TO: EXECUTIVE MEMBER FOR PLANNING & TRANSPORT
30 AUGUST 2019

PUBLICATION OF SUBMISSION VERSION OF CROWTHORNE NEIGHBOURHOOD PLAN AND APPOINT AN EXAMINER

1 PURPOSE OF REPORT

1.1 Crowthorne Parish Council prepared a Neighbourhood Development Plan ("Neighbourhood Plan") pursuant to the Neighbourhood Planning (General) Regulations (2012) (as amended) ("the Regulations"). The Parish Council submitted its proposed Plan to Bracknell Forest Council ("the Council") in its capacity as the local planning authority on 22 July 2019, in accordance with Regulation 15.

1.2 Upon receipt of a Neighbourhood Plan proposal, the Council is required to:

- check that the correct documentation has been submitted (in accordance with Regulation 15);
- undertake publicity on the proposed Neighbourhood Plan (in accordance with Regulation 16); and,
- arrange for the Neighbourhood Plan to be examined by an independent Examiner (Regulation 17).

1.3 The latter two decisions have been delegated to the Executive Member for Planning and Transport by a decision on 26 February 2016 by the Executive Member for Council Strategy and Community Cohesion in a report relating to 'Revised arrangements for the exercise of powers relating to the Neighbourhood Planning Process' ("the decision").

1.4 The purpose of this report is to seek agreement to the Council undertaking public consultation on the proposed Crowthorne Neighbourhood Plan and the appointment of an independent Examiner. Later in the process there will be further decisions to agree the Council's Regulation 16 consultation response and to agree the form, content and publication of the Decision Statement; and submission of the Neighbourhood Plan to referendum.

2 RECOMMENDATION

2.1 The Executive Member for Planning & Transport agrees that the Council:

(1) undertakes public consultation on the submission version of the Crowthorne Neighbourhood Plan pursuant to Regulation 16; and

(2) appoints an independent Examiner to undertake the examination of the Crowthorne Neighbourhood Plan pursuant to paragraph 7 of Schedule 4B of the Act and Regulation 17.

3 REASONS FOR RECOMMENDATION

3.1 The Council has a statutory duty, as set out in paragraph 7 of Schedule 4B of the Town and Country Planning Act 1990 (as amended) ("the Act") and Regulations 16 and 17 of the Regulations, to consider submitted Neighbourhood Plan proposals, undertake a six week public consultation exercise and appoint an independent Examiner to undertake the examination of a Neighbourhood Plan.

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 The alternative option of not undertaking a public consultation exercise and/or appointing an independent Examiner as set out in paragraph 3.1 above would be in breach of the Council's statutory responsibilities (Regulations 16 and 17 of the Regulations, and paragraph 7 of Schedule 4B of the Act). It would also expose the Council to legal challenge and attendant costs.

5 BACKGROUND INFORMATION

5.1 Crowthorne Parish Council is the Qualifying Body for the purposes of Neighbourhood Planning in Crowthorne Parish, and the Council designated Crowthorne Parish as a Neighbourhood Area for the purposes of Neighbourhood Planning on 15 June 2016. Since then, Crowthorne Parish Council has undertaken much work on preparing a Neighbourhood Plan. This has included public consultation on the pre-submission version of its Neighbourhood Plan between 4 February and 20 March 2019, in accordance with Regulation 14 of the Regulations. Following approval from the Executive Member for Planning & Transport on 8 March 2019, this Council provided a formal response to the pre-submission version of the draft Crowthorne Neighbourhood Plan which included comments on technical issues and a detailed schedule of comments.

5.2 Following the close of the pre-submission consultation, Crowthorne Parish Council considered all consultation responses received and amended its Neighbourhood Plan as appropriate. In accordance with Regulation 15, a Consultation Statement has been produced.

5.3 Crowthorne Parish Council submitted its Neighbourhood Plan and supporting documentation (including the Consultation Statement), to the Council on 22 July 2019.

5.4 The Director of Place, Planning and Regeneration has confirmed in a letter dated 29 July 2019 to Crowthorne Parish Council that the submitted documentation complies with the statutory requirements as set out in the Act and Regulation 15 of the Regulations (see Appendix A). It should be noted that this is an administrative decision delegated to the Director: Place, Planning and Regeneration and does not consider the content of the plan proposal or whether it meets the basic conditions.

6 BRACKNELL FOREST COUNCIL'S STATUTORY DUTIES FOLLOWING SUBMISSION OF THE PLAN PROPOSAL

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. Planning Officers at Bracknell Forest Council have provided support during the preparation of the Neighbourhood Plan in accordance with the Service Level Agreement. This has included providing informal comments and advice in respect of the emerging Neighbourhood Plan.

