

**To: THE LEADER OF THE COUNCIL / EXECUTIVE MEMBER FOR COUNCIL
STRATEGY AND COMMUNITY COHESION**

(30 June 2021)

**Publication of Decision Statement and submission of the Bracknell Town
Neighbourhood Plan to a referendum
Director of Place, Planning and Regeneration**

Executive Summary

- 1.1 Following receipt of the Bracknell Town 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 with Bracknell Town Council, the Council is satisfied that it is appropriate to amend the Bracknell 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 (see Appendix A). 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 Neighbourhood Plan to be sent to a local community referendum (anticipated referendum will be early in September).

2 Purpose of Report

- 2.1 Bracknell Town 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, 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 Bracknell Town 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 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' on 10 September 2015, (amended by Leader decision on 26 February 2016). (The Leader/ Executive Member for Council Strategy and Community Cohesion has subsequently agreed to make the decisions (the subject of this report) instead of Executive).

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- 2.5 The purpose of this report is therefore to seek agreement from the Leader/ Executive Member for Council Strategy and Community Cohesion 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 Bracknell Town Neighbourhood Plan (and associated Policies Maps) to a local community referendum based on the designated area (anticipated referendum will be early in September).

3 Recommendations

3.1 That the Leader/ Executive Member for Council Strategy and Community Cohesion agrees the:

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

(2) submission of the modified Bracknell Town Neighbourhood Plan, including associated Policies Maps (contained in Appendices B and C of this report) to a local community referendum on the making of the Bracknell Neighbourhood Plan pursuant to paragraph 14 of Schedule 4B of the Town and Country Planning Act 1990 (as amended) ("the Act") (anticipated referendum will be early in September) and,

(3) referendum area be restricted to the neighbourhood area as designated by the Council on 11 February 2014 as the Bracknell Town 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

- 6.1 Bracknell Town Council is the Qualifying Body for the purposes of Neighbourhood Planning in the Town of Bracknell. The Council designated the Bracknell Town Council administrative area as a Neighbourhood Area for the purposes of Neighbourhood Planning on 11 February 2014. Bracknell Town Council submitted its Neighbourhood Plan and supporting documentation to the Council on 28 November 2018.
- 6.2 The Director of Place, Planning and Regeneration confirmed in writing to Bracknell Town Council on 6 December 2018 that the submitted documentation complied with the statutory requirements as set out in the Act and Regulation 15 of the Regulations. The Leader/Executive Member for Council Strategy and Community Cohesion 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 (decision of 18 December 2018). Public consultation was held between 7 January and 18 February 2019. The Council also submitted a representation during this consultation period which was agreed by the Executive Member for Council Strategy and Community Cohesion in a decision on 7 February 2019.
- 6.3 With the consent of Bracknell Town Council, the Council appointed Mr John Slater 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 (under Regulation 17) following the close of the Regulation 16 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). Following an initial assessment of the plan and accompanying documents, the examiner decided to hold a public hearing on 14 May 2019 at Bracknell Town Council's offices. Following that hearing, the examiner issued 'Interim Conclusions' and gave the Town Council three options for taking the plan forward. The Town Council decided to follow the option of reconfiguring the submitted documents.
- 6.5 In response to the Examiner's 'Interim Conclusions' (June 2019), Bracknell Town Council submitted an amended Plan, and Schedule of Changes. The Examiner then issued 'Further Comments' (November 2019).
- 6.6 As a result, a focused consultation (for those who commented at the Regulation 16 stage) was held between 18 November and 16 December 2019. The comments received in response to the focused consultation were then sent to the Examiner for consideration.
- 6.7 The Examiner's report was issued on 23 April 2020 and recommended 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.

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

Context

- 7.1 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

- 7.2 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).

- 7.3 A brief summary of the Examiner's key recommendations is set out below:

- Amalgamate Policies EV1 and EV2 so as to refer only to Open Space of Public Value.
- Adjust the local green space boundaries to remove non-green space areas from Easthampstead Park and South Hill Park.
- Create two new comprehensive policies dealing respectively with tree protection and tree planting (previously three separate policies).
- Restrict scope of air quality policy to apply to only areas within or adjacent to Air Quality Management Areas.
- Reduce the area covered by the South Hill Art Centre policy to exclude the areas which are covered by the local green space designation
- Clarify that the co-location of the community facilities policy is to allow mixed-use development to support local community facilities.
- Revise the historic parkland policy based on the wording proposed by Historic England.
- Differentiate between a development that causes substantial harm and less than substantial harm to designated heritage assets.
- Remove extensions and outbuildings from the scope of the infill and backland development policy.
- Reduce the number of criteria by which HMO proposals are to be considered.
- Reword the biodiversity wildlife corridor policy to clarify its requirements.
- Delete the tall buildings safety policy.
- Delete requirements to require financial contributions to the provision of cycle racks and bus services.
- Delete buses policy.
- Revise the transport assessment policy to bring it in line with national policy.

- 7.4 In accordance with the Examiner's recommendations, the Decision Statement sets out that the Council agrees to making to the required changes to the Plan, in order to meet Basic Conditions.

- 7.5 In accordance with paragraphs 58 and 142 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.

- 7.6 The 'Decision Statement' also deals with sending the Neighbourhood Plan to referendum. Having considered the Examiner's recommendation on the extent of

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the referendum area (paragraph 140), 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 Bracknell Town Neighbourhood Area.

