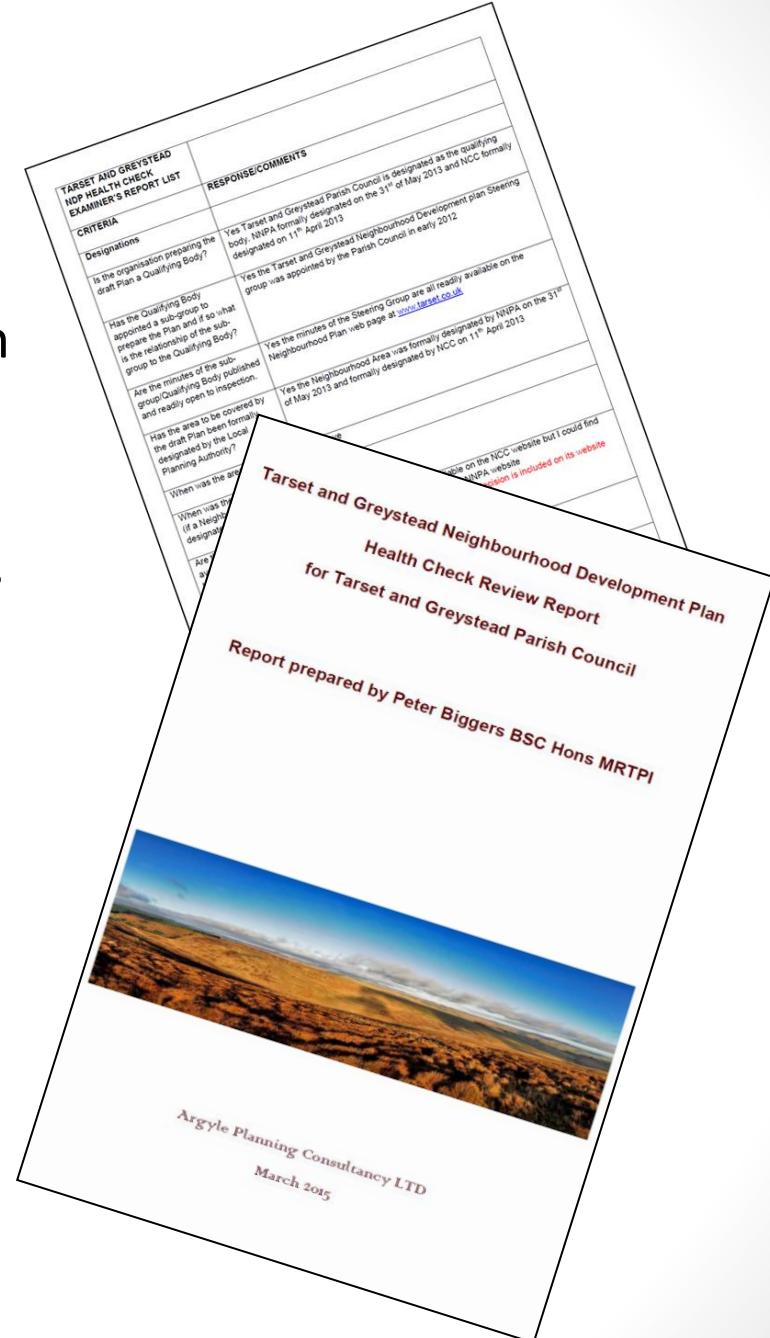
# Preparing for Examination

- Preparation for a successful examination starts early - certainly before pre-submission stage – don't try and retrofit.
- LPAs and QBs need to work closely together and resolve any differences before submission.
- LPA has key role in assisting QB – Defining level of development / advising on content/ effective policy wording / technical support with SEA-HRA / checking basic conditions are met.
- Make full use of the basic conditions statement – **If you aren't convinced the examiner won't be either!**
- Consider an independent 'health check'.

