

To: **EXECUTIVE MEMBER FOR PLANNING AND TRANSPORT**
24 November 2022

**CONSULTATION RESPONSE ON THE SUBMISSION VERSION OF THE WINKFIELD
NEIGHBOURHOOD PLAN (REGULATION 16) AND SUBMISSION OF THE PLAN FOR
EXAMINATION (REGULATION 17)**

Executive Director: Place, Planning & Regeneration

1 Purpose of Report

- 1.1 On 15 June 2016, Winkfield Parish Council was designated as a qualifying body for the Winkfield 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 Winkfield 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 2016).

2 Recommendation

- 2.1 **That the Executive Member for Planning and Transport agrees:**
- (1) **the Council’s response to the Submission version of the Winkfield 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 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 them 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).

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 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. 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.
- 5.5 On 2 September 2022, it was agreed by the Executive Member for Planning and Transport that the Council would:
- undertake public consultation on the Submission version of the Winkfield Neighbourhood Plan pursuant to Regulation 16; and,
 - appoint 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.
- 5.6 Public consultation on the Submission version of the Plan started on 20 October 2022 and ends on 2 December 2022¹. An Examiner will soon be appointed.

BRACKNELL FOREST COUNCIL'S RESPONSE

Context

- 5.5 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

¹ Public consultation on the Submission version of the Plan is available to view: www.bracknell-forest.gov.uk/winkfield-plan

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).

5.6 Following the close of the consultation, the proposed Plan will be submitted for independent examination. This will conclude with the Examiner issuing a report which may recommend modifications that he/she considers necessary to ensure that the Plan meets the basic conditions. After the Council has considered the content of the report, a 'Decision Statement' will be issued. Assuming that the Plan can proceed to the next stage, the Council is required to arrange and hold a referendum. If successful at local referendum, the Winkfield 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 Winkfield Parish. Therefore, it is considered important that the Council makes comments at this stage in the process.

5.7 The Submission Plan for Winkfield contains 13 policies, including policies relating to design, parking, housing, community facilities, employment, retail and local gaps.

Internal Consultation

5.8 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 Planning along with Highways and Transport.

Details of Response

5.9 Since the Winkfield Neighbourhood Plan will form part of the Development Plan once 'made', it is important that the Council provides comments on the wording of 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.

5.10 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. 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 retained EU obligations; and
- G) meeting prescribed conditions e.g., whether or not it has a significant effect on habitats sites.

Note, B) & C) are not referred to, as they only apply to Neighbourhood Development Orders.

5.11 The Council's full response is set out in Appendix A of this report which includes comments in relation to Basic Conditions (Appendix 1) and comments not relating to Basic Conditions (Appendix 2). The issues relating to Basic Conditions are summarised below:

- Policy W1 A Spatial Plan for the Parish
Criterion C 2nd bullet requires development on greenfield land to demonstrate how it is addressing otherwise unmet needs and objectives identified in the Local Plan or Neighbourhood Plan. However, national policy in the National Planning Policy Framework (NPPF) does not preclude development on greenfield land nor does it place any extra burden in terms of assessment of development proposals

on greenfield land. It is therefore considered that this is contrary to Basic Condition A as it is not consistent with national policy in the NPPF. Criterion C 3rd bullet refers to infill development not having an adverse impact on the openness of the Green Belt. However, there is no 'openness' test in NPPF para 149e. Therefore, it is considered that this does not reflect national policy and is contrary to Basic Condition A.

Criterion C 4 states "within the countryside (land outside the defined settlements, village boundaries and the Green Belt), development proposals will be permitted..." For clarity the wording should be amended to make it clear that the countryside is land outside the defined settlements, outside village boundaries and outside the Green Belt. Therefore, it is considered this would be contrary to Basic Condition A with regards to national policy as it is not clearly written and unambiguous.

- Policy W4 Housing type, size and choice

Criterion A states that on sites of fewer than 10 dwellings, at least 80% of the dwellings should be a mix of 1, 2 and 3-bedroom homes and an alternative mix may be delivered only where there is clear evidence. The need to measure 80% of very small developments (1,2 or 3 dwellings) makes it difficult to apply. Therefore, it is not clear how a mix of 3 sizes of dwellings can be achieved where only a small number of units are proposed. It would be preferable to have a threshold of between 5 and 9 dwellings.

Criterion B states that all rooms provided on the first floor or above which meet nationally described space standards and can provide a bedroom are to be counted as such. It is not clear how criterion B would be applied if a development was proposed where all rooms are on the ground floor. Therefore, it is considered that this would be contrary to Basic Condition A with regards to national policy as it is not clear how a decision maker should react to such development proposals).

Criterion C, 1st bullet encourages affordable homes, including Starter Homes. Despite setting out the legislative framework for Starter Homes in 2016, the Government announced the end of its Starter Homes policy in 2020. Reference to Starter Homes should be deleted or replaced with a more generic term to capture the intended need. Therefore, it is considered that, as written, this would be contrary to Basic Condition A as it is not consistent with national policy.

Criterion C, 2nd bullet refers to homes specifically developed for private rent. It is not clear how this would be implemented as no control can be exercised over this matter. Therefore, it is considered this would be contrary to Basic Condition A with regards to national policy as it is not clear how a decision maker would react to development proposals.

