

Bracknell Town Neighbourhood Plan

Interim Conclusions of Independent Examiner

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11th June 2019

Examiners Interim Conclusions on Bracknell Town Neighbourhood Plan

Introduction

1. This is an interim report which sets out my provisional findings regarding my examination of the Bracknell Town Neighbourhood Plan. I have previously set out some initial conclusions in my document, “Initial Comments of the Independent Examiner” which I issued on 1st April 2019. This document was used for the basis of the discussions which took place at the Public Hearing which I conducted on 14th May 2019.
2. At the hearing, we looked at a number of areas where I had raised concerns during my initial review of the Plan. This covered the form and structure of the submission documents and the quality of the mapping, as well as specific policies in the plan. There were other matters which were covered by written submissions.
3. As I explained in my Introductory Remarks, at the start of the Hearing, the neighbourhood plan legislation restricts me, to come to only three possible recommendations. when conducting an examination, namely:
 - To recommend that the plan goes to referendum
 - To recommend that the plan goes to referendum, if modified
 - To recommend that the plan does not go forward to referendum
4. During the hearing session, I indicated that in a number of areas I had fundamental areas of concern. Having reflected on the hearing, I am tending to the view that the Plan, as a whole, as submitted in its current form, does not meet Basic Conditions or meet all the legal requirements. It is always open to the Examiner to make recommendations as to how the Plan could be modified to ensure that it can meet the Basic Conditions test. However, in this case, my concern is that the overall extent of the changes required go beyond my remit as examiner to recommend.
5. As I said at the hearing “I think there is a neighbourhood plan somewhere within the submitted documentation that could be made”. The challenge is how to extract that plan and for me to be able to modify the policies, so as to achieve a positive outcome.

Issues with the Submission documents

Layout and Organisation

6. There are major issues with the layout and the organisation of the documentation and its content. This topic was the focus of the first part of the proceedings at the hearing.
7. I have previously expressed my concerns regarding whether the plan document itself was “fit for purpose”. I drew attention to the absence of page numbers and paragraph numbering and the difficulties of trying to navigate

the document. I consider that the plan would also benefit from a glossary. I was told that this was a matter that could be relatively quickly remedied.

8. The next issue is the quality of presentation in the submission document and in particular, the legibility of some contents. Some pages for example, Illustration 29 entitled “The Lost River of Bracknell Map”, are totally illegible.

The Quality of the Mapping

9. Furthermore, the clarity of some maps, particularly Illustration 4 - the policy map showing the location of active and passive open-space, is produced at a scale, where it is impossible to identify the land which is actually allocated as open-space and to defining the extent of the allocation, the boundaries of the site and the inability to read the numbers, prevents the capability to cross reference with the tables set out in Illustrations 7 and 8. I can appreciate the difficulty of trying to show the whole of the plan area on an A4 page. The issue of mapping requires more investigation. It occurs to me that there are a number of options:
 - The plan area can be divided into quadrants, with proposals shown at a greater scale as per the Binfield neighbourhood plan.
 - All the neighbourhood plan designations could be shown at a neighbourhood area, utilising the base maps used in the Character Assessment
 - The plan can be shown as a large paper map, as a separate standalone map, say at a size A1 or A2, following the practice used in a number of local plans.
10. I was told that the maps were capable of being interrogated online. I have tried zooming in on the digital versions of the submission maps, but this does not offer a solution to the plans as currently submitted. I suspect that this is because the data is displayed as a raster image rather than as vector data. This is a matter for the Town Council to resolve, hopefully with the support of the Bracknell Forest Council’s GIS team, under the legislative duty of LPAs to have to support Qualifying Bodies preparing neighbourhood plans.
11. My concerns regarding mapping are not restricted just to the open space map, but extends to at least the following maps:
 - the detail boundaries of the local green space map for Policy EV3 (where the key refers to green space justification areas)
 - the avenues of trees in Policy EV4
 - the location of allotments in Policy EV8
 - the air quality management areas can be shown as much greater scale and still fit on an A4 plan
 - the location of community centres in Policy EB 14
 - the location of listed buildings in Policy HE2 and HE3 (where the text is also illegible)
 - the extent of the neighbourhood shopping centres” in Policy EC3

- the extent of cycleways and rights of way in Policy TR1 and TR2
12. I believe that the test is whether a person considering buying a property will know whether an area of land adjacent to his or her property is designated by reference to an appropriately scaled OS map. That ability goes to the heart of the suitability of the plan to be used by the decision maker to be able to determine a planning application, with confidence.

