

**TO: EXECUTIVE MEMBER FOR PLANNING & TRANSPORT
16 OCTOBER 2019**

**CONSULTATION RESPONSE ON THE SUBMISSION VERSION OF THE CROWTHORNE
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 15 June 2016, Crowthorne Parish Council was designated as a qualifying body for the Crowthorne 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 Crowthorne 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 Crowthorne 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).

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 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 Crowthorne Parish Council is the Qualifying Body for the purposes of Neighbourhood Planning in Crowthorne Parish. 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, including carrying out 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 an Executive decision on 8 March 2019, the Executive Member for Planning and Transport approved this Council's formal response to the pre-submission version of the draft Crowthorne Neighbourhood Plan on 15 March 2019. 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, Crowthorne 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 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 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. 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 2 September 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 Crowthorne Neighbourhood Plan pursuant to Regulation 16; and,
 - appoint 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.
- 5.6 Following agreement from the Executive Member, public consultation on the Submission version of the Plan started on 23 September 2019 and ends on 4 November 2019². An Examiner will soon be appointed.

² Public consultation on the Submission version of the Plan is available to view:
https://consult.bracknell-forest.gov.uk/portal/planning/crowthorne_neighbourhood_plan_reg_16

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 it will be up to them to decide whether or not a separate response is required).
- 6.2 Following the close of the consultation, the proposed Plan will be submitted for independent examination. If successful at local referendum, the Crowthorne 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 Crowthorne Parish. Therefore, it is considered important that the Council makes comments on this stage of the Plan.
- 6.3 The Submission Plan for Crowthorne contains 13 policies, including policies relating to design, green infrastructure, local gaps, employment areas and retail.

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 and Highways and Transport. 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 Crowthorne Neighbourhood Plan.

Details of Response

- 6.5 The Crowthorne 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 a list of strategic policies). The issues relating to Basic Conditions 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):

- Policies Map

The Policies Map clearly indicates the areas covered by each policy as a whole. However, it does not indicate the locations of some of the specific features mentioned within some of the policies (such as the 'historic core'). This results in ambiguity, as it is not clear where these features are and how a decision maker should use the policies in these instances. As a result of this ambiguity, the policy is considered to be contrary to national planning policy and basic condition A.

- Policy CR1

This policy is ambiguous as some of the points in the list are too prescriptive to be applied to all new development within the parish and it is not clear which points should be adhered to when assessing proposals. The policy wording also causes ambiguity, as the term 'historic houses' is subjective, and it is not clear how proposals would be expected to 'have regard' to the listed features. As a result of this ambiguity, the policy is considered to be contrary to national planning policy and basic condition A. Concern is also expressed that the reference to 'typically low densities' and to buildings 'typically one or two storeys in height' will constrain development in a manner not supported by national policy or local strategic policy and as such will not contribute to the achievement of sustainable development. As a result, the policy is also considered to be contrary to basic conditions D and E.

- Policy CR2

This policy is ambiguous as some of the points in the list are too prescriptive to be applied to all new development within the character area and it is not clear which points should be adhered to when assessing proposals. The policy wording also causes ambiguity, as it is not clear how proposals would be expected to 'have regard' to the listed features. As a result of this ambiguity, the policy is considered to be contrary to national planning policy and basic condition A.

- Policies CR3 and CR5

These policies are ambiguous as some of the points in the list are too prescriptive to be applied to all new development within their respective character areas and it is not clear which points should be adhered to when assessing proposals. The wording within the policies also causes ambiguity, as some of the terms used are subjective and it is not clear how proposals would be expected to 'have regard' to the listed features. As a result of this ambiguity, the policies are considered to be contrary to national planning policy and basic condition A.

- Policy CR4

This policy's wording results in ambiguity, as some of the terms used are subjective and it is not clear how proposals would be expected to 'have regard' to the listed features. As a result of this ambiguity, the policy is considered to be contrary to national planning policy and basic condition A.

- Policy CR6

This policy is ambiguous as some of the points in the list are too prescriptive to be applied to all new development within the character area and it is not clear which points should be adhered to when assessing proposals. As a result of this ambiguity,

the policy is considered to be contrary to national planning policy and basic condition A.

