

**TO: EXECUTIVE MEMBER FOR PLANNING AND TRANSPORT
28 FEBRUARY 2019**

**RESPONSE TO DRAFT CROWTHORNE NEIGHBOURHOOD PLAN
(PRE-SUBMISSION CONSULTATION)**

1 PURPOSE OF REPORT

- 1.1 Crowthorne Neighbourhood Area was designated by Bracknell Forest Council on 15 June 2016. Crowthorne Parish Council is preparing a Neighbourhood Development Plan (“Neighbourhood Plan”) for the area, which covers the whole Parish of Crowthorne, for submission to the Council pursuant to The Neighbourhood Planning (General) Regulations (2012) (as amended) (“the Regulations”). In accordance with Regulation 14, Crowthorne Parish Council is required to undertake pre-submission consultation and publicity on its draft Neighbourhood Plan and send a copy of its proposals to the Local Planning Authority (Regulation 14(c)).
- 1.2 Crowthorne Parish Council has consulted Bracknell Forest Council (“the Council”), in its capacity as local planning authority, on its draft Neighbourhood Plan. The purpose of this report is to seek the agreement of the Executive Member for Planning and Transport to the Council’s response to the consultation.

2 RECOMMENDATION

- 2.1 **That the Executive Member for Planning and Transport approves the Council’s response to Crowthorne Parish Council on its draft Neighbourhood Plan as set out in Appendix A.**

3 REASONS FOR RECOMMENDATION

- 3.1 The reason for this recommendation is that the Council has a statutory duty set out in paragraph 3(1) of Schedule 4B of the Town and Country Planning Act 1990 (as amended) (“the Act”) to provide advice and assistance to qualifying bodies undertaking neighbourhood planning.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The alternative option is for the Council not to respond to the pre-submission consultation, but for reasons explained at paragraphs 6.2, 6.5, 6.6 and 6.7 of the report, officers consider a response should be provided at this stage, in the spirit of co-operation and broad compliance with its statutory duty.

5 BACKGROUND INFORMATION

- 5.1 Crowthorne Parish Council is the qualifying body for the purposes of neighbourhood planning in Crowthorne, and applied for the designation of the Neighbourhood Area in April 2016. Following a four week consultation on the proposal in April/May 2016, this Council designated Crowthorne Parish as a Neighbourhood Area for the purposes of neighbourhood planning on 15 June 2016.
- 5.2 Crowthorne Parish Council notified the Council of the pre-submission consultation on their draft Neighbourhood Plan on 4 February 2019 and the consultation runs until 20 March 2019. The pre-submission Neighbourhood Plan contains 13 policies covering the following topic areas:

- Promoting good design
- Protecting trees
- Protecting and enhancing the setting of heritage assets and conservation areas
- Improving air quality
- Protecting and enhancing retail areas
- Protecting employment areas
- Maintaining and enhancing the green infrastructure network
- Protecting local green space
- Protecting and enhancing biodiversity
- Preserving key viewpoints

5.3 Crowthorne Parish Council is undertaking this consultation in accordance with Regulation 14 of the Regulations. Regulation 14(a)(iv) requires that the qualifying body must publicise the draft proposal for a minimum of 6 weeks. Regulation 14(c) requires that the respective qualifying body sends a copy of the proposal to the local planning authority.

6 BRACKNELL FOREST COUNCIL'S RESPONSE

Context

- 6.1 The Council has a statutory duty set out in paragraph 3 of Schedule 4B of the Act to provide advice and assistance to qualifying bodies undertaking neighbourhood planning.
- 6.2 It is considered that providing comments and suggested amendments on the pre-submission consultation forms part of this duty. Responding with detailed comments to this consultation provides Crowthorne Parish Council with the opportunity to address any concerns from the Council and to amend the Neighbourhood Plan accordingly. It is hoped that the comments made will assist in the preparation of a robust Neighbourhood Plan for submission, subsequent consultation, and Examination.

Internal Consultation

- 6.3 Comments have been sought from officers in the service areas where proposed policies relate to their area of work and expertise. These service areas include Parks and Countryside, Planning, Highways and Transport, and Environmental Health. In addition to seeking written comments, the internal consultation has involved a workshop with officers to discuss the draft Crowthorne Neighbourhood Plan ("CNP").