Focus of the Plan

13. I now turn to the “focus” of the neighbourhood plan. The requirements for plan making, as set out in the Secretary of State’s guidance in the Planning Practice Guidance, is “Whilst the content of the plan will vary depending on the nature of the area and matters to be addressed, all plans need to be as focused, concise and accessible as possible”. My conclusion is that this submission version of the Bracknell Town Neighbourhood Plan fails that test, by a considerable margin.
14. The submission document, without the accompanying appendix, comes to approaching 300 pages. There is much in the document that deals with matters that are not related to policies “for the development and use of land” – that can be used for the determination of a planning application. Large sections of document are entitled “*Actions to take for the future– These are included for consideration when revising this 20-year plan*” These sections covers, for example, in the field of Community Health Provision and Infrastructure, the opening hours of the Bracknell’s Urgent Care Centre, the location of a pharmacy within the urgent care centre, retaining GP surgeries in their current locations and using the crematorium is a heat source. Other sections cover such topics as LED street lighting, a project to install in bin lorries, cameras to plot potholes. In the area of the environment, the document covers such issues as environmentally friendly gardens, community composting, SAP ratings for dwellings. Some of the text is of a discursive nature, dealing with the issue of “The Gateways into Bracknell Town Neighbourhood Plan area”, “The Issue of Integrating the Horizontal and Vertical in the Town Centre and the areas surrounding it”, “The Issue of Specific Building Height in the Town Centre and their Integration with the Architecture of the Town Centre”, “ The Regeneration and Intensification of Buildings in the Town Centre”, “The Important Local Issue of Flats from Offices in and around the Town Centre” and “The Issue of the Community Infrastructure Levy”. Other similar non-development plan matters cover town council focussed issues, such as integrating the council’s customer service enquiry and reporting system, to include the other five parishes in the Bracknell Forest area.
15. The Secretary of State’s advice on this is clear, as set out in the Planning Practice Guidance
“Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identified (for

example, set out in a companion document or annex) and it should be made clear in the document that these will not form part of the development plan”

16. At the present time, whilst the specific policies themselves are clearly highlighted, the rest of the document does not clearly differentiate between what will form part of the development plan and is to be used for the determination of the planning applications, and what is not. For example, the matters described as being areas for consideration when the plan is to be reviewed or what are non-land use planning policies and do not form part of the development plan. Are the comments regarding building heights in the Town Centre to be material for decision makers? The inclusion of these extensive matters deflects the reader’s attention and mean that the plan is not focused and concise.
17. The plan also strays beyond the limits of a development plan policy by referencing in some detail areas that lie outside the plan area and also again cover non-planning matters such as the distribution of CIL funds, which is a budgetary not planning decision.
18. At the hearing, the Town Councillors referred me to the Binfield Neighbourhood Plan and I have now done that. I commend that document for adopting a structure and style that is a concise and focused neighbourhood plan. The style of document would be a useful model for other plans to follow.
19. Another of my reservations as to whether the plan complies with Secretary of State guidance and advice, relates to the way the plan presents, what it purports to be evidence, used to justify the policies. There is a great deal of material that is included which is not supporting and justifying policies of the plan. There are numerous examples of extraneous material which is of a general nature, for example, much use is made of articles in newspapers and extracts from books or book reviews, but they are not specific justifications justifying the policies in the plan. I set down some examples of material that I would say has no or only limited value in supporting policies in the plan.
 - Map of UK overview, setting out the planning system
 - Local authority districts and unitary authorities in the South East of England - April 2009
 - List of tree species protected by TPO
 - Post-Second World War New Town around London
 - Ratio of lower quartile house prices to lower quartile earnings local and unitary authorities 2009
 - Housing standards in the UK in comparison with other EU countries
 - The Bedzed Project
 - Crossrail
 - 2011 Communities data by local authority
 - Roads in the First Century A.D. in South-East England
 - South East regional transport network
 - “Soaring house prices of London homes makes long commute a little more

attractive”

