

Binfield Parish Council

Binfield Neighbourhood Development Plan

A Report to Bracknell Forest Council of the Independent
Examination of the Binfield Neighbourhood Development Plan

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Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”¹
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Binfield Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Binfield Parish Council (the Parish Council), a qualifying body able to prepare a neighbourhood plan, in respect of the Binfield Neighbourhood Area which was formally designated by Bracknell Forest Council on 11 February 2014.
4. Work on the production of the plan has been undertaken by members of the local community through the Binfield Neighbourhood Plan Group (the Neighbourhood Plan Group).
5. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, was approved by the Parish Council for submission of the plan and accompanying documents to Bracknell Forest Council, which occurred on 16 September 2015. Bracknell Forest Council has undertaken the necessary consultation between 10am Monday 12 October and 10am Monday 23 November 2015 and subsequently submitted the Neighbourhood Plan to me for independent examination.

Independent Examination

6. This report sets out the findings of the independent examination into the Neighbourhood Plan.² The report makes recommendations to Bracknell Forest Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum.

¹ Paragraph 183 National Planning Policy Framework (2012)

² Paragraph 10 Schedule 4B Town and Country Planning Act 1990

Bracknell Forest Council will decide what action to take in response to the recommendations in this report.

7. Bracknell Forest Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will be 'made' by Bracknell Forest Council. If 'made' the Neighbourhood Plan will come into force and subsequently be used in the determination of planning applications and decisions on planning appeals in the plan area.
8. I have been appointed by Bracknell Forest Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and Bracknell Forest Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.
9. As independent examiner I am required to produce this report and must recommend either:
 - that the Neighbourhood Plan is submitted to a referendum, or
 - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
 - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements
10. I make my recommendation in this respect and in respect to any extension to the referendum area,³ in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.⁴

³ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁴ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.⁵
12. The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity, during a six-week period, to state their case. As I did not consider a hearing necessary I proceeded on the basis of written representations.

Basic conditions and other statutory requirements

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.⁶ A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,
 - the making of the neighbourhood plan contributes to the achievement of sustainable development,
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations, and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.⁷
14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁸ All of these matters are considered in the later sections of this report titled

⁵ Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

⁶ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

⁷ Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁸ The Convention rights has the same meaning as in the Human Rights Act 1998

‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan policies’.

15. In addition to the basic conditions and Convention rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.⁹ I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 which are made pursuant to the powers given in those sections.
16. The Neighbourhood Plan relates to the area that was designated by Bracknell Forest Council as a neighbourhood area on 11 February 2014. The plan area is described in Section 1.2 of the Submission Version of the Neighbourhood Plan as “*the whole of the Binfield parish area*”. A map of the plan area is included on page 2 of the Submission Version plan. The Neighbourhood Plan does not relate to more than one neighbourhood area,¹⁰ and no other neighbourhood development plan has been made for the neighbourhood area.¹¹ All requirements relating to the plan area have been met.
17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;¹² and the Neighbourhood Plan does not include provision about excluded development.¹³ I am able to confirm that I am satisfied that each of these requirements has been met.
18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.¹⁴ The front cover of the Submission Version clearly shows the plan period to be 2015 – 2026.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.¹⁵ It is not within my role to

⁹ In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

¹⁰ Section 38B(1)(c) Planning and Compulsory Purchase Act 2004

¹¹ Section 38B (2) Planning and Compulsory Purchase Act 2004

¹² Section 38A (2) Planning and Compulsory Purchase Act 2004 See recommended modification regarding Policy 11

¹³ Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

¹⁴ Section 38B(1)(a) Planning and Compulsory Purchase Act 2004

¹⁵ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

examine or produce an alternative plan, or a potentially more sustainable plan. I have been appointed to examine whether the submitted Neighbourhood Plan meets the basic conditions and Convention rights, and the other statutory requirements.