Details of Response

- 6.4 The CNP 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 that, if heeded, will ensure policies are clear and unambiguous. This will enable a decision maker to apply policies consistently and with confidence when determining planning applications.
- 6.5 The Council does not have a legal obligation to consider or assess the content of neighbourhood plans in relation to the 'basic conditions' (as set out in Schedule 4B, paragraph 8(2) of the Act) until after the Examination. However, National Planning Practice Guidance states that a local planning authority should provide constructive comments on an emerging plan. It also states that if it is considered that a draft neighbourhood plan falls short of meeting one or more of the 'basic conditions', such

concerns should be discussed with the qualifying body so that these can be considered before the draft neighbourhood plan is formally submitted.

- 6.6 Therefore, compliance with the 'basic conditions' has been borne in mind in preparing the Council's response. In particular, officers have looked at whether the pre-submission Neighbourhood Plan appears to be on track with regard to national policies and advice, and whether it is in general conformity with strategic policies contained in the Development Plan. At the Examination stage, the independent Examiner will test whether or not the Neighbourhood Plan meets the 'basic conditions', amongst other matters.
- 6.7 The Council has carefully considered the content of the draft CNP and has identified the following main technical issues that are set out in Appendix A of this report and summarised below:
- As drafted, concern is expressed that the design policies will constrain development in a manner not supported by national policy; will be difficult for a decision maker to use due to ambiguity; and will not necessarily achieve new development that is appropriate to its immediate surroundings. These issues could relate to a basic condition matter.
 - It is recommended that consideration is given to amending the Crowthorne High Street and Station Parade policies, as it is not possible for a neighbourhood plan to change retail hierarchy designations. This is because they are designated within a strategic policy contained within the Development Plan. As a result, this could relate to a basic condition matter.
 - As drafted, the Broadmoor employment boundary indicated on the policy map differs from the designated employment area boundary shown on the Bracknell Forest Policies Map. This results in policy CR11 not being in general conformity with a strategic policy contained within the Development Plan, and as a result could relate to a basic condition matter.
 - It needs to be made clear that the Neighbourhood Plan is not actively promoting links to the Thames Basin Heath SPA, as this would be in conflict with the Habitats Regulations, and could give rise to a significant effect on a European site. As a result, this could relate to a basic condition matter.
 - It is suggested that consideration should be given to making the policies map clearer to ensure it can be used effectively by a decision maker. This may relate to a basic condition matter.
 - It is suggested that consideration should be given to amending the period that the Neighbourhood Plan covers, to match the period that the emerging Bracknell Forest Local Plan is likely to cover (2019 – 2036).
 - The link between the Neighbourhood Plan objectives and policies needs to be more clearly established.
 - The terminology used within the plan needs to be more consistent and clear to ensure that policies are implemented in a consistent way. In order to achieve this, it would be helpful if a glossary was included.
 - In some instances, points within the design policies might be better merged and consolidated to avoid repetition of the same factors.
 - A separate policy addressing trees is recommended, in order to deal with issues such as their protection, rather than trying to cover the matter within the design policies. A tree policy could also address tree protection.
 - A separate landscape policy is recommended, in order to deal with issues such as the requirement to protect specific viewpoints rather than trying to cover the matter in the design policies.

- The Green Infrastructure policy has the potential to be expanded to cover a wider range of existing and potential Green Infrastructure and not be limited by the included Green Infrastructure Network Map.
- It is worth considering the inclusion of a separate 'Monitoring' section, as there are currently no indicators identified that should be used to monitor the effectiveness of the Plan.

6.8 The Council's full response to the pre-submission consultation on the CNP is set out in Appendix A. (This includes a covering letter that highlights the main technical issues together with an associated schedule which deals with these points in greater depth and which covers other editorial/presentational points).

