

**TO: THE LEADER OF THE COUNCIL / EXECUTIVE MEMBER FOR COUNCIL
STRATEGY AND COMMUNITY COHESION
7 FEBRUARY 2019**

**CONSULTATION RESPONSE ON THE SUBMISSION VERSION OF THE BRACKNELL
TOWN NEIGHBOURHOOD PLAN (REGULATION 16) AND SUBMISSION OF THE PLAN
FOR EXAMINATION (REGULATION 17)**

Director of Place, Planning and Regeneration

1 PURPOSE OF REPORT

- 1.1 On the 11 February 2014, Bracknell Town Council was designated as a qualifying body for the Bracknell Town Neighbourhood Area, and has subsequently prepared a Neighbourhood Development Plan (“Neighbourhood Plan”) pursuant to The Neighbourhood Planning (General) Regulations (2012) (as amended) (“the Regulations”).
- 1.2 Bracknell Town Council has submitted the Plan to Bracknell Forest Council, in its capacity as local planning authority, (“the Council”). The purpose of this report is for the Leader to agree the Council’s response to the Submission version of the Plan, and to submit the Plan for Examination (following delegation of these decisions by Executive on 18 December 2018¹).

2 RECOMMENDATION

2.1 That the Leader agrees:

- 1. the Council’s response to the Submission version of the Bracknell Town Neighbourhood Plan (Regulation 16) as set out in Appendix A, and**
- 2. to submit the Plan for Examination (Regulation 17)**

3 REASONS FOR RECOMMENDATION

- 3.1 The reason for this recommendation is that the Council, as a consultee, can make a response to the Submission consultation (Regulation 16), and is also required to exercise its statutory duty in relation to the Examination. Regulation 17 of the Neighbourhood Planning Regulations requires a local planning authority, as soon as possible after the appointment of a person to carry out an examination, to send the following:
- the plan proposal,
 - the documents (such as the Consultation Statement) and any other documents submitted to the local planning authority by the qualifying body in relation to the plan proposal (as set out in the Regulations), and
 - a copy of any representations which have been made in accordance with Regulation 16 (i.e. any comments which are made in response to the current consultation).

¹ 18 December 2018 Executive decision relating to publication of submission version of the Bracknell Town Neighbourhood Plan, appoint an Examiner and agree delegations for forthcoming decisions (item 45): <https://democratic.bracknell-forest.gov.uk/ieListDocuments.aspx?CId=102&MId=7867>

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The alternative option is for the Council not to respond to the Submission consultation. This is not recommended, as it is the final opportunity for the Council to comment on the Plan. It would also be in breach of the Council's statutory responsibilities in respect of Neighbourhood Planning under Regulation 17 of the Regulations, which could expose the Council to legal challenge and attendant costs.

5 BACKGROUND INFORMATION

- 5.1 Bracknell Town Council is the Qualifying Body for the purposes of Neighbourhood Planning in Bracknell Town. The Council designated Bracknell Town as a Neighbourhood Area for the purposes of Neighbourhood Planning on 11 February 2014. Since then, Bracknell Town Council has undertaken much work on preparing a Neighbourhood Plan, culminating in public consultation on the pre-submission version of its Neighbourhood Plan between 9 July and 20 August 2018, in accordance with Regulation 14 of the Regulations. Following an Executive decision on 17 July 2018, the Leader approved this Council's formal response to the pre-submission version of the draft Bracknell Town Neighbourhood Plan on 10 August 2018. The Council's response included comments on technical issues and a detailed schedule of comments.
- 5.2 Following the close of the pre-submission consultation, Bracknell Town Council considered all consultation responses received and amended its Neighbourhood Plan as appropriate. In accordance with Regulation 15, a Consultation Statement was produced.
- 5.3 Bracknell Town Council submitted its Neighbourhood Plan and supporting documentation (including the Consultation Statement), to the Council on 28 November 2018.
- 5.4 The Director of Place, Planning and Regeneration confirmed (in a letter dated 6 December 2018 to Bracknell Town Council) that the submitted documentation complies with the statutory requirements as set out in the Act and Regulation 15 of the Regulations. It should be noted that this is an administrative decision delegated to the Director: Place, Planning and Regeneration by the Executive Member for Council Strategy and Community Cohesion (decision 4 of the 26 February 2016 report), and does not consider the content of the plan proposal or whether it meets the Basic Conditions.
- 5.5 At the Executive meeting of 18 December 2018, it was agreed that the Council would:
- undertake public consultation on the Submission version of the Bracknell Town Neighbourhood Plan pursuant to Regulation 16; and,
 - appoint an independent Examiner to undertake the examination of the Bracknell Town Neighbourhood Plan pursuant to paragraph 7 of Schedule 4B of the Act and Regulation 17.
- 5.6 Following agreement from the Executive, public consultation on the Submission version of the Plan started on 7 January 2019, and ends on 18 February 2019². An Examiner has also now been appointed.