20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the basic conditions and the other requirements I have identified.¹⁶

Documents

23. I have given consideration to each of the following documents in so far as they have assisted me in considering whether the Neighbourhood Plan meets the basic conditions and other requirements:
 - Binfield Neighbourhood Plan 2015-2026 Submission Version (Regulation 16) September 2015
 - Binfield Neighbourhood Plan 2015-2026 Basic Conditions Statement September 2015
 - Binfield Neighbourhood Plan 2015-2026 Consultation Statement September 2015 including appendices CS1 – CS14
 - Binfield Neighbourhood Plan Strategic Environmental Assessment and Habitats Regulations Assessment Screening Determination July 2015
 - Representations received during the Regulation 16 publicity period

¹⁶ See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Bracknell Forest Borough Local Plan Adopted January 2002 (Saved Policies of September 2007 that have not subsequently been replaced)
- Bracknell Forest Borough Core Strategy Adopted February 2008
- Bracknell Forest Council Site Allocations Local Plan Adopted July 2013
- Bracknell Forest Borough Policies Map Adopted July 2013
- Bracknell Forest Council – Strategic policies of the Bracknell Forest Development Plan for Neighbourhood Planning purposes document
- Bracknell Forest Council Submission of Binfield Neighbourhood Plan – Statutory Criteria Confirmation September 2015
- Binfield Neighbourhood Plan Group - Capacity plan for meeting primary health care needs for population growth in Binfield August 2014
- Rural Community Profile for Binfield (Parish) ACRE Rural evidence project October 2013
- Census Demographic Data document
- Glossary - Definition of terms document
- Bracknell Forest Borough Parking Standards July 2007
- Bracknell Forest Council Air Quality Action Plan 2014
- Biodiversity Report prepared for Binfield Neighbourhood Plan Group TVERC March 2015
- Green Space Justification document
- Bracknell Forest Council decision on the designation of a Neighbourhood Area letter 28 February 2014
- Binfield Parish Council Neighbourhood Plan submission letter 16 September 2015
- Bracknell Forest Council notice of publication of a submitted neighbourhood plan 12 October 2015
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Technical Guidance to the National Planning Policy Framework (27 March 2012) [*In this report referred to as the Technical Guidance*]
- Department for Communities and Local Government Permitted development for householders' technical guidance (April 2014) [*In this report referred to as the Permitted Development Guidance*]
- Department for Communities and Local Government Planning Practice Guidance web-based resource (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Localism Act 2011
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations*]

Consultation

24. Community engagement in plan preparation has been extensive as evidenced by the consultation statement. I highlight here a number of key stages in order to illustrate the thorough and comprehensive approach adopted.
25. An initial introductory public event was held in November 2013. Further events followed in June and July 2014. These events were advertised through the local press (both print and online); on posters on notice boards; and through leaflets hand-delivered to each home in the Plan area. The events provided an opportunity for stakeholders to input opinions on strengths, weaknesses, opportunities and threats relating to the area. Children were able to draw what they love about Binfield.
26. For those unable to attend the organised events a form on the leaflets could be completed and submitted. In addition, a website and social media pages were developed. Meetings were requested with the developers of the three main strategic development sites of Amen Corner North, Amen Corner South, and Blue Mountain.
27. Pre-submission consultation was held over an 8-week period between Monday 15 June and Monday 10 August 2015. The consultation included a full range of activities including face to face events; use of websites and social media; and offering opportunity for Plan inspection at the library and parish office. A summary document of the Plan was delivered to all homes. All necessary statutory consultees were notified in writing either by email or post. In total 34 written submissions were received. Appendices CS11 to CS14 of the Consultation Statement confirm full consideration of submitted views and evidence and that these resulted in changes to the Neighbourhood Plan where it was considered appropriate.
28. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 publicity period between 10am Monday 12 October and 10am Monday 23 November 2015. A total of 16 representations were submitted which I have taken into consideration in preparing this report, even though they may not be referred to in whole, or in part. Three representations were submitted after the period for representations had closed. I have not taken those three representations into consideration.

29. Where representations relate to a specific policy of the Neighbourhood Plan I have taken them into consideration in the examination of individual policies set out later in my report. Representations relating to Habitats Regulations Assessment have been considered in my report when I consider effects on European sites. Other representations are of a more general nature which I consider here.
30. One representation from an individual opposes the Neighbourhood Plan requesting a review of anticipated additional traffic on the road network; expressing concern at the distinction between Binfield and Bracknell; and concern with regard to additional pressure on schools. The representation also states not enough green area is being retained at the Blue Mountain golf course site and questions whether green areas identified generally will be permanently protected. I consider no modification of the Neighbourhood Plan is necessary in respect of these issues in order to meet the basic conditions.
31. Persimmon Homes Thames Valley supports the principle of a neighbourhood plan for Binfield but expresses concern that the Neighbourhood Plan has not quantified housing need in Binfield. The representation questions whether sufficient housing is being provided in Bracknell Forest and the wider South East/ Thames Valley area and considers the Neighbourhood Plan should be more positive towards housing stating the plan does not meet basic conditions A, D and E. In *Woodcock Holdings Limited V Secretary of State CO/4594/2014 Court of Appeal May 1 2015 EWHC 1173 (Admin)* it is established “*the body responsible for a neighbourhood plan does not have the function of preparing strategic policies to meet assessed housing needs*”. There is no requirement for the Neighbourhood Plan to include policies relating to the supply of housing nor is there any requirement for the Neighbourhood Plan to allocate land for any particular purpose including housing development.
32. Natural England welcomes policies relating to air quality; public green spaces; and protection and enhancement of the environment; and welcomes text relating to the Thames Basin Heaths Special Protection Area. Natural England also proposes additional references to the Framework and to the Site of Special Scientific Interest in the plan area. Modification in this respect is however not necessary to meet the basic conditions.
33. Thames Water states the Neighbourhood Plan should include a section on infrastructure and utilities. An addition of this nature is not necessary to meet the basic conditions.