Publicising a plan proposal

6.2 The Regulations require the Council to undertake a six week public consultation on the proposed Crowthorne Neighbourhood Plan (submission version) if the proposal meets the requirements as set out in the legislation. As stated in paragraph 5.4, the Council has confirmed that Crowthorne Parish Council has submitted the Crowthorne Neighbourhood Plan and associated required documentation and has met the

statutory requirements. Para. 3.1.17 of the 2014 Statement of Community Involvement states that: 'where possible (depending on the consultation stage and whether it is statutory), consideration will be given to allowing extra time or avoiding consultations during holiday periods'. However, the Council is required to undertake the consultation as soon as possible following the submission of the Plan (in accordance with Regulation 16). As a result, the timing of the commencement of the consultation is largely determined by when the Plan is submitted to the Council. It is therefore intended that the consultation will run from 23 September 2019 to 4 November 2019. Whilst this period includes the October half term (26-30 October), it is considered unlikely that any organisation/ individual would be significantly disadvantaged, as there would be sufficient time to make comments before and after the half-term period.

6.3 Regulation 16 stipulates that the consultation must be publicised on the Council's website and in such other manner as would be likely to bring the proposed Crowthorne Neighbourhood Plan to the attention of people who live, work or carry on business in the Crowthorne Neighbourhood Area. This includes:

- details of the proposed Crowthorne Neighbourhood Plan,
- details of where and when the Crowthorne Neighbourhood Plan may be inspected,
- details of how to make representations,
- the date by which those representations must be received, and
- a statement setting out that any representation may include a request to be notified of the Council's decision in respect of Regulation 19 (whether or not the Plan was 'made').

In addition, consultees who responded to the pre-submission consultation undertaken by Crowthorne Parish Council must be notified of the Council's consultation on the proposed Crowthorne Neighbourhood Plan.

6.4 During the six-week public consultation, interested parties will be able to make written representations on the proposed Crowthorne Neighbourhood Plan. In accordance with National Planning Practice Guidance[1], representations should address whether or not the proposed Crowthorne Neighbourhood Plan meets the basic conditions and other matters that the independent Examiner is required to consider under paragraph 8 of Schedule 4B of the Act. Representations may also address whether the referendum area should be extended beyond the Neighbourhood Area. If a consultee wishes to make a case for an oral hearing, this should be done as part of his/her written representations. All representations received by Bracknell Forest Council must be sent to the appointed independent Examiner for consideration as part of the examination.

Appointing the independent Examiner

6.5 The legislation requires the Council to appoint an independent Examiner to carry out the examination. Crowthorne Parish Council must consent to the appointment (paragraph 7(4) of Schedule 4B of the Act). The Council must also make such arrangements as considered appropriate in connection with the holding of the examination. The Examiner appointed must be someone who:

- is independent of Crowthorne Parish Council and Bracknell Forest Council,
- does not have an interest in any land that may be affected by the Crowthorne Neighbourhood Plan, and,
- has appropriate qualifications and experience.

[1] Paragraph Reference ID: 41-057-20140306

6.6 The Royal Institute of Chartered Surveyors (RICS) has established a Neighbourhood Planning Independent Examiner Referral Service (NPIERS). There are other organisations providing examination services such as Intelligent Plans and Examinations (IPe). Both comprise competent, impartial, qualified planning professionals, and the Council has appointed Examiners via both organisations for the current Examinations for Bracknell Town Neighbourhood Plan and Warfield Neighbourhood Plan. Examiners' time is chargeable at a rate of approximately £750 plus VAT per day.

6.7 When making an application for an Examiner, details of the Neighbourhood Plan scope and any specific timeframes that need to be met will be provided. The referral services:

- contact Examiners who meet the criteria set out in the application and paragraph 6.5 above;
- confirm that they are suitable candidates; and,
- provide CVs of suitable Examiners for consideration.

Whilst the appointment is made by Bracknell Forest Council, Crowthorne Parish Council must also agree with the decision.

6.8 This report seeks approval of the principle of appointing an Examiner (decision 4 of the 26 February report). However, the administration related to the appointment of the Examiner and submitting the Crowthorne Neighbourhood Plan is delegated to the Director: Place, Planning and Regeneration. It is recommended that the Council apply to the referral services (NPIERS and IPe) for a suitable independent Examiner.

