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To: **Executive Member for Planning and Transport**
9th June 2020

Publication of Decision Statement and submission of the Crowthorne Neighbourhood Plan to a referendum

Director of Place, Planning and Regeneration

1 Executive Summary

- 1.1 Following receipt of the Crowthorne Neighbourhood Plan Examiner's Report, Bracknell Forest Council is required to decide what action it intends to take in response to each recommendation made by the Examiner. Having considered the Examiner's recommendations and the reasons for them, and consulted Crowthorne Parish Council, the Council is satisfied that it is appropriate to amend the Crowthorne Neighbourhood Plan in accordance with the Examiner's recommendations. A list of modifications (including consequential changes and updates) is set out in a 'Decision Statement' which must be published following this decision. The Council must also decide whether it is appropriate to send the Neighbourhood Plan to referendum. In this instance, it is considered appropriate for the Crowthorne Neighbourhood Plan to be sent to a local community referendum on 6th May 2021 unless future legislation allows for an earlier date. It should be noted that the approach and timescales specified follow recent legislation and guidance put in place due to the Coronavirus outbreak.

2 Purpose of Report

- 2.1 Crowthorne Parish Council prepared and submitted a Neighbourhood Development Plan ("Neighbourhood Plan") pursuant to the Neighbourhood Planning (General) Regulations (2012) (as amended) ("the Regulations") to Bracknell Forest Council ("the Council") in its capacity as the Local Planning Authority on the 22 July 2019, in accordance with Regulation 15.
- 2.2 The Council duly undertook publicity on the proposed Neighbourhood Plan (in accordance with Regulation 16) and arranged for the Neighbourhood Plan to be examined by an independent Examiner (Regulation 17). The Council is now in receipt of the Examiner's report which recommends that, subject to recommendations put forward by the Examiner, the Neighbourhood Plan be submitted to referendum. It also recommends that the Neighbourhood Plan should proceed to a referendum based on the designated Crowthorne Parish Neighbourhood Area.
- 2.3 The Regulations require the Council to publish a 'Decision Statement', setting out what actions it proposes to take on each of the recommendations in the Examiner's Report (Regulation 18). The Council must also decide whether to send the Neighbourhood Plan to referendum.
- 2.4 The responsibility for these functions and the submission of the Neighbourhood Plan to referendum, with regard to the making of the Neighbourhood Plan, were delegated to the Executive Member for Planning and Transport by a decision on 10 September 2015, made by the Executive Member for Council Strategy and Community Cohesion. This decision is documented in a report entitled 'Arrangements for the exercise of powers relating to Neighbourhood Planning' ("the 10 September 2015").

UNRESTRICTED

- 2.5 The purpose of this report is therefore to seek agreement from the Executive Member for Planning and Transport on:
1. the form and content of the 'Decision Statement';
 2. its subsequent publication by the Director of Place, Planning and Regeneration; and,
 3. the submission of the modified Crowthorne Neighbourhood Plan to a local community referendum based on the designated area on 6th May 2021 unless the Government puts further legislation in place that allows for an earlier date.

3 Recommendations

3.1 That the Executive Member for Planning and Transport agrees the:

(1) form, content and publication of the 'Decision Statement' (set out in Appendix A) pursuant to Regulation 18; and

(2) submission of the modified Crowthorne Neighbourhood Plan to a local community referendum on the making of the Crowthorne Neighbourhood Plan pursuant to paragraph 14 of Schedule 4B of the Town and Country Planning Act 1990 (as amended) ("the Act") on 6th May 2021 unless future legislation allows for an earlier date; and,

(3) referendum area be restricted to the neighbourhood area as designated by the Council on 15 June 2016 as the Crowthorne Parish Neighbourhood Area.

4 Reasons for Recommendations

- 4.1 The Council has a statutory duty, as set out in paragraph 12 of Schedule 4B of the Act and Regulation 18 of the Regulations, to consider the recommendations made by the Examiner and if satisfied that the Neighbourhood Plan meets the basic conditions, to issue a 'Decision Statement'. The Council is subsequently required to arrange and hold a referendum on the making of the Neighbourhood Plan in accordance with paragraph 14 of Schedule 4B of the Act.

