

**TO: EXECUTIVE MEMBER FOR PLANNING & TRANSPORT
15 MARCH 2019**

**CONSULTATION RESPONSE ON THE SUBMISSION VERSION OF THE WARFIELD
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 23 July 2014, Warfield Parish Council was designated as a qualifying body for the Warfield 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 Warfield Parish Council has submitted the Plan to Bracknell Forest Council ("the Council"), in its capacity as local planning authority. The purpose of this report is for the Executive Member for Planning and Transport 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 the Executive Member for Council Strategy and Community Cohesion on 26 February 2016¹).

2 RECOMMENDATION

- 2.1 **That the Executive Member for Planning and Transport agrees:**
- 1. the Council's response to the Submission version of the Warfield 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 (including 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).

4 ALTERNATIVE OPTIONS CONSIDERED

¹ 26 February 2016 Executive decision relating to arrangements for the exercise of powers relating to the neighbourhood planning process. (item 2): <http://democratic.bracknell-forest.gov.uk/mgListPlanItems.aspx?PlanId=1293&RP=624>

- 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 Warfield Parish Council is the Qualifying Body for the purposes of Neighbourhood Planning in Warfield Parish. The Council designated Warfield Parish as a Neighbourhood Area for the purposes of Neighbourhood Planning on 23 July 2014. Since then, Warfield Parish Council has undertaken much work on preparing a Neighbourhood Plan, including carrying out public consultation on the pre-submission version of its Neighbourhood Plan between 21 June and 8 September 2017, in accordance with Regulation 14 of the Regulations. Following an Executive decision on 22 August 2017, the Executive Member for Planning and Transport approved this Council's formal response to the pre-submission version of the draft Warfield Neighbourhood Plan on 7 September 2017. 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, Warfield Parish Council considered all consultation responses received and amended its Neighbourhood Plan as it considered appropriate. In accordance with Regulation 15, a Consultation Statement was produced.
- 5.3 Warfield Parish Council submitted its Neighbourhood Plan and supporting documentation (including the Consultation Statement), to the Council on 24 January 2019.
- 5.4 The Director of Place, Planning and Regeneration confirmed (in a letter dated 4 February 2019 to Warfield Parish 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 On 21 February 2019, it was agreed by the Executive Member for Planning and Transport that the Council would:
- undertake public consultation on the Submission version of the Warfield Neighbourhood Plan pursuant to Regulation 16; and,
 - appoint an independent Examiner to undertake the examination of the Warfield Neighbourhood Plan pursuant to paragraph 7 of Schedule 4B of the Act and Regulation 17.
- 5.6 Following agreement from the Executive Member, public consultation on the Submission version of the Plan started on 5 March 2019, and ends on 16 April 2019². An Examiner will soon be appointed.

6 BRACKNELL FOREST COUNCIL'S RESPONSE

² Public consultation on the Submission version of the Plan is available to view:

http://consult.bracknell-forest.gov.uk/portal/planning/warfield_neighbourhood_plan/warfield_parish_neighbourhood_plan

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 Warfield 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 Warfield Parish. Therefore, it is considered important that the Council makes comments on this stage of the Plan.
- 6.3 The Submission Plan for Warfield contains 15 policies, including a site allocation and policies relating to design, green infrastructure, local gaps, community assets, rural economy and heritage. 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 two internal workshops with other officers to discuss the Council's response to the Submission version of the Warfield Neighbourhood Plan.

Details of Response

- 6.5 The Warfield 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) having regard to national policy and guidance;
 - D) contributing to the achievement of sustainable development;
 - E) general conformity with strategic policies contained in the Development Plan;
 - F) not breaching EU obligations; and
 - G) meeting prescribed conditions (e.g. where there would be a significant effect on a European Site as defined in the Conservation of Habitats and Species Regulations 2012).
- B) & C) are not referred to, as they 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). The comments relating 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), E (general conformity with strategic policies contained in the Development Plan) and F (does not breach EU obligations):

- Policy WNP1: A Spatial Plan for the Parish

The policy conflicts with national and local policy with regards to what development would be appropriate in the Green Belt, countryside and within defined settlements. It is considered more appropriate to deal with the extension of the Hayley Green settlement boundary through the emerging Local Plan. The policy approach is unclear in respect of other areas of built development that fall within the defined settlement boundary. The policy map requires amending so that this policy applies to the whole parish, not only to specific areas, as it is an overarching strategy. The policy therefore conflicts with Basic conditions A & E.

- Policy WNP2: Hayley Green Allocation

Because of the inclusion of a site allocation, the making of the neighbourhood plan currently breaches, and is not compatible with, EU obligations. This specifically relates to Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively). The inclusion of this policy therefore means that the plan conflicts with Basic Condition F. The allocation and concept plan (Inset Map 2) are not considered to be based on adequate, up-to-date and relevant evidence. The interests of the owners of the land should not override the best disposition of future land uses. Deliverability of the site is therefore questioned. References to the Council's SPDs should be in the supporting text and not the main policy as they are guidance. The policy is therefore considered to be contrary to Basic Condition A.

- Policy WNP3: Promoting Good Design in Newell Green

It is recommend that the policy is simplified and reference to background evidence and the Council's SPDs is removed. Inclusion of Warfield Memorial Ground is considered to be in conflict with a local strategic policy. The policy wording on appropriate development and design is too prescriptive and therefore contrary to local and national planning policy. Therefore the policy would be contrary to Basic Conditions A & E.

- Policy WNP4: Promoting Good Design in Warfield Street

It is recommend that the policy is simplified and reference to background evidence and the Council's SPDs is removed. Reference to Newell Hall should be removed as it is outside of the policy area. Policy wording on appropriate development and design is too prescriptive and therefore contrary to local and national planning policy. It is recommended that heritage issues are separated from design issues to ensure that the statutory requirements with respect to heritage matters are met. Therefore the policy is considered to be contrary to Basic Conditions A & E.