<u>Submitting the plan for examination</u>

6.9 Once the six week consultation has closed, the proposed Crowthorne Neighbourhood Plan is subject to examination by the appointed independent Examiner who will check that it meets the 'basic conditions' and other matters set out in the Act. Unlike a Local Plan, the Examiner does not test 'soundness'. There is a general expectation that the examination of a submitted Neighbourhood Plan is dealt with via written representations and that it does not include a public hearing. However, if the Examiner considers it necessary to ensure adequate examination of an issue or to give a person a fair chance to put forward a case, then he/she may decide to hold a hearing to listen to oral representations. If the Examiner determines that it is necessary to hold a hearing on the Crowthorne Neighbourhood Plan, the Council will make the necessary arrangements for holding a hearing.

6.10 Once the Examiner has considered the Crowthorne Neighbourhood Plan, they are required to issue a report which contains recommendations in accordance with paragraph 10 of Schedule 4B of the Act. The report must make one of the following recommendations:

- that the draft Neighbourhood Plan is submitted to a referendum, or
- that modifications specified in the report are made to the Neighbourhood Plan and that the Neighbourhood Plan as modified is submitted to a referendum, or
- that the proposal for the Neighbourhood Plan is refused.

6.11 If the Examiner proposes any modifications, these must:

- accord with paragraph 10(3) of Schedule 4B of the Act;
- relate to modifications necessary for the Neighbourhood Plan to meet the basic conditions;
- be compatible with the Convention rights; and.
- meet the requirements of relevant legislation; or,
- be for the purposes of correcting errors.

6.12 The Examiner must send a copy of their report to Bracknell Forest Council and to Crowthorne Parish Council (as the Qualifying Body).

6.13 A formal view is required by the Council on whether or not the proposed Plan meets the 'basic conditions' (and what modifications, if any, are necessary to ensure that it does meet the basic conditions and legislative requirements). A decision must also be made on whether to hold a referendum on the Plan. If the referendum is successful, the Neighbourhood Plan will form part of the Bracknell Forest Development Plan and be used in the determination of planning applications relating to land in Crowthorne. The Council will be required to formally 'make' the Crowthorne Neighbourhood Plan within 8 weeks of a successful referendum being held (Regulation 18A), and publicise the decision.

Resource Implications

6.14 As indicated above, this Council, as the local planning authority, has a statutory duty to provide advice and assistance and to carry out certain parts of the neighbourhood planning process, including organising the consultation, holding and arranging the examination and the referendum.

6.15 The Council has already received £5,000 of Government grant funding following the designation of the Crowthorne 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 Crowthorne Parish, the estimated cost of a standalone referendum is £23,000; however, the examiner might require the referendum area to be extended beyond the Crowthorne 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.

6.16 The work of supporting the preparation of the Crowthorne Neighbourhood Plan has been carried out in accordance with the Service Level Agreement agreed between this Council and Crowthorne Parish Council. To date the work has been resourced from within existing planning 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 recommendations of the report seek the Executive approval for the Council to: undertake a public consultation on the submission version of the Crowthorne Neighbourhood Plan (in accordance with Regulation 16) and to appoint an independent Examiner to examine the Crowthorne Neighbourhood Plan (in accordance with paragraph 7 of Schedule 4B of the Act and Regulation 17).

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: Place, Planning and Regeneration.

7.4 Revised governance arrangements for the discharge of decisions in relation to facilitating the Neighbourhood Planning Process were approved by the Leader in February 2016. These entailed approval of undertaking public consultation and appointing an examiner to the Executive Member for Planning and Transport.

Director of Finance

7.5 The financial implications are set out in the body of the report. Whilst 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 will be met from existing budgets.

Equalities Impact Assessment

7.6 This 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 will be arranging and undertaking a six week public consultation on the submission version of the Crowthorne Neighbourhood Plan. This consultation will be held in accordance with Regulation 16 of the Regulations. It is anticipated that this will commence on 23 September 2019.

Background Papers

- The Neighbourhood Planning (General) Regulations 2012 (as amended)
- Town and Country Planning Act 1990
- National Planning Practice Guidance: http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/
- Crowthorne Neighbourhood Area Designation: https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/neighbourhood-planning/crowthorne-parish-neighbourhood-area
- Background information on the Crowthorne Neighbourhood Plan: http://www.crowthornepc.org.uk/neighbourhood-plan.html
- Progress on the Crowthorne Parish Neighbourhood Plan: https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/neighbourhood-planning/crowthorne-parish-neighbourhood-area
- Bracknell Forest Council decision relating to the Crowthorne Neighbourhood Plan Pre-Submission consultation response: http://democratic.bracknell-forest.gov.uk/ieDecisionDetails.aspx?Id=2915&EVT=103

Appendices

Appendix A – Letter confirming submitted Crowthorne Neighbourhood Plan documents satisfy statutory criteria

Contact for further information

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