Next Stages

6.9 Following the close of the pre-submission consultation, the next stage is for Crowthorne Parish Council to consider comments received and make any amendments it considers appropriate. Once the Neighbourhood Plan has been prepared, it must then be submitted to the Local Planning Authority, checked for legal compliance and publicised for a minimum of six weeks (Regulation 16 consultation). It is then subject to Examination by an independent Examiner who will check that it meets the 'basic conditions' and then issue a report. The Local Planning Authority must then consider the report and make a decision on whether to hold a referendum on the CNP. If the referendum is successful, the Council will be required to 'make' the CNP and bring it into legal force. The CNP will then form part of the Bracknell Forest Development Plan and would be used in the determination of planning applications relating to land within Crowthorne Parish.

Resource Implications

6.10 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 holding and arranging the Examination and the referendum.

6.11 As Crowthorne Parish was the sixth neighbourhood area to be designated in Bracknell Forest, no grant funding could be claimed at that stage. According to current arrangements for claiming financial support (which are subject to an annual review), £20,000 can be claimed once a date for a referendum has been set following a successful Examination where a neighbourhood plan has not previously been made for an area.

6.12 The work of supporting the preparation of the Crowthorne Neighbourhood Plan has been carried out by staff within the Planning Division (with support from the Council's GIS team), as this division has access to relevant data and experience of preparing planning policy. To date the work has been resourced from within existing budgets. 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 report seeks the approval of the Executive Member of Planning and Transport for the Council's formal response to the draft Crowthorne Neighbourhood Plan submitted by Crowthorne Parish Council, detailed comments being set out in Appendix A.

Unrestricted

- 7.2 Neighbourhood planning is a legal process which the Council has a statutory duty to facilitate and administer. The Act, Regulations and the Local Government (Functions and Responsibilities Act) England Regulations 2010 are silent as to the appropriate decision making process. The Bracknell Forest Council Constitution is also silent as to the mode or reservation of such decisions.
- 7.3 Broadly speaking, key decisions include the designation of Neighbourhood Areas, qualifying bodies, the making of Neighbourhood Development Plans, Neighbourhood Development Orders and the holding of referendums.
- 7.4 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.
- 7.5 The Regulations are directed at the Council as Local Planning Authority, although, most decisions are of an administrative nature and can 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 Director: Place, Planning & Regeneration.
- 7.6 In accordance with Part 2 Section 5 of the Bracknell Forest Council Constitution, paragraph 5.7, the Executive Member has authority to agree the recommendation in relation to his area of responsibility.
- 7.7 Further, the Executive Member will note that whilst applications in respect of Neighbourhood Development Plan (post designation of a qualifying body or Neighbourhood Area) are submitted to the Local Planning Authority, this process does not entail making new planning policy. Neighbourhood Development Plans must first and foremost be in general conformity with the strategic policies of the Development Plan, thus amounting to administrative decisions which do not require the exercise of substantive discretion. Therefore, the implementation of these administrative decision making processes in relation to neighbourhood planning falls within the Executive Member for Planning and Transport's individual decision making remit.

Borough Treasurer

- 7.8 There are no financial implications for the Council in responding to the pre-submission consultation. However, as stated in the report, there are future costs for the Council in relation to the Examination and referendum. It is hoped that the Council will be able to apply for a grant towards costs, although this will be at a fairly late stage in the process (see paragraph 6.11). The ongoing use of staff resources can currently be met from within existing budgets.

Equalities Impact Assessment

- 7.9 An Equalities Impact Assessment is not considered relevant as the policies do not prejudice any particular section of the community and the Council has not prepared the policies.

8 CONSULTATION

- 8.1 The Council has been consulted by Crowthorne Parish Council on its Neighbourhood Plan pre-submission consultation (Regulation 14 consultation).

8.2 Internal consultation has been undertaken with relevant service areas in compiling the response set out in Appendix A, as described in paragraph 6.3 above.

Background Papers

- The Neighbourhood Planning (General) Regulations 2012 (as amended 2015)
- Town and Country Planning Act 1990
- Crowthorne Parish Neighbourhood Area Designation: <https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/neighbourhood-planning/crowthorne-parish-neighbourhood-area>
- Crowthorne Parish Council draft Crowthorne Neighbourhood Plan pre-submission consultation: <http://www.crowthornepc.org.uk/neighbourhood-plan.html>

Appendices

A – Bracknell Forest Council's response on the pre-submission draft Crowthorne Neighbourhood Plan

Contact for further information

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