- 7.7 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 this instance it has been necessary to agree a later date with Bracknell Town Council due to the Coronavirus outbreak, time needed to amend the Neighbourhood Plan to reflect the Examiners recommendation's, and compile the 'Decision Statement' in consultation with the Town Council.
- 7.8 If the Executive Member for Council Strategy and Community Cohesion 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 26 February 2016 Leader decision (decision 11). It will also be sent to Bracknell Town Council and any person who asked to be notified of the decision.

Submitting the Plan to referendum

- 7.9 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.
- 7.10 It is not possible to 'make' the Bracknell Town 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 Guidance), 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 Bracknell Town.

Resource Implications

- 7.11 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.
- 7.12 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 Interim Chief Planner (Ministry of Housing, Communities and Local Government) in August 2020, it was confirmed that for the 2020/21 financial year, that local planning authorities could claim £20,000 where they issued a decision statement detailing their intention to send a plan to referendum (rather than when a referendum date had been set). The position for the 2021/22 financial year has not yet been confirmed.
- 7.13 So far, the work of supporting the preparation of the Bracknell Town

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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 Bracknell Town Neighbourhood Plan.

8. Advice received from statutory and other officers

Legal Advice

- 8.1 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.
- 8.2 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) by way of his decision of the 26 February 2016.
- 8.3 It is therefore noted, that should the Leader/Executive Member for Council Strategy and Community Cohesion 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).
- 8.4 Paragraphs 6.1 to 6.7 of this report confirms 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.
- 8.5 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 Bracknell Town Neighbourhood Plan (as contained in Appendices B and C) can be submitted to a local community referendum pursuant to paragraph 14 of Schedule 4B of the Act, subject to the Leader/Executive Member for Council Strategy and Community Cohesion's approval.

Financial Advice

- 8.6 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 7.11, the Council should be able to submit a claim following the publication of the 'Decision Statement' although the exact arrangements and amount of assistance

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are not yet known. In addition to those costs already incurred, there are financial costs in respect of arranging the referendum.

- 8.7 So far, the work of supporting the preparation of the Bracknell Town 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 this will be met from available grants and existing budgets.

Other consultation Responses

- 8.8 See Section 9.

Equalities Impact Assessment (EqIA)

- 8.9 An EqIA screening exercise has been undertaken and has found that the policies in the Bracknell Town Neighbourhood Plan are not considered to prejudice any particular section of the community (see Appendix D).

Climate change implications

- 8.10 The recommendations in Section 3 above are expected to have no impact on emissions of CO₂.
- 8.11 The reasons the Council believes that this have no impact on emissions are due to the Neighbourhood Plan containing policies, which include the following:
- encourages proposals to demonstrate best practices in energy efficiency and generation, including use of sustainable materials and design of recycling facilities energy efficiency in new buildings (Policy HO8),
 - expects proposals to retain and, where possible, enhance, improve and complete, unfinished, existing, cycleways and footpaths to Bracknell Town Centre, schools and between them and residential neighbourhood (Policy TR2).
 - requirement for new development proposals which introduce new sensitive receptors (such as dwellings) within and adjacent to Air Quality management Areas to demonstrate that UK legislative limits for human health can be met (Policy EV9)
 - retain/protect trees, and where possible all new development to incorporate tree planting within landscape proposals (Policies EV4 and EV5)

9 Consultation

- 9.1 The Council carried out formal consultation (Regulation 16) on the Plan between 7 January and 18 February 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. The documents will be put on the Council's website. Subject to any measures taken in respect of the Coronavirus it is also intended to make the document available for inspection at Bracknell Central library. At the time of the referendum, the electorate of Bracknell Town will be able to democratically vote on whether or not the Bracknell Town Neighbourhood Plan should be 'made' and become part of the Development Plan for Bracknell Forest.

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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
- Planning Practice Guidance, Neighbourhood Planning: <https://www.gov.uk/guidance/neighbourhood-planning--2#the-independent-examination>
- Interim Chief Planner letter relating to update on financial report for neighbourhood planning in 2020 to 2021 (June 2020): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/923286/200622_2020-21_Chief_Planners_Letter_NP_grant.pdf
- Amendments to the arrangements of powers relating to the Neighbourhood Planning Process (Leader decision of 26 February 2016): <http://democratic.bracknell-forest.gov.uk/mglIssueHistoryHome.aspx?lId=58779&optionId=0>
- Background information on the Bracknell Town Neighbourhood Plan: <https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/neighbourhood-planning/bracknell-town-neighbourhood-area>
- Bracknell Town Neighbourhood Plan Examiner's Report: <https://www.bracknell-forest.gov.uk/sites/default/files/documents/bracknell-town-neighbourhood-plan-examiners-report.pdf>

Appendices

- A. Post Examination Decision Statement on the Bracknell Town Neighbourhood Plan
- B. Bracknell Town Neighbourhood Plan (incorporating modifications),
- C. Bracknell Town Neighbourhood Plan Appendices (incorporating modifications),
- D. Equalities Impact Assessment Screening Form

Contact for further information

Andrew Hunter, Director of Place, Planning and Regeneration – 01344 351907
Andrew.Hunter@bracknell-forest.gov.uk