² Public consultation on the Submission version of the Plan is available to view: http://consult.bracknell-forest.gov.uk/portal/planning/bracknell_town_neighbourhood_plan/bracknell_town_neighbourhood_plan_1

6 BRACKNELL FOREST COUNCIL'S RESPONSE

Context

- 6.1 Whilst the Council is facilitating the consultation on the Submission Plan, it can also provide a response as a consultee to the Examiner. In this context, the draft response at Appendix A is that of the Local Planning Authority, and not of the Council as a landowner (Property Services have been notified of the consultation, and so will be able to provide a separate response to the Examiner).
- 6.2 Following the close of the consultation, the proposed Plan will be submitted for independent examination. If successful at local referendum, the Bracknell Town Neighbourhood Plan will be 'made' (brought into legal force) and will form part of the Bracknell Forest Development Plan and be used in the determination of planning applications relating to land in Bracknell Town. Therefore, it is considered important that the Council makes comments on this stage of the Plan.
- 6.3 The Submission Plan for Bracknell Town does not contain any site allocations. It includes 40 policies relating to environment, community, heritage, housing and character, economy and employment, and transport and infrastructure. It also seeks to designate Local Green Spaces.

Internal Consultation

- 6.4 Comments have been sought from officers in those service areas where proposed policies relate to their area of work and expertise. The service areas include Parks and Countryside, Planning, Highways and Transport, and Economic Development. In addition to seeking written comments, the internal consultation involved an internal workshop with other officers to discuss the Council's response to the Submission version of the Bracknell Town Neighbourhood Plan.

Details of Response

- 6.5 The Bracknell Town Neighbourhood Plan will form part of the Development Plan once it is 'made'. Therefore, it is important that the Council provides comments on wording in the Neighbourhood Plan to ensure policies are clear and unambiguous, enabling a decision maker to apply policies consistently and with confidence when determining planning applications.
- 6.6 As the Examiner will test whether the Plan meets the Basic Conditions and other relevant legal requirements, the Council's response has been considered in relation to the Basic Conditions (as this is the basis on which the Examination will take place). These relate to the following:
- A) regard to national policy and guidance
 - D) contribution to the achievement of sustainable development
 - E) general conformity with strategic policies contained in the Development Plan
 - F) does not breach EU obligations
 - G) meets prescribed conditions (significant effect on a European Site as defined in the Conservation of Habitats and Species Regulations 2012
- B) & C) are not referred to, as these only apply to Neighbourhood Development Orders.
- 6.7 The Council's full response is set out in Appendix A of this report (which includes a covering letter, and schedules (Appendices 1 and 2) setting out detailed comments in relation to Basic Conditions and modifications). An overview of comments in relation to Basic Conditions and other technical points/modifications are summarised below:

Comments relating to Basic Conditions

6.8 It is considered that a number of policies as currently worded do not meet the Basic Conditions, namely A (regard to national policy and guidance), D (contribution to achievement of sustainable development) and E (general conformity with strategic policies contained in the Development Plan):