- Major roads in England 2012

The Presentation of Robust and Proportionate Evidence

20. The plan also cites as evidence, opinions given by councillors and officers, references to articles in newspapers and books. Whilst these opinions can help inform, as background to a debate and could be part of a general discussion behind the policy, I do not consider that they meet the Secretary of State’s threshold that the plan should be supported by “proportionate, robust evidence should support the choices made and the approaches taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan...”
21. I was also surprised to see no evidence of community support for the policy derived from the consultations carried out with residents as the plan has been prepared, which has informed and supports the policy making.
22. Having said that much of the information does not support, in all areas, the policies, nevertheless there is much in the submission document which is of general interest and it would be a shame to disregard the work carried out. At the hearing, there was a discussion as to whether much of the supporting text could be incorporated into a separate document. Councillor Henfrey describe the document as a set of “building blocks” and it was always the Town Council’s intention that the document would be split up. Such a suggestion is totally at odds with the way that the neighbourhood plans are required to be prepared as set out by the legislation. The Neighbourhood Planning (General) Regulations 2012, in Regulation 15, requires that when the Qualifying Body submits a plan proposal, it must include the “proposed neighbourhood development plan”. It is that plan document that I am required to examine, not a version of the plan that will be separated and published in due course, post examination.

Options for the Examination

23. I have given considerable thought to whether it would be possible for me to invite the Town Council to address the concerns which I have raised regarding the documentation, and still be consistent with the legislation. I am satisfied that it would be in order for the Town Council to resolve the issues of the document management, mainly dealing with page numbers and paragraph numbering. I am also content that the Town Council could be invited to address the issues of the quality of printing and particularly the way the plans have been prepared to offer the clarity necessary for them to be used as a decision-making tool. It would be possible to extract from the submitted document, all material that is not directly related to the proposed policies and their justification and the stated policy intent. This could be moved to an accompanying evidence document or as an online document

that supports neighbourhood plan. Many neighbourhood plan groups publish that evidence documents as an online resource. This could then allow a much more focused plan document that could, for example, follow the model set by the Binfield Neighbourhood Plan. Many of the anecdotal statements by persons who presented to the Town Council could be included as part of the background evidence document and be substituted by with more focused evidence which specifically justifies policy in relation to the plan area, rather than referencing guidance from elsewhere which may not be comparable with the Bracknell planning context, such as the Barnet Design Guide or the Great Aycliffe Neighbourhood Plan.

24. I believe that such a radical reshaping of the submission document, if it followed the principles set out in this note, could allow me to conclude that the plan would be consistent with the Secretary of State's intentions as to how a neighbourhood plan should be presented. I fully recognise that this will require a significant amount of work, not least in terms of document management, as well as finding a workable solution to the mapping issue.
25. Whilst this may be a not inconsiderable task for the Town Council to commit to taking, that is not the end of the matter. It is important that the legitimacy of the examination process is protected, and that it continues within the requirements set out in the Regulations. The plan that emerges, must essentially contain the same development plan policies, set in a reconfigured document, that would be submitted to me to continue the examination. It would not be legitimate for policies to be amended in the course of the reconfiguration, as my examination can only be carried out on the plan proposal which was initially submitted for examination, albeit in a different set of documents. To start amending or tweaking the plan policies at this stage, would mean that they were being submitted by the Qualifying Body for examination, without any public consultation. It would not be the same plan proposal that was submitted under Regulation 15. It could also have implications in terms of consistency with the correct version of the NPPF.
26. That new submission document could then be the subject of my examination report. However, it is only fair for me to advise all parties that there are many aspects of the submitted planning policies in the Bracknell Town Neighbourhood Plan that do not, in my opinion, currently meet basic conditions. Whilst I will not predetermine matters, there are a range of changes which will require a recommendation from me, to modify the policies or indeed delete a number of policies to ensure that the plan meets basic conditions and for me to be able to recommend that the plan moves to referendum.