# Health Checks

- Independent review undertaken by qualified examiner.
- Most beneficial at pre-submission stage – to allow amendment.
- Identifies issues that may cause delay or rejection at examination.
- Considers problems in meeting the basic conditions.
- Health Check Examiner can propose improvements where Examiner is more restricted.

**Sense that health checks are not being used as much now.**



# Sourcing and Appointing Examiner

- Source early so there is no delay in process.
- LPA appointment – but need to fully engage QB.
- Highlight key issues and particular areas of expertise required.
- Indicate intended timing of examination – make clear whether a hearing may be required.
- Be realistic about professional indemnity insurance – should not be necessary to request cover > £750k - £1m.
- CVs and statements supplied from bidding examiners usually sufficient to appoint.
- Interview rarely necessary - LPA with QB represented.
- Feedback to unsuccessful candidates.

Sources : NPIERS / Planning Consultancies.

# Setting up Examination

- LPA and examiner contract directly - Informal v formal contract.
- Agree invoicing arrangements.
- Nominate a single LPA point of contact (some LPA's have NP dedicated officer/s).
- Agree communication protocol – How / what stages /etc.
- Agree anticipated timeline to completion.
- LPA and QB should provide the relevant documents – and identify relevant parts of lengthy documents (e.g. indicating the strategic policies of the LP together with supporting text & proposals map).