- Policies Map
The Neighbourhood Plan needs a clear useable 'Policies Map' to show the boundaries of policies set out in the Plan which have spatial implications i.e. areas where specific policies apply, e.g. the Local Green Spaces (current maps and illustrations contained in the Plan are illegible as they are blurred).
- EV1 (Active Open Space of Public Value)
The Policy Intent conflicts with the aims of making efficient use of land, contrary to national policy and strategic policies in the Development Plan. Therefore, it does not meet the aims of sustainable development.
- EV3 (Local Green Spaces)
The Council considers that the wording could be modified to be consistent with national policy. It is considered that modification of the Policy could result in it meeting the Basic Conditions if it included references to 'new development being inappropriate', 'openness' and 'very special circumstances'. Furthermore, it is also not clear whether land owners have been informed of the potential designation of their land at an early stage. There are also other Policies within the Plan which relate to the sites identified as Local Green Spaces, so the justification is not clear. There could also be conflict with other Policies within the Plan, therefore, it does not meet the aims of sustainable development.
- EV11 (Air Quality)
It is unclear what development proposals the Policy relates to, and whether the Policy relates to impacts upon human health or vegetation and ecosystems (both are referred to in national policy). As written the policy would halt all development within the neighbourhood area, which does not accord with national policy.
- HE1 (Protection of Parks & of Parkland Features of Historic Parks and Gardens)
As currently worded, the Policy confuses terminology and provides detail for sites which are not Registered Parks and Gardens. The Policy does not take account of the tests in relation to heritage assets contained in national policy. There are also other Policies within the Plan which relate to the sites identified in the heritage policies, so the justification is not clear. There could also be conflict with other Policies within the Plan, therefore it does not meet the aims of sustainable development.
- HO4 (Managing the streetscape)
References to the Council's SPDs should be in the supporting text and not the main policy as they are guidance. It is not appropriate to examine them against the basic conditions. It is considered that this would be contrary to planning legislation, therefore contrary to Basic Condition A.
- HO6 (Safety in design of tall buildings)
The safety of buildings and internal design is covered by other legislation (such as Building Regulations), so this issue is not a land-use planning matter, therefore should be removed from the Plan, and does not conform with Basic Condition A.
- HO8 (Buildings: Local Character)
The Policy conflicts with the aims of making efficient use of land, contrary to national policy and strategic policies in the Development Plan. Therefore, it does not meet the aims of sustainable development. Concerns could be addressed

through removal of references to such things as being in keeping with existing densities.

- EC1 (Employment and Enterprise: Small Business & Retail Units)
It is not clear where the Policy specifically relates to, and therefore it is unclear whether the Policy relates to an area which was allocated for residential development in the Site Allocations Local Plan, 2013 (land north of Eastern Road, Policy SA1 refers). Therefore, the Policy may not be in conformity with strategic policies contained in the Development Plan. Clarification on where the Policy applies could address these concerns.
- EC2 (Micro and Small Businesses)
It is unclear where the Policy relates to, if it is the whole neighbourhood plan area, or specific locations. This could be in conflict with national policy if this resulted in the loss of residential units (as national policy seeks to significantly boost the supply of homes), which would not achieve the aims of sustainable development. Clarification on where the Policy applies could address these concerns.
- EC5 (Bracknell Town Centre Development Sites)
As currently worded, the mix of uses referred to within the Policy is very narrow, and is contrary to national policy and strategic policies within the Development Plan relating to the vitality of town centres, and therefore would not achieve the aims of sustainable development. The Council would like to see mixed development in the Town Centre that extends beyond retail and residential, including for example leisure, health and employment uses etc. Reference to a wider variety of uses such as 'main town centre uses' (in line with national policy) would address these concerns.

Other suggested changes

6.9 Whilst recognising that a number of the comments are not specific to the Basic Conditions, the Council considers that the suggested changes to the structure and presentation of the document will improve the usability and readability of the Plan. Suggested changes to policies/supporting text (for the purposes of correcting factual errors or seeking clarity) will help to ensure consistency and robust decision making. The comments only relate to policies and associated supporting text, and not the Actions (since only the land-use policies will form part of the Development Plan, and be used in decision making when the Plan is made). Comments made at the Regulation 14 stage have been reiterated where it is not considered they have been adequately addressed. Technical comments broadly relate to the following matters:

- Formatting of the document could be improved through the use of paragraph, page, and figure numbering throughout the whole document.
- The terminology used in the Plan needs to be more clearly defined to ensure that policies are implemented in a consistent way. To assist this, the Neighbourhood Plan would benefit from having a glossary that defines terms used.
- The supporting text needs to focus more on providing supplementary information to the policies, and the link between the policies and the evidence base needs to be made clearer – much of the supporting information could be contained in a separate supporting document.
- There are instances where the underlying objectives of policies overlap; it is suggested that such policies would benefit from being merged/consolidated (e.g. overlap between some housing and character policies; heritage and environment policies, and environment and transport policies relating to air quality).
- The Neighbourhood Plan should have a section that covers implementation and monitoring which is specific to the Policies contained in the Plan.

- The Neighbourhood Plan needs to be clear how Chapter 6 ‘The Character of Bracknell Town Neighbourhoods’ links to the policies and how it would be used in decision making (if this is the intention).