Option 1

27. To sum up my conclusions, as currently submitted the neighbourhood plan does not meet basic conditions in terms of how the documentation has, in my

opinion, been presented. Furthermore, the scope of changes which are needed to address the areas, I have indicated in this note require attention, are well beyond the scope of modifications I can make as examiner. I am therefore offering the Town Council an opportunity to reconfigure the documentation so that it fully addresses my concerns and I will then be able to continue with my examination, which effectively currently stands adjourned. However, this will inevitably mean that much of the work involved in reconfiguring the documents, could well be abortive work, when I come to making my recommended modifications. For example, it may also be that I will have to, later in the process, invite the Town Council to prepare additional plans that seek to address my proposed modifications, for example, the extent of the local green space at Easthampstead Park and South Hill Park so as to protect what is open green space rather than the buildings and accompanying structures, and also to be consistent with Policy EV12 where the area to be protected by the policy should be based on an onsite assessment of what constitutes green space “that is demonstrably special to the community” as opposed by following a landownership boundary as set in a lease. In offering this route, I must reinforce the point, that despite having carried what could be a substantial amount of work, there is still a chance that my examination will conclude that the neighbourhood plan cannot go to referendum.

Option 2

28. A second alternative is for the Town Council to advise me that it does not wish to take up this two-stage approach. I will then issue my final report which will fully sets out my conclusions, regarding the policies as well as the form that the document has been presented. Such a final report would include my commentary on individual policies. The Town Council can then use my conclusions and recommendations, as the basis for a revised plan to be prepared. That new plan would have to go through a new Regulation 14 public consultation, as it will be an entirely new plan.

Option 3

29. A third possible scenario is that the Town Council can decide it wishes to not receive a formal examiner’s report which recommends that the plan should not go to referendum, but instead it can choose to withdraw the current version of the neighbourhood plan and prepare a revised plan which will then again have to go through a new Regulation 14 consultation and new examination. It would also have to have regard to the provisions of the 2019 version of the National Planning Policy Framework. I could, if requested and with the agreement of Bracknell Forest Council, provide a commentary on the individual policies and how they need to be modified to assist the next version of the plan.

Concluding Remarks

30. I know that my interim conclusions, set out in this report will be a disappointment to the councillors who will put in a great deal of time and effort into preparing the plan. The point was made several times at the hearing that the plan had been prepared by volunteers, rather than by paid professionals, almost as an excuse for the deficiencies in the documentation. However, this plan is no different to the hundreds of neighbourhoods plans across the country, which had been prepared by local residents, as well as lay town and parish councillors. It is important to recognise the significance of the document that is being produced, which will form part of the statutory development plan used to determine planning applications.
31. I have to say that I was just surprised that the Town Council had not sought to engage professional support and advice covering the drafting of the submission document - the most important document rather than using your consultants for the drafting of the Basic Conditions Statement and the Consultation Statement. I suspect that with their input, the submission of document that would not now be facing the issues as set out in this document. I also heard criticism of the hearing of other parties, comments which sought to deflect responsibility regarding the quality of the mapping and printing. I have to say that it is the Town Council that is responsible for the submission of its plan to Bracknell Forest Council and it is the Town Council that has to be satisfied that documentation is fit for purpose.
32. Once the Town Council has had an opportunity to consider the conclusions set out in this report, it will, hopefully, seek advice from its professional advisers, and where appropriate, from the Bracknell Forest planners. It should then be in a position to indicate how it wishes me to proceed with the rest of the examination.
33. I would ask that the Town Council should make a decision on which of the 3 options it wishes to follow, within 2 months from the date of this report. If it wishes to reconfigure the document, then I will leave the timescale for completing that task as fluid, in view of the fact that the work necessary could take some time, and the examination will stand adjourned until it is submitted. If the intention is for the second or third options, then I can act accordingly.
34. I consider that it would be appropriate for the Town Council to pass its decision on how the examination should proceed to me, via Bracknell Forest Council, as it is the party that has commissioned this examination.
35. In the interests of openness and transparency I would ask that a copy of this note be placed on the respective websites of the Town Council and Bracknell Forest Council.

John Slater BA(Hons), DMS, MRTPI

Independent Examiner to the Bracknell Town Neighbourhood Plan

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