- Policy CR7

This policy is ambiguous as it is not clear where the 'views out of the character area' that need to be protected are located. As a result of this ambiguity, the policy is considered to be contrary to national planning policy and basic condition A.

- Policy CR8

Concern is expressed that the requirement for a strategic gap between the defined settlement at the former Transport Research Laboratory and the defined settlement of Bracknell is out of the scope of this Neighbourhood Plan, as the gap would be located within the parish of Bracknell Town. It is also not clear what exact area this gap covers as it is not indicated on the policies map. As a result of these issues, the policy is considered to be contrary to national planning policy and basic condition A. Concern is also expressed that the policy would hinder the implementation of policy SA5, as the policy adds further design requirements to development on this site despite the agreed design code. The policy is therefore considered to be contrary to local strategic planning policy and basic condition E.

- Policies CR9 and CR10

Concern is expressed that specifying who should design the lettering for signage is outside the scope of neighbourhood plan (or any other) policies. As a result of this ambiguity, these policies are considered to be contrary to national planning policy and guidance and basic condition A.

- Policy CR11

Concern is expressed that the policy is contrary to strategic policies CS19 and CS20 as the Broadmoor employment area indicated on the policies map differs from the designated Broadmoor employment area indicated in the Bracknell Forest Policies Map. The policy is therefore considered to be contrary to local strategic planning policy and basic condition E.

- Policy CR12

Concern is expressed that the policy is ambiguous and therefore contrary to national policy as it is not clear whether or not the policy intends to improve access to the Thames Basin Heaths SPA. If this is the intention, the policy would be contrary to local strategic policy and the requirement that the making of a neighbourhood plan is not likely to have a significant effect on a European site. It is also unclear when harm to the green infrastructure network would be considered unavoidable. As a result of these issues the policy is contrary to basic condition A and may be contrary to basic conditions E and F.

- Policy CR13

The wording of this policy causes it to be contrary to local strategic policies, basic condition E, and basic condition F, as it undermines current strategic policy that prevents any development that lacks proof that it will not have an adverse effect on the SPA from being permitted. Concern is also expressed that the policy is ambiguous and is contrary to basic condition A as it is not clear what is meant by 'local biodiversity assets' and what types of development will be required to demonstrate biodiversity net gain.

Other suggested changes/comments

- 6.9 During the Pre-Submission consultation on the Crowthorne Neighbourhood Plan the Council submitted a response which included a table of technical comments which included suggested changes to the structure of the plan and policies/supporting text. Whilst comments that are not related to the basic conditions have not been included within this response, the Council considers that, wherever not implemented, the previously suggested changes to the structure of the document would improve its usability. Likewise, the Council considers that, wherever not implemented, the previously 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.

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 8 March 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 that 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 Crowthorne Neighbourhood Plan. If the referendum is successful (which requires a simple majority of those voting), the Crowthorne 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 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 Grant funding of £20,000 (from the Government) 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. Whilst the grant funding will not be sufficient to cover the costs, the shortfall may be accommodated through existing budgets within Planning.
- 6.13 The work of supporting the preparation of the Crowthorne Neighbourhood Plan has been carried out in accordance with the Service Level Agreement agreed between the Council and Crowthorne 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 Executive approval of the Council's formal response on the Crowthorne 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, however any funding shortfall is unlikely to be significant and may be accommodated by existing budgets within Planning.

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 23 September to 4 November 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
- Crowthorne Neighbourhood Area Designation:
- <https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/neighbourhood-planning/crowthorne-parish-neighbourhood-area>
- Crowthorne Neighbourhood Plan Submission consultation:
- https://consult.bracknell-forest.gov.uk/portal/planning/crowthorne_neighbourhood_plan_reg_16
- 21 February 2019 Executive Report (item 2):

[http://democratic.bracknell-](http://democratic.bracknell-forest.gov.uk/mgIssueHistoryHome.aspx?Id=85362&PlanId=2032&RPID=41835126)

[forest.gov.uk/mgIssueHistoryHome.aspx?Id=85362&PlanId=2032&RPID=41835126](http://democratic.bracknell-forest.gov.uk/mgIssueHistoryHome.aspx?Id=85362&PlanId=2032&RPID=41835126)

Appendices

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

Contact for further information

Andrew Hunter (Director: Place, Planning & Regeneration)

Tel: 01344 351907

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