# Documentation for Examination



**A&D**

ALNWICK AND DENWICK  
NEIGHBOURHOOD PLAN  
2014-2031

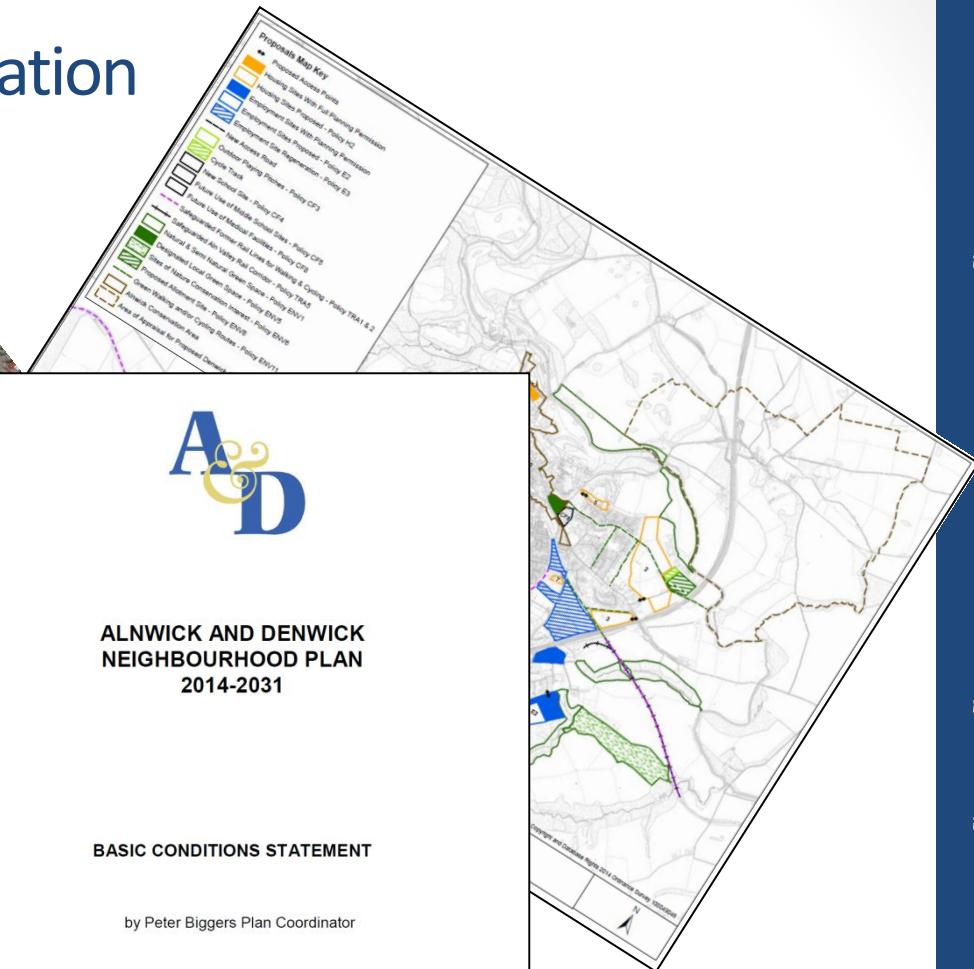
**BASIC CONDITIONS STATEMENT**

by Peter Biggers Plan Coordinator

May 2015

Alnwick and Denwick Neighbourhood Plan – Basic Conditions Statement

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# Documentation

- Map of the Neighbourhood Area.
- The Neighbourhood Plan.
  - Is evidence local, proportionate and sufficient?
  - Is selection of allocated sites justified?
  - Are Local Green Space designations evidenced?
- Consultation Statement.
  - Who was consulted?
  - How were they consulted?
  - What were the issues and concerns?
  - How have these been considered & addressed?
- Basic Conditions Statement.
  - Are they all met? – How - be specific
- **SEA / HRA / Sustainability Appraisal – if allocating land SEA / HRA will be required.**

Getting documentation to tell story of the plan is key to success.

## Carrying out Examination

- Examiner at start should identify if there are any 'showstopper' issues – if so consider need for LPA/QB briefing.
- Straightforward examination will typically take c 5-7 days total.
- Complex representations or absence of up to date Local Plan can delay, or a hearing can add c 3 days.
- Examiner will visit the plan area - normally unaccompanied - but need for access may mean accompanied visit.
- Quite usual for examiner to have questions of fact they want clarified – usually in writing but meetings with QB and LPA are possible – bear in mind 'fair hearing' issues .
- Examination by consideration of written representations is general rule – parties may be asked to supply written responses to reps made at Reg 16 stage.

# Carrying out Examination - Hearings

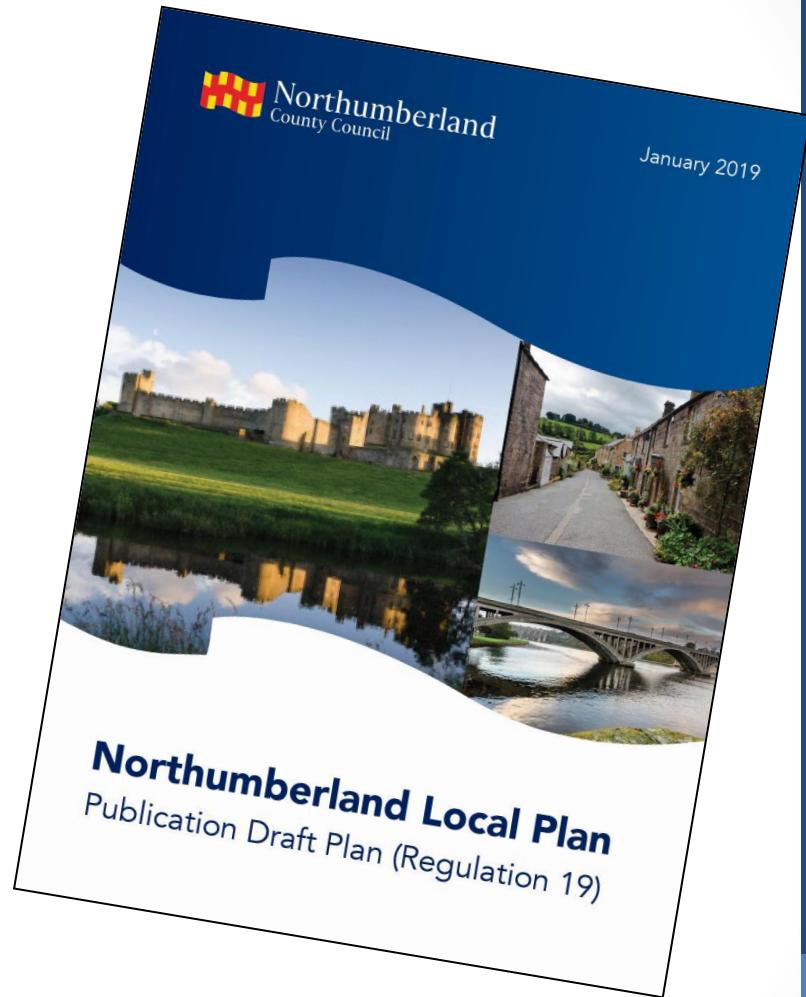
Examiner will call a hearing typically where issues raised at Reg 16 stage are complex or where there are a number of options being challenged.