- Policy WNP5: Promoting Good Design in Hayley Green

It is recommend that the policy is simplified and reference to background evidence and the Council's SPDs is removed. Policy wording on appropriate development design is too prescriptive and therefore contrary to local and national planning policy. It is recommended that heritage issues are separated from design issues to ensure that the statutory requirements with respect to heritage matters are met. Therefore the policy would be contrary to Basic Conditions A & E.

- Policy WNP6: Suitable Alternative Natural Greenspace
It is unclear as to what mitigation is required to comply with the Habitat Regulations as no Appropriate Assessment has been carried out and consulted on. Therefore the plan/policy is contrary to Basic Condition F (Refer to comments against the Basic Conditions Statement).
- Policy WNP7: Local Gaps
No comments in relation to Basic Conditions have been made.
- Policy WNP8: Enhancing Green Infrastructure
Policy text needs amending to remove ambiguity in order to avoid conflict with Basic Condition A. The policy is limited to only those areas of the green infrastructure network which are mapped, but the mapping is not a complete record of green infrastructure. This means the scope of this policy to secure future improvements would be limited, which would be contrary to local strategic policy.
- Policy WNP9: Local Green Space Designations
The deletion of reference to Warfield Memorial Ground is recommended as this would conflict with local strategic policy.
- Policy WNP10: Supporting Community Assets
The inclusion of commercial uses such as the Moss End Garden Village is not appropriate given their isolated locations in the Green Belt. The extension or intensification of commercial enterprises could conflict with national and local Green Belt policy and in view of their isolated locations may not be sustainable development. The policy should exclude reference to a new doctor's surgery or a new dentist facility, as this could be in conflict with local policy for development in the countryside. Therefore the policy is currently contrary to Basic Conditions A, D & E.
- Policy WNP11: Supporting Rural Diversification
Policy requirements for the re-use of existing buildings in the countryside is considered to be more restrictive than NPPF policy and reference to 'very special circumstances' should be restricted to the Green Belt only. The policy is currently considered to be contrary to Basic Condition A.
- Policy WNP12: Protecting and Enhancing Heritage and Biodiversity
It is recommended that the policy is split to deal with built heritage and archaeological assets, and biodiversity separately given the difference in the statutory duties. The policy is currently considered to be contrary to Basic Condition A.
- Policy WNP13: Promoting Dark Skies
No comments in relation to Basic Conditions have been made.
- Policy WNP14: Drainage Infrastructure
No comments in relation to Basic Conditions have been made.
- Policy WNP15: Parking, Garaging and Ancillary Buildings
Reference to the Council's SPDs should be moved to the supporting text to avoid conflict with Basic Condition A.
- Policies Maps
The 'Policies Map' should be merged with the 'Green Infrastructure Policies Map' to form one policy map in the interests of clarity for users. Amendments to the content and key are recommended for clarity and to ensure that policies are effective.

Other suggested changes/comments

Whilst recognising that a number of the comments set out in Appendix 2 within Appendix A of this response are not specific to the Basic Conditions, the Council considers that the suggested changes to the structure and presentation of the document will improve its usability and readability. 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. Technical comments broadly relate to the following matters:

- Whilst it is acknowledged that under the transitional arrangements this Plan will be examined against the 2012 NPPF, references to the 2019 NPPF, and an assessment of general conformity with policies would help to ensure the longevity of the Plan over the plan period to 2026.
- All policy paragraphs should be numbered to ease referencing.
- Amendments to Policy WNP2 – Hayley Green Allocation are recommended to clarify policy requirements, including clarity regarding the masterplan needed to secure the comprehensive development of the site.
- The terminology used in the Plan needs to be more clearly defined to ensure that policies are implemented in a consistent way.
- The Neighbourhood Plan should set out a monitoring framework to enable BFC to monitor the extent to which the planning policies are being achieved.

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 the Executive Member for Planning and Transport on 21 February 2019. 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 Warfield Neighbourhood Plan. If the referendum is successful (which requires a simple majority of those voting), the Warfield Neighbourhood Plan will form part of the Bracknell Forest Development Plan and be used in the determination of planning applications relating to land in Warfield parish.

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 Warfield 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. Based on the size of the electorate in Warfield Parish, the estimated cost of a standalone referendum is £23,000; however the examiner might require the referendum area to be extended beyond the Warfield parish boundary. The cost of the referendum cannot therefore be accurately quantified at this stage and it is not possible to determine whether the grant funding

will be sufficient to cover the costs. If there is a shortfall it is unlikely to be significant and options to fund it will need to be identified during the next financial year.

- 6.13 The work of supporting the preparation of the Warfield Neighbourhood Plan has been carried out in accordance with the Service Level Agreement agreed between the Council and Warfield Parish 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.

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 Director for Place, Planning & Regeneration.
- 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 approval of the Council's Submission consultation response and submission of the Plan for Examination being delegated to the Executive Member for Planning and Transport.

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. Any funding shortfall is unlikely to be significant and options to fund it will need to be identified during the next financial year.

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 5 March to 16 April 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
- Warfield Neighbourhood Area Designation:
www.bracknell-forest.gov.uk/warfield-neighbourhood-plan
- Warfield Neighbourhood Plan Submission consultation:
http://consult.bracknell-forest.gov.uk/portal/planning/warfield_neighbourhood_plan/warfield_parish_neighbourhood_plan
- 21 February 2019 Executive Report (item 2):
<http://democratic.bracknell-forest.gov.uk/mgListPlanItems.aspx?PlanId=1960&RP=624>

Appendices

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

Contact for further information

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