Next Stages

- 6.10 Following the close of the Submission consultation, the Council will need to submit the Plan for independent Examination (the decision to appoint the Examiner was taken by Executive on 18 December 2018). Submitting the Plan for Examination is in line with the Regulations (as set out in para. 3.1 of this Report). The independent Examiner will check the Plan meets the ‘Basic Conditions’ and then issue a report. The local planning authority must then consider the report and make a decision on whether the Plan meets the Basic Conditions (including any required modifications) and whether to hold a referendum on the Bracknell Town Neighbourhood Plan. If the referendum is successful (which requires a simple majority of those voting), the Bracknell Town Neighbourhood Plan will form part of the Bracknell Forest Development Plan and be used in the determination of planning applications relating to land in Bracknell Town.

Resource Implications

- 6.11 As indicated above, this Council, as local planning authority, has a statutory duty to provide advice and assistance and to carry out certain parts of the neighbourhood planning process, including carrying out consultation on the Submission version of the Plan, holding and arranging the examination and the referendum.
- 6.12 The Council has already received £5,000 of Government grant funding following the designation of the Bracknell Town Neighbourhood Area. A further £20,000 will be available to claim once the Council has set a date for the referendum. The Council will need to fund the independent examination and the referendum. It is estimated the examination costs will be in the region of £7,500. It should be noted that the size of the electorate in Bracknell Town means the estimated cost of a stand alone referendum is £65,000. The grant funding will therefore not fully cover the costs of the examination and referendum.
- 6.13 The work of supporting the preparation of the Bracknell Town Neighbourhood Plan has been carried out in accordance with the Service Level Agreement agreed between the Council and Bracknell Town Council. To date the work has been resourced from within existing budgets supplemented by the grant money from Government. As set out above, there will be future financial resource implications in arranging the Examination and referendum of the Neighbourhood Plan.

7 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 7.1 The recommendation of the report seeks the Leader’s approval of the Council’s formal response on the Bracknell Town Neighbourhood Plan Submission consultation (detailed comments are as set out in Appendix A).
- 7.2 Consideration has been given to the nature of and the appropriate level at which Neighbourhood Planning decisions can be made, whilst ensuring the process is fair and transparent.
- 7.3 The Regulations are directed at the Council as Local Planning Authority, although, most decisions are of an administrative nature and to be taken against a specific set of criteria (e.g. as to the characteristics of a qualifying body). Therefore, it is

considered that most Neighbourhood Planning decisions can be taken either by the Executive Member for Planning and Transport or the Chief Officer for Planning and Transportation.

- 7.4 Governance arrangements for the discharge of decisions in relation to facilitating the Neighbourhood Planning Process were approved by the Leader in September 2015. These entailed the Council's Submission consultation response being delegated to the Executive Member for Planning and Transport. However since the Executive Member has been involved in the preparation of this Neighbourhood Plan, the approval of the Council's response, and submitting the Plan for Examination, is in accordance with the arrangements as agreed by Executive on 18 December 2018.

Borough Treasurer

- 7.5 The financial implications are set out in the body of the report. There is no specific budget for the difference between the costs of the examination and referendum and the amount that the Council can expect to receive as grant, which is likely to be in the order of £47,500. This will therefore need to be included as a one-off item in the Commitment Budget for 2019/20.

Equalities Impact Assessment

- 7.6 It is not considered relevant at this stage, as the policies do not prejudice any particular section of the community and the Council has not prepared the policies.

8 CONSULTATION

- 8.1 Statutory public consultation on the Submission Plan is running from 7 January to 18 February 2019. Members of the public, local businesses and other individuals/organisations are able to make comments, which will be sent to the appointed Examiner for consideration.
- 8.2 Internal consultation was undertaken with relevant service areas in compiling the response set out in Appendix A, as described in paragraph 6.4 above.

Background Papers

- The Neighbourhood Planning (General) Regulations 2012 (as amended)
- Town and Country Planning Act 1990
- Planning and Compulsory Purchase Act 2004
- Neighbourhood Planning Act 2017
- Bracknell Town Neighbourhood Area Designation:
<https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/neighbourhood-planning/bracknell-town-neighbourhood-area>
- Bracknell Town Neighbourhood Plan Submission consultation:
http://consult.bracknell-forest.gov.uk/portal/planning/bracknell_town_neighbourhood_plan/bracknell_town_neighbourhood_plan_1
- 18 December 2018 Executive Report (item 45):
<https://democratic.bracknell-forest.gov.uk/ieListDocuments.aspx?CId=102&MId=7867>

Appendices

- A – Bracknell Forest Council's response to the Submission version of the Bracknell Town Neighbourhood Plan (Regulation 16)

Contact for further information

Andrew Hunter (Director: Place, Planning & Regeneration)

Tel: 01344 351907

Email: Andrew.Hunter@bracknell-forest.gov.uk