34. Bellway Homes Thames Valley Ltd in addition to comment on Policy ENV1, which I consider later in my report, is encouraged by reference to the Thames Basin Heaths SPA but considers reference should be made to the Thames Basin Heath Supplementary Planning Document and the mechanisms in place for securing delivery of SPA mitigation. I do not consider such reference is necessary in order for the Neighbourhood Plan to meet the basic conditions. The representation also comments on the wording of general text which I refer to in the annex to my report.
35. Berkshire Archaeology, in addition to a representation in respect of Policy BF2 which I consider later in my report, expresses support for the work undertaken by the Parish Council and the local community and provides information on the Berkshire Historic Environment Record. Berkshire Archaeology also suggests consideration of features of local interest. No modification of the Neighbourhood Plan in this respect is necessary to meet the basic conditions.
36. The representations of Scottish and Southern Energy Power Distribution; National Grid; Highways England; the Environment Agency; and three individuals do not raise any issues that necessitate modification of the Neighbourhood Plan in order to meet the basic conditions.
37. Consultation has clearly exceeded the requirements of the Regulations achieving wide and intensive engagement with stakeholders whose views and representations have been considered in preparation of the Neighbourhood Plan.

The Neighbourhood Plan taken as a whole

38. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this.

Consideration of Convention rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the Neighbourhood Plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

39. The Basic Conditions Statement states “*The Neighbourhood Development Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act.*” I have given consideration to the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).¹⁷ I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. An Initial Equalities Screening Record Form dated October 2015 attached to the Regulation 16 representation of Bracknell Forest Council identifies positive impacts in respect of disability equality arising from Policies TC3, CF1 and ENV3. Positive impacts in respect of age equality are identified in respect of Policies TC1, TC3, CF1, and ENV3. Positive impacts in respect of pregnancy and maternity equality are identified in respect of Policies TC1 and CF1. In addition, identified potential impacts on other groups include improved connectivity especially in respect of sustainable transport; improved community facilities and avoidance of loss of allotments; and protection of the environment including Local Green Spaces.

40. The objective of EU Directive 2001/42¹⁸ is “*to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.*” The Neighbourhood Plan falls within the definition of ‘plans and programmes’¹⁹ as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.²⁰

¹⁷ The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

¹⁸ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

¹⁹ Defined in Article 2(a) of Directive 2001/42

²⁰ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

41. Following necessary consultation with the statutory bodies on a draft document between 15 June and 20 July 2015 Bracknell Forest Council issued a Screening Determination that states *“Having reviewed the criteria, the Council has concluded that the emerging BNP is not likely to have a significant environmental effect and accordingly will not require a Strategic Environmental Assessment. The main reasons for this conclusion are:*

- *The BNP supports the strategic development needs set out in the adopted Development Plan, including the Bracknell Forest Core Strategy and Site Allocations Local Plan which have already been subject to SEA and assessed as having no significant environmental effects;*
- *The BNP must support and uphold the general principle of strategic policies in the Development Plan for Bracknell Forest, and therefore has no, or limited influence on other plans or programmes;*
- *The BNP seeks to avoid or minimise environmental effects through guidance on issues which should be considered when determining development proposals within the Neighbourhood Area. The BNP may therefore have a positive environmental effect; and,*
- *The BNP does not allocate any sites for development”.*

42. The statutory consultation bodies have confirmed agreement with these conclusions. I am satisfied the requirements in respect of the Strategic Environmental Assessment (SEA) European Directive have been met.

43. A Habitats Regulations Screening Determination issued in July 2015 gives