

To: **Executive Member for Planning and Transport**
18th August 2022

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

Executive Director: Place, Planning and Regeneration

Executive Summary

- 1.1 Following receipt of the Warfield 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 Warfield Parish Council, the Council is satisfied that it is appropriate to amend the Warfield 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. It is anticipated that the referendum will be held in October 2022.

2 Purpose of Report

- 2.1 Warfield 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, 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 Warfield 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' on 10 September 2015.

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- 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 Executive Director: Place, Planning and Regeneration; and,
 3. the submission of the modified Warfield Neighbourhood Plan to a local community referendum based on the designated area (anticipated referendum will be in October 2022).

3 Recommendations

3.1 That the Executive Member for Planning and Transport agrees:

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

(2) the submission of the modified Warfield Neighbourhood Plan to a local community referendum on the making of the Warfield Neighbourhood Plan pursuant to paragraph 14 of Schedule 4B of the Town and Country Planning Act 1990 (as amended) ("the Act") and,

(3) that the referendum area be restricted to the neighbourhood area as designated by the Council on 23 July 2014 as the Warfield 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 Warfield Parish Council is the Qualifying Body for the purposes of Neighbourhood Planning in the Parish of Warfield. The Council designated Warfield Parish as a Neighbourhood Area for the purposes of Neighbourhood Planning on 23 July 2014. Warfield Parish Council submitted its Neighbourhood Plan and supporting documentation to the Council on 24 January 2019.
- 6.2 The Executive Director: Place, Planning and Regeneration confirmed in writing to Warfield Parish Council on 4 February 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 5 March and 16 April 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 15 March 2019.
- 6.3 With the consent of Warfield Parish Council, the Council appointed Ms Jill Kingaby 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).
- 6.5 Following an initial assessment of the plan and accompanying documents, the examiner decided that, amongst other matters, a Habitats Regulations Assessment (HRA) of the Neighbourhood Plan was required to be undertaken. Following completion of the HRA; given the time that had elapsed resulting in other work commitments, with the agreement of Warfield Parish Council, it was necessary for the Council to appoint Ms Mary O'Rourke as a new Examiner to progress the examination.
- 6.6 Following submission of the HRA, together with the Warfield Parish Council's intention to amend the Plan period to 2037 and make commensurate amendments to the Plan's text, a 6 week focussed public consultation was held between 28 June and Monday 9 August 2021. 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 17 January 2022 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 are as follows:

- Amend 'Policy WNP2: Hayley Green Allocation', to reflect the recommendations of the supporting HRA, to ensure that the site is developed comprehensively via a single outline planning permission and not in a piecemeal fashion, and to allow for detailed matters of design and appearance to be agreed at the reserved matters applications stage by the local planning authority.
- Remove Warfield Park from the Local Gap designation, given that a policy objective is to prevent coalescence and Warfield Park is an established community of over 500 residential park homes on the edge of Bracknell.
- Remove Warfield Memorial Ground from Policy 'WNP9: Local Green Space Designations', given that planned redevelopment of the existing sports pavilion could impact on openness.
- Delete the list of community facilities and assets from 'Policy WNP10: Supporting Community Assets' and instead amend text to capture all existing and new facilities and assets that might be provided during the life of the Plan.
- Delete 'Policy WNP11: Supporting Rural Diversification' as it was more restrictive and conflicted with national policy.

7.4 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 Warfield 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.

7.5 In accordance with paragraph 4.65 of the Examiner's report, the Council has also proposed some further minor amendments to the Plan's text as a consequence of the recommended modifications, and other minor changes and updates.

7.6 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 (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

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Plan relates', the Council agrees with the Examiner's recommendation that the referendum area should be the designated Warfield 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 Warfield Parish Council to allow the time needed to amend the Neighbourhood Plan to reflect the Examiners recommendation's, and compile the 'Decision Statement' in consultation with the Parish Council.
- 7.8 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 Executive Director: Place, Planning and Regeneration by the 10 September 2015 decision (decision 11). It will also be sent to Warfield Parish Council and any person who asked to be notified of the decision. The publication of a 'Decision Statement' (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012) as amended, detailing the intention to send a neighbourhood plan to referendum, means that significant weight can be given to the policies in decision-making, so far as the plan is material to the application.