5 Alternative Options Considered

- 5.1 An alternative option is for the Council to refuse the proposed Neighbourhood Plan, if it is not satisfied. The 'Decision Statement' would need to be issued setting out the reasons for this decision (paragraph 12 of Schedule 4B of the Act and Regulation 18). Given that the independent Examiner of the Neighbourhood Plan has recommended modifications that ensure that the Plan meets the basic conditions, and that following consideration of the report the Council concurs with the Examiner's conclusions, it would be in breach of the Council's statutory responsibilities in respect of Neighbourhood Planning under paragraph 12 of Schedule 4B of the Act to refuse the Neighbourhood Plan. It would also expose the Council to legal challenge and attendant costs.

6 Supporting Information

Process

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- 6.1 Crowthorne Parish Council is the Qualifying Body for the purposes of Neighbourhood Planning in the Parish of Crowthorne. The Council designated Crowthorne Parish as a Neighbourhood Area for the purposes of Neighbourhood Planning on 15 June 2016. Crowthorne Parish Council submitted its Neighbourhood Plan and supporting documentation to the Council on 22 July 2019.
- 6.2 The Director of Place, Planning and Regeneration confirmed in writing to Crowthorne Parish Council (29 July 2019) that the submitted documentation complied with the statutory requirements as set out in the Act and Regulation 15 of the Regulations. The Executive Member for Planning and Transport then agreed a statutory six-week consultation period on the submitted Neighbourhood Plan in accordance with Regulation 16, and the appointment of an independent Examiner in accordance with Regulation 17. Public consultation was held between 23 September 2019 and 4 November 2019. The Council also submitted a representation during this consultation period which was agreed by the Executive Member for Planning and Transport in a decision on 23 October 2019.
- 6.3 With the consent of Crowthorne Parish Council, the Council appointed Mr Andrew Ashcroft to undertake the independent examination of the Neighbourhood Plan. The Council submitted the Plan along with the representations received during the consultation period and other supporting documentation to examination following the close of the consultation.
- 6.4 The purpose of the examination was to determine whether the plan met the basic conditions required by legislation, other legal requirements, and whether or not the plan should proceed to referendum. The basic conditions are set out in the Town and Country Planning Act 1990 (as amended).
- 6.5 The Examiner considered that a public hearing into the Plan was not necessary and the examination was therefore conducted through written representations. The Examiner's report was issued on 24 March 2020 and recommends that, subject to a series of modifications, the Plan meets the basic conditions set out in legislation and should proceed to local referendum. It also recommended that the area for the referendum should be limited to the designated neighbourhood plan area. A copy of the report has subsequently been published on the Council's website.

Bracknell Forest Council's statutory duties following receipt of the Examiner's Report

Context

- 6.6 The modifications recommended by the Examiner largely respond to issues raised through the formal consultation on the submitted plan and its subsequent examination. These include the Council's own reservations about the submitted plan.

Scope and consideration of the recommendations made by the Examiner

- 6.7 The Act requires the Council to consider each of the recommendations made in the Examiner's report (and the reasons for them) and to decide what action to take in response to each recommendation (paragraph 12(2) of Schedule 4B of the Act and Regulation 18 of the Regulations).
- 6.8 A brief summary of the proposed recommendations is set out below:

UNRESTRICTED

- Several of the Examiner's proposed recommendations amend policy text to provide greater clarity on how policies should be applied to the assessment of planning applications. Others provide greater flexibility through suggesting a more generalised approach to help achieve the efficient use of land in line with national policy. Some also update the supporting text. The Examiner comments that other consequential changes to the Plan may be required. Notable amendments are highlighted in the following paragraphs:
 - Policy CR8: Promoting Good Design in Transport Research Laboratory. Whilst the Examiner supports the need to maintain the separate identities of Bracknell and Crowthorne by ensuring the retention of a landscape buffer and a strategic gap between the TRL development edge and the built-up boundary of Bracknell, he comments that the Plan cannot address development outside the designated area. He therefore proposes a modification in this respect. He also recommends that a further paragraph of the policy is moved to the supporting text as it focuses on the delivery of the policy.
 - Policy CR12: Enhancing Green Infrastructure: The Examiner recommends the deletion of this policy on the grounds that in part it represents a community aspiration and because the policy and map do not provide sufficient clarity on the content, timing or delivery of the proposed green infrastructure network.
 - Policy CR13: Biodiversity: Modifications are proposed since it was considered that the policy was too prescriptive and conflicted with national policy in terms of the biodiversity status of a particular site and benefits which might arise from a proposed development.
- 6.9 Each of the Examiner's recommendations and the reasons for them have been considered. A 'Decision Statement' has been produced which includes a schedule of modifications to the Crowthorne Neighbourhood Plan and the Council's responses to them (set out in Appendix A). The schedule lists modifications in the order of the Plan. The modifications to policies are only what is necessary to ensure the policies and the Plan meet the basic conditions (as set out in paragraph 8(2) of Schedule 4B to the Act). It is outside the remit of both the Examiner and the Council to make modifications that are not necessary to meet the basic conditions, even if the modification would strengthen the policy. Paragraph 7.69 of the Examiner's report relates to further modifications that may be required as a result of inconsistencies that may arise from the modifications set out in the Examiner's report.
- 6.10 In accordance with paragraph 7.69 of the Examiner's report, the Council has also proposed some further modifications to the Plan which correct inconsistencies in the general text in the interests of achieving consistency with modified policies and provide updated factual information.
- 6.11 The 'Decision Statement' also deals with sending the Neighbourhood Plan to referendum. Having considered the Examiner's recommendation on the extent of the referendum area, and the requirement in paragraph 12(7) of Schedule 4B of the Act that 'the area in which the referendum is to take place must as a minimum be the neighbourhood area to which the proposed Neighbourhood Plan relates', the Council agrees with the Examiner's recommendation that the referendum area should be the designated Crowthorne Parish Neighbourhood Area.
- 6.12 Regulation 17A requires the Council to decide how it intends to proceed within five weeks from the day after the date of receipt of the Examiner's Report unless a later date is agreed in writing by the local planning authority and the qualifying body. In

UNRESTRICTED

this instance it has been necessary to agree a later date with Crowthorne Parish Council due to the Coronavirus outbreak. This has allowed time to amend the Neighbourhood Plan and compile the 'Decision Statement' in consultation with the Parish Council.

- 6.13 If the Executive Member for Planning and Transport agrees the form and content of the 'Decision Statement' set out in Appendix A, it will be published by the Council. This is an administrative function delegated to the Director of Place, Planning and Regeneration by the 10 September 2015 decision (decision 11).

Submitting the Plan to referendum

- 6.14 Paragraph 12(4) of Schedule 4B of the Act requires a referendum to be held on the making of a plan, assuming that the local authority is satisfied that the plan meets the basic conditions and other legal requirements.
- 6.15 The Coronavirus Act 2020 came into force on 25th March 2020. Section 61 deals with powers to postpone referendums. The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 came into force on 7th April. These postpone 'other polls', such as those relating to Neighbourhood Plans, until 6 May 2021. A supporting letter from the Ministry of Housing, Communities and Local Government to local authorities dated 6th April 2020 refers to the fact that the Government could legislate to bring forward this date if medical and scientific advice leads to the relaxation of social distancing rules at an earlier date.
- 6.16 It is not possible to 'make' the Crowthorne Neighbourhood Plan or bring it into force until the result of a referendum is known (more than 50% of those taking part in the referendum must vote in favour of the plan being made part of the development plan for the local area). However, updated government guidance (Planning Practice Guidance¹), states that where a local planning authority has issued a 'Decision Statement' detailing its intention to send a neighbourhood plan to referendum, the policies can be given significant weight in decision-making, so far as they are material to an application. The policies must therefore be used in the determination of planning applications relating to land in Crowthorne Parish.

Resource Implications

- 6.17 The 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 arranging the examination and the referendum.
- 6.18 For the year 2019/20 local planning authorities were able to claim £20,000 once they had set a date for a referendum following a successful examination where a neighbourhood plan had not previously been made for that area. In a letter from the Chief Planner (Ministry of Housing, Communities and Local Government) in March 2020, it was confirmed that for 2020/21, in order to minimise the financial impact of delays to neighbourhood planning referendums, local planning authorities would be able to submit claims for grant when a 'Decision Statement' detailing the intention to send a plan to referendum is issued. At this stage, it is not known how much it will be possible to claim.