- Examiner decides who should be invited and determines scope of hearing – **will be selected matters only.**
- LPA is responsible for all venue arrangements, invitations, notices and publicity and note-taking.
- Pre-set questions from examiner usually released to participants on topics to be discussed prior to hearing.
- Informality - key to a successful hearing - no written statements required.
- Hearings if well executed can be really helpful.

# Examining where Local Plan is still Emerging

- Examination must assess general conformity with **adopted** plan.
- **BUT** NPPF/PPG make clear NPs can be developed before or at same time as a local plan.
  - *Tattenhall Neighbourhood Plan High Court Decision.*
- Use of reasoning and evidence informing an emerging Local Plan process essential for NP where adopted plan is dated.
- NP groups should seek housing & employment land requirements of emerging local plan from LPA and show how these can be met.



# Final Stages

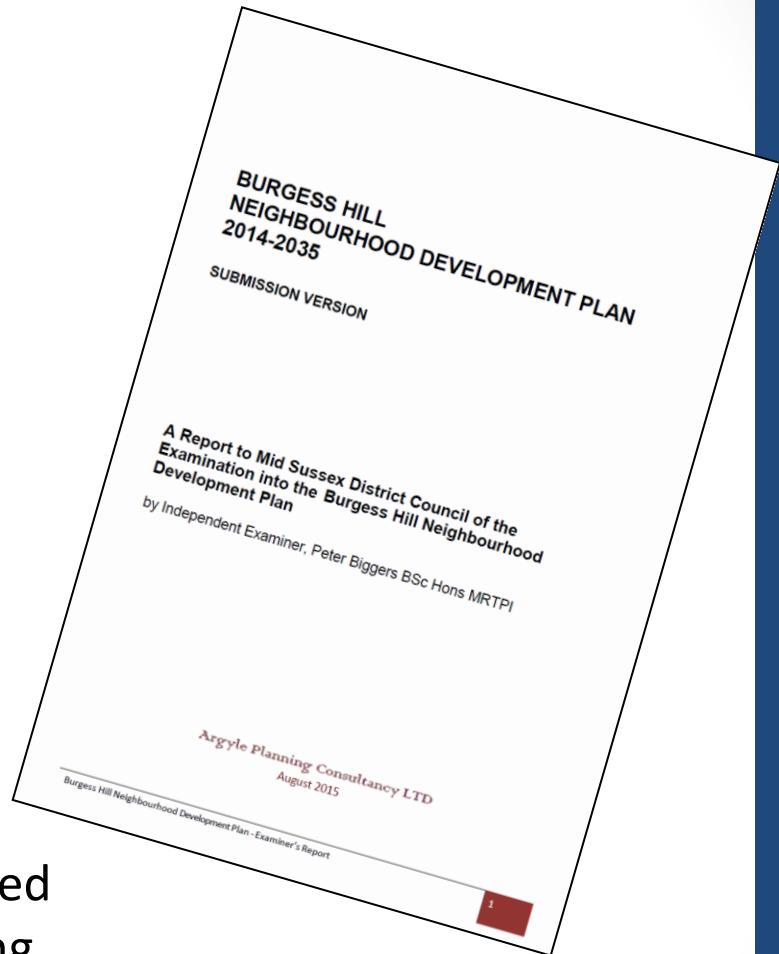
Most examiners will submit confidential draft report to LPA and QB for fact check before signing it off .