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 Warfield 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 Warfield Parish.

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 In a letter from the Chief Planner (Ministry of Housing, Communities and Local Government) in June 2022, it has been confirmed that for the year 2022/23 local planning authorities can claim £20,000 when they issue a decision statement detailing their intention to send the plan to referendum following a successful examination where a neighbourhood plan had not previously been made for that area.
- 7.13 So far, the work of supporting the preparation of the Warfield Neighbourhood Plan has been carried out predominantly by staff within Place, Planning and Regeneration. Now the Neighbourhood Plan has reached such an advanced

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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 Warfield Neighbourhood Plan.

8. Consultation and Other Considerations

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. 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.
- 8.2 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 Executive Director: Place, Planning and Regeneration by way of delegated powers (decision 11).
- 8.3 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.
- 8.4 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 Warfield Neighbourhood Plan (as contained in Appendix B) can be submitted to a local community referendum pursuant to paragraph 14 of Schedule 4B of the Act, subject to the Executive Member's approval.

Financial Advice

- 8.5 The Council has a statutory duty to facilitate and administer the neighbourhood planning process. Any costs incurred have to be funded, and as stated in para 7.12, the Council would be able to submit a claim for £20,000 of grant funding following the publication of the 'Decision Statement'. In addition to those costs already incurred, there are financial costs in respect of arranging the referendum.
- 8.6 So far, the work of supporting the preparation of the Warfield 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

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8.7 See Section 9.

Equalities Impact Assessment (EqIA)

8.8 An EqIA screening exercise has been undertaken and has found that the policies in the Warfield Neighbourhood Plan are not considered to prejudice any particular section of the community (see Appendix C).

Strategic Risk Management Issues

8.9 There are not considered to be any strategic risk management issues as a result of recommendations in Section 3 of this report.

Climate Change Implications

8.10 The WNP has been subject to a Sustainability Appraisal, incorporating Strategic Environmental Assessment (SEA). It concluded that the WNP performed well in relation to many objectives; that the preferred spatial option presented a stronger environmental, social and economic case than the alternative options; and that any negative effects would not be significant and would be minimised by appropriate mitigation in the policies.

8.11 The recommendations in Section 3 above are not therefore considered to have any significant implications on climate change.

Health & Wellbeing Considerations

8.12 There are not considered to be any health and wellbeing considerations arising as a result of recommendations in Section 3 of this report.

9 Consultation

9.1 The Council carried out formal consultation (Regulation 16) on the Plan between 5 March and 16 April 2019, in line with statutory requirements. The Regulations require the Council to publish the 'Decision Statement' on the Council's website and in such other manner to bring the decision to the attention of people who live, work or carry on business in the neighbourhood area. The documents will be put on the Council's website and be made available for inspection at Warfield Parish Council's office and at Whitegrove Library in the parish. At the time of the referendum, the electorate of Warfield Parish will be able to democratically vote on whether or not the Warfield 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)
- Planning Practice Guidance, Neighbourhood Planning:
<https://www.gov.uk/guidance/neighbourhood-planning--2#the-independent-examination>
- Chief Planner letter relating to update on financial support for neighbourhood planning in 2022/23 (30 June 2022):
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1087202/Letter_from_the_Chief_Planner_Neighbourhood_Planning_Grant_Update.pdf
- Background information on the Warfield Neighbourhood Plan:
<https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/neighbourhood-planning/warfield-neighbourhood-area>

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- Warfield Neighbourhood Plan Examiner's Report:
<https://www.bracknell-forest.gov.uk/sites/default/files/2022-01/e29-warfield-neighbourhood-plan-examiners-report-17january2022.pdf>

Appendices

- A. Post Examination Decision Statement on the Warfield Neighbourhood Plan
- B. Warfield Neighbourhood Plan (incorporating modifications)
- C. Equalities Impact Assessment Screening Form

Contact for further information

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