¹ Neighbourhood Planning ID: 41-107-20200407

UNRESTRICTED

- 6.19 So far, the work of supporting the preparation of the Crowthorne Neighbourhood Plan has been carried out predominantly by staff within Place, Planning and Regeneration. Now the Neighbourhood Plan has reached such an advanced stage, other Services will ultimately be needed in administering and discharging the Council's statutory responsibilities, such as Electoral Services. To date the work has been resourced from within existing budgets, although it is unclear at this stage what the total cost of the process of 'making' the Neighbourhood Plan will be. As set out above, there will be financial resource implications in arranging the referendum of the Crowthorne Neighbourhood Plan.

7 Advice received from statutory and other officers

Legal Advice

- 7.1 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 Coronavirus Act 2020 came into force on 25th March 2020. Section 61 deals with powers to postpone 'certain other elections and referendums' which includes Neighbourhood Plans. The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 postpone 'other polls', such as those relating to Neighbourhood Plans, until 6 May 2021
- 7.2 Arrangements for the exercise of powers in decision making relating to Neighbourhood Planning were agreed by the Executive Member for Council Strategy and Community Cohesion (the Leader of the Council) and delegated to the Executive Member for Planning and Transport and the Director of Place, Planning and Regeneration (in respect of administrative decisions only), by way of his decision of the 10 September 2015 as referenced in the report at paragraph 2.4.
- 7.3 It is therefore noted, that should the Executive Member be minded to agree the form and content of the 'Decision Statement' set out in Appendix A, the administrative function of publicising the 'Decision Statement' will be undertaken by the Director of Place, Planning and Regeneration by way of delegated powers (decision 11).
- 7.4 Paragraphs 6.1 to 6.5 of the report confirm that the Council has fully complied with its statutory obligations pursuant to the Regulations and the Act concerning consultation and the appointment of the independent Examiner.
- 7.5 Further, the Council has considered and duly responded to each of the recommendations made in the Examiner's report in accordance with (paragraph 12(2) of Schedule 4B of) the Act. The Council's considerations form the 'Decision Statement' and are incorporated into the Schedule of Modifications set out at Appendix A of the report pursuant to Regulation 18. It is therefore satisfied that the modified Crowthorne Neighbourhood Plan can be submitted to a local community referendum pursuant to paragraph 14 of Schedule 4B of the Act, subject to the Executive Members' approval.

Financial Advice

- 7.6 The Council has a statutory duty to facilitate and administer the neighbourhood planning process. Any costs incurred have to be funded, although it has previously been possible to access some grant funding. As stated in para 6.18, the Council

UNRESTRICTED

should be able to submit a claim following the publication of the 'Decision Statement' although the exact arrangements and amount of assistance are not yet known. In addition to those costs already incurred, there are financial costs in respect of arranging the referendum.

- 7.7 So far, the work of supporting the preparation of the Crowthorne Neighbourhood Plan has been carried out predominantly by staff within Place, Planning and Regeneration. In addition, the Examiner has had to be paid. To date the work has been resourced from within existing budgets. It is unclear at this stage what the total cost of the process of 'making' the Neighbourhood Plan will be, where possible these will be met from available grants and existing budgets.

Equalities Impact Assessment

- 7.8 An EIA screening exercise has been undertaken and has found that the policies in the Crowthorne Neighbourhood Plan are not considered to prejudice any particular section of the community.

8 Consultation

- 8.1 The Council carried out formal consultation (Regulation 16) on the Plan between 23 September and 4 November 2019 in line with statutory requirements. The Regulations require the Council to publish the 'Decision Statement' on the Council's website and make it available for inspection at libraries and the Council's offices. Due to measures taken in respect of the Coronavirus it is not currently possible to make the document available for inspection at the libraries or Council's offices. However, the documents will be put on the Council's website. Furthermore, at the time of the referendum, the electorate of Crowthorne Parish will be able to democratically vote on whether or not the Crowthorne Neighbourhood Plan should be 'made' and become part of the Development Plan for Bracknell Forest.

Background Papers

- The Neighbourhood Planning (General) Regulations 2012 (as amended)
- Town and Country Planning Act 1990 (as amended)
- Coronavirus Act 2020
- The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020
- Crowthorne Parish Neighbourhood Area Designation, Submission Consultation information and Examiner's report: <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>

Appendices

- A – Post Examination Decision Statement on the Crowthorne Neighbourhood Plan
B – Crowthorne Neighbourhood Plan (incorporating modifications)

Contact for further information

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