- Policy W5 Rural Exception Sites and Entry-Level Exception Housing

Criterion D iii states: "the relationship of open-market housing to meeting local needs in terms of location, design, visual character, and type of accommodation." It is not clear how this relates to the final sentence of paragraph D which is concerned with the evidence required when market housing is used to support rural exception site. It is also not clear how meeting local needs relates to design and visual character. For clarity the use of the term 'local needs' should be replaced with wording such as 'local character.' Therefore, it is considered that this would be contrary to Basic Condition A with regards to national policy as it is not clearly written and unambiguous.

- Policy W7 Employment & Retail

Criterion A is supportive of proposals for small-scale employment and retail uses within settlements. However, paragraphs 87 and 88 of the NPPF require the sequential test for retail proposals outside of town centres, so even if a proposal was small-scale and within a settlement, it does not necessarily mean it is appropriate. Therefore, it is considered that this would be contrary to Basic Condition A with regards to national policy.

The policy supports new small-scale employment and retail uses provided they: “i. do not lead to a net loss of retail or existing employment floorspace,”. Adopted strategic Policy CS19 Location of Employment Development of the Core Strategy protects small business units, but it does allow for their loss if it does not conflict with other elements of the Core Strategy. Therefore, it is considered this would be contrary to Basic Condition E as it is not in general conformity with strategic policies in the Development Plan.

The supporting text does not define small scale or what is considered a retail or employment use. Therefore, it is considered this would be contrary to Basic Condition A with regards to national policy as it is not clearly written and unambiguous.

- Policy W8 Biodiversity and Wildlife Corridors

Policy refers to all development proposals requiring Biodiversity Net Gain. This is impractical as development proposals include small scale proposals such as change of use or advertisement contents. Wording should be changed so only relevant development will be required to provide Biodiversity Net Gain. Therefore, it is considered this would be contrary to Basic Condition A with regards to national policy as it is not clearly written and unambiguous.

- Policy W9 Local Gaps

With regards to the Winkfield Row North/South local gap, it appears that there is some duplication of policy between this and W11 (Local Green Spaces) as the local gap includes King George V Recreation Ground, which is proposed as a local green space. Local green spaces have a higher protection in relation to ‘very special circumstances’ so question if there is a need for both policies as it could lead to conflict when assessing planning applications. To avoid this the playing field should be removed from the proposed local gap designation which would have consequential changes for the policies map. Therefore, it is considered that this is contrary to Basic Condition A with regards to national policy as it is not clearly written and unambiguous.

- Policy W10 Dark Skies

The use of the word “unnecessarily high” may be difficult to defend as an applicant could argue that a particular lighting level is necessary. Similarly, it is unclear what is meant by “minimum impact”. Therefore, it is considered that this would be contrary to Basic Condition A with regards to national policy as it is not clearly written and unambiguous.

Criterion B refers to guidance and recommendations issued by the Institution of Lighting Professionals (ILP). It is not clear what the (ILP) guidance and recommendations are. It would be helpful to know what documents they refer to and ensure this is accessible for the local planning authority to use in any future assessments. Therefore, in its current form, it is considered this would be

contrary to Basic Condition A with regards to national policy as it is not clear how a decision maker would react to development proposals.

Next Stages

- 5.12 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 2 September 2022). 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 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. The Examination is concluded when the Examiner issues 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 Winkfield Neighbourhood Plan. If the referendum is successful (which requires a simple majority of those voting), the Winkfield 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

- 5.14 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 Submission consultation, holding and arranging the Examination and the referendum.
- 5.15 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 referendum. The Council will need to fund the independent Examination and the referendum. It is estimated that 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 any necessary additional funding would need to be identified from the Planning budget.
- 5.16 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 recommendation of the report seeks the Executive approval of the Council's formal response on the Winkfield Neighbourhood Plan Submission consultation (detailed comments are as set out in Appendix A).
- 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 September 2015 and updated in February 2016. The approval of the Council's Submission consultation response and submission of the Plan for Examination has been delegated to the Executive Member for Planning and Transport.

Financial Advice

- 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.

Equalities Impact Assessment

- 6.6 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.

Strategic Risk Management Issues

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

Climate Change Implications

- 6.8 The recommendations in Section 2 above are expected to have no impact on emissions of CO₂ as the recommendation is concerned with a response to a Winkfield Parish Council's Neighbourhood Plan.

Health and Wellbeing Considerations

- 6.10 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/mgIssueHistoryHome.aspx?IId=105842&PlanId=2455&RPID=55533422](https://democratic.bracknell-forest.gov.uk/mgIssueHistoryHome.aspx?IId=105842&PlanId=2455&RPID=55533422)

- Bracknell Forest Council decision relating to the Winkfield Neighbourhood Plan publication and appointment of examiner: <https://democratic.bracknell-forest.gov.uk/mgIssueHistoryHome.aspx?IId=107876&PlanId=2500&RPID=57554509>
- Winkfield Neighbourhood Plan Regulation 16 Submission Consultation: www.bracknell-forest.gov.uk/winkfield-plan

Appendix A

Bracknell Forest Council's response to the Submission version of the Winkfield Neighbourhood Plan (Regulation 16).

Contact for further information

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