This **not** opportunity to challenge content.

Examination report is revised as necessary and submitted.

LPA complete their responsibilities under Reg 18 and issue Decision Statement.

Assuming NDP is to proceed - involve electoral services - work back from preferred referendum date - consider decision making process & meeting cycles of QB and LPA to make modifications.



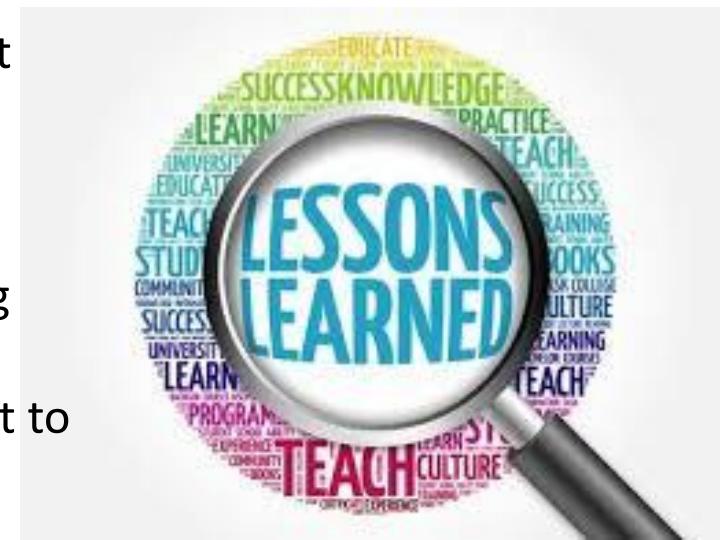
# Lessons from examinations - the good news!

- Very few c3% of plans fail at examination
- You will rarely be asked to participate in a hearing particularly if your plan preparation is rigorous.(C7% of examinations involve a hearing)
- Most examiners will try and find solutions through mods and maintain the integrity of plan as a community document!
- All examiners think examination process is either satisfactory or working well
- Process is generally quick and efficient, open and rigorous
- Examiners viewed as impartial and well-informed
- Basic conditions are now broadly understood
- Locality support is invaluable
- Process is clear and generally now understood



# Lessons from examinations - The not so good news!

- About 2.5% of examinations have not progressed due to fatal flaws - most involve SEA/HRA.
- Examiners are concerned about consistency of process.
- Examiners concerned about limited ability to change policies.
- Plans typically are weak in policy development.
- Quality and added value of NPs could be better.
- Shortcoming in process if site allocations at Reg 16 stage need to be added.
- Lack of urban coverage – currently mainly rural.
- Time of submission to ‘made’ plan is taking too long.
- LPA DM officers often not giving the weight to Neighbourhood Plans they should be.



# Recipe for Success

- Preparation – don't try and 'wing it'.
- Collaboration between QB and LPA. Be sure plan delivers levels of development sought in Local Plan - NP not the place to challenge.
- Don't submit if LPA just about to adopt local plan. Wait and make sure NP will be in general conformity with new plan.
- Take time and care in preparing supporting documentation on submission.
- Its worth investing in a Health Check or at least some sort of policy review.
- Make sure you amend carefully following Reg 14 Pre-Sub stage.
- Select an appropriate examiner.
- If hearing - make sure you are well prepared - think about professional help.
- Expect to have to make modifications - all examinations have involved modifications - don't get frustrated by this.



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