

To: **EXECUTIVE MEMBER FOR PLANNING AND TRANSPORT**
2 September 2022

**PUBLICATION OF SUBMISSION VERSION OF WINKFIELD NEIGHBOURHOOD PLAN
AND APPOINTMENT OF AN EXAMINER**

Executive Director: Place, Planning & Regeneration

1 Purpose of Report

- 1.1 Winkfield Parish Council is preparing a Neighbourhood Development Plan for the area, which covers the whole Parish of Winkfield 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 2022, 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 were 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 the agreement of the Council to undertake public consultation on the proposed Winkfield Neighbourhood Plan from Thursday 20 October to Friday 2 December 2022 and to appoint an independent Examiner. Later in the process there will be further decisions to agree the Council’s Regulation 16 consultation response, the form, content and publication of the Decision Statement, and, submission of the Neighbourhood Plan to referendum.

2 Recommendation

- 2.1 **That the Executive Member for Planning and Transport agrees that the Council:**
- (1) undertakes public consultation on the submission version of the Winkfield Neighbourhood Plan pursuant to Regulation 16; and**
 - (2) appoints an independent Examiner to undertake the examination of the Winkfield 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 Supporting Information

- 5.1 Winkfield Parish Council is the qualifying body for the purposes of neighbourhood planning in Winkfield and the Council designated Winkfield Parish as a Neighbourhood Area on 24 December 2015. Since then, Winkfield 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 from 10 March to 29 April 2022, in accordance with Regulation 14 of the Regulations. Following approval from the Executive Member for Planning & Transport on 8 April 2022, this Council provided a formal response to the pre-submission version of the draft Winkfield Neighbourhood Plan which included comments on technical issues and a detailed schedule of comments.
- 5.2 Following the close of the pre-submission consultation, Winkfield Parish Council considered all consultation responses received and amended its Neighbourhood Plan as it considered appropriate. In accordance with Regulation 15, a Consultation Statement has been produced.
- 5.3 Winkfield Parish Council submitted its Neighbourhood Plan and supporting documentation (including the Consultation Statement), to the Council on 22 July 2022.
- 5.4 The Executive Director: Place, Planning & Regeneration has confirmed in a letter dated 04 August 2022 to Winkfield 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 Chief Officer: Planning and Transport (duties now lie within the purview of the Executive Director: Place, Planning & Regeneration) and does not consider the content of the plan or whether it meets the basic conditions.

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

Context

- 5.5 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 have provided support during the preparation of the Neighbourhood Plan. This has included providing informal comments and advice in respect of the emerging Neighbourhood Plan.

Publicising a plan proposal

- 5.6 The Regulations require the Council to undertake a six week public consultation on the proposed Winkfield 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 Winkfield Parish Council has submitted the Winkfield Neighbourhood Plan and associated required documentation and has met the statutory requirements. It is therefore proposed that the consultation will run from Thursday 20 October to Friday 2 December 2022.
- 5.7 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 Winkfield Neighbourhood Plan to the attention of people who live, work or carry out business in the Winkfield Neighbourhood Area. This includes:
- details of the proposed Winkfield Neighbourhood Plan,
 - details of where and when the Winkfield 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 is 'made').

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

- 5.8 During the 6-week public consultation, interested parties will be able to make written representations on the proposed Winkfield Neighbourhood Plan. In accordance with National Planning Practice Guidance¹, representations should address whether or not the proposed Winkfield 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

- 5.9 The legislation requires the Council to appoint an independent Examiner to carry out the examination. Winkfield 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 Winkfield Parish Council and Bracknell Forest Council,
 - does not have an interest in any land that may be affected by the Winkfield Neighbourhood Plan, and,
 - has appropriate qualifications and experience.

- 5.10 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 Bracknell Town, Warfield and Crowthorne Neighbourhood Plans. Examiners' at

¹ Paragraph Reference ID: 41-057-20140306

NPIERS and IPe charge £750 plus VAT per day and expenses. IPe also have fixed fee examination packages from £4,875 (without hearing) and £7,500 (with hearing) plus VAT and expenses.

5.11 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 5.9 above;
- confirm that they are suitable candidates; and,
- provide CVs of suitable Examiners for consideration.

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

5.12 This report seeks approval of the principle of appointing an Examiner (decision 4 of the 26 February 2016 report). However, the administration relating to the appointment of the Examiner and submission of the Winkfield Neighbourhood Plan is delegated to the Chief Officer: Planning and Transport (duties now lie within the purview of the Executive Director: Place, Planning & Regeneration). It is recommended that the Council apply to the referral services (NPIERS and IPe) for a suitable independent Examiner.

Submitting the plan for examination

5.13 Once the consultation has closed, the proposed Winkfield 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. 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.

5.14 Once the Examiner has considered the Winkfield 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 proposed Neighbourhood Plan is refused.

5.15 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.

5.16 The Examiner must send a copy of his/her report to Bracknell Forest Council and to Winkfield Parish Council (as the Qualifying Body).

5.17 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 Winkfield Parish.

Resource Implications

- 5.18 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.
- 5.19 The Council has already received £5,000 of Government grant funding following the designation of the Winkfield Neighbourhood Area. At the moment, a further £20,000 is available to claim once the Council has issued a decision statement detailing its intention to send the plan to referendums. 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 Winkfield Parish, the estimated cost of a standalone referendum is £25,000; however, the Examiner might require the referendum area to be extended beyond the Winkfield 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.
- 5.20 The work of supporting the preparation of the Winkfield Neighbourhood Plan 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.

6 Consultation and Other Considerations

Legal Advice

- 6.1 The recommendations of the report seek the Executive Member's approval for the Council to: undertake a public consultation on the submission version of the Winkfield Neighbourhood Plan (in accordance with Regulation 16) and to appoint an independent Examiner to examine the Winkfield Neighbourhood Plan (in accordance with paragraph 7 of Schedule 4B of the Act and Regulation 17).
- 6.2 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.
- 6.4 Revised governance arrangements for the discharge of decisions in relation to facilitating the Neighbourhood Planning Process were approved by the Leader in February 2016. The approval of undertaking public consultation and appointing an examiner have been delegated to the Executive Member for Planning and Transport.

Financial Advice

OFFICIAL SENSITIVE (COMMERCIAL)/OFFICIAL SENSITIVE (PERSONAL)

- 6.5 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.

Other Consultation Responses

- 6.6 Electoral services were consulted on this report regarding the referendum cost set out in paragraph 5.19.

Equalities Impact Assessment

- 6.7 An Equalities Impact Assessment is not considered relevant as report is concerned with administrative matters.

Strategic Risk Management Issues

- 6.8 There are no Strategic Risk Management issues arising from this report.

Climate Change Implications

- 6.9 The recommendations in Section 2 above are expected to have no impact on emissions of CO₂.
- 6.10 The reasons the Council believes that this will have no impact on emissions is that the recommendations are concerned with publicising the Neighbourhood Plan for consultation and appointing an independent examiner.

Health and Wellbeing Considerations

- 6.11 There are no health and wellbeing considerations arising from this report.

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/>
- Winkfield Parish Neighbourhood Area Designation: <https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/neighbourhood-planning/winkfield-neighbourhood-area>
- Winkfield Parish Council's draft Winkfield Neighbourhood Plan pre-submission consultation: <http://winkfieldnp.org/pre-submission/>
- Bracknell Forest Council decision relating to the Winkfield Neighbourhood Plan Pre-Submission consultation response: <https://democratic.bracknell-forest.gov.uk/mglssueHistoryHome.aspx?lId=105842&PlanId=2455&RPID=55533422>

Appendices

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

Contact for further information

OFFICIAL SENSITIVE (COMMERCIAL)/OFFICIAL SENSITIVE (PERSONAL)

Andrew Hunter (Executive Director: Place, Planning & Regeneration)

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Appendix A

██████████
 Clerk to the Council
 Winkfield Parish Council

██████████
 04.08.2022

Dear ██████████

SUBMISSION OF WINKFIELD NEIGHBOURHOOD PLAN – STATUTORY CRITERIA CONFIRMATION

Please accept this letter as formal confirmation of the receipt of the proposed Winkfield Neighbourhood Plan and associated documentation which was submitted to Bracknell Forest Council on 22 July 2022.

It was resolved by the Council's Executive Member for Council Strategy and Community Cohesion on the 10th September 2015 to delegate the review of the proposal and confirmation to the 'qualifying body' of whether the statutory criteria have been satisfied to the Chief Officer: Planning and Transport (duties now lie within the purview of the Executive Director: Place, Planning & Regeneration) in accordance with Schedule 4B paragraph 6(4a) Town and Country Planning Act 1990 (as amended).

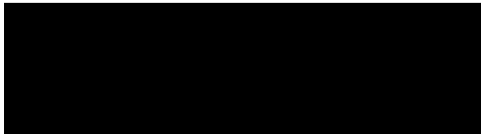
The statutory criteria are set out in Schedule 4B of the Town and Country Planning Act 1990 (as amended) and the Neighbourhood Planning (General) Regulations 2012 (as amended).

Statutory Criteria	Satisfied (Yes/ No)
Schedule 4B of the Act paragraph 6(2a) – qualifying body entitled to submit a proposal in relation to the Neighbourhood Area.	Yes
Schedule 4B of the Act paragraph 6(2a) – proposal complies with provision made by or under section 61F (authorisation to act in relation to Neighbourhood Areas).	Yes
Schedule 4B of the Act paragraph 6(3) – does the draft Neighbourhood Development Plan comply with provisions made by or under section 61E(2), 61J and 61L (policies relate to the use of land for the designated neighbourhood area, the plan specifies the period to which it has effect, does not include provision about development that is 'excluded development', and does not relate to more than one neighbourhood area).	Yes
Schedule 4B of the Act paragraph 4(3) – pre-submission consultation (regulation 14) been complied with before the proposal submitted.	Yes
Regulation 15(1a) - proposal includes a map or statement which identifies the area to which the proposed neighbourhood plan relates.	Yes
Regulation 15(1b) - proposal includes a consultation statement.	Yes

Statutory Criteria	Satisfied (Yes/ No)
Regulation 15(1c) - proposal includes the proposed Neighbourhood Development Plan.	Yes
Regulation 15(1d) - proposal includes a statement explaining how the proposed neighbourhood Development Plan meets the 'basic conditions' (Basic Condition Statement).	Yes
Regulation 15(1e)(i) – proposal includes an environmental report prepared in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004.	Yes

A copy of this letter will be attached to the report to the Executive Member for Planning and Transport which is seeking approval to commence the 'Regulation 16' consultation on the proposed Winkfield Neighbourhood Plan, and to appoint an independent Examiner to conduct the examination.

Yours sincerely,



Andrew Hunter
Executive Director: Place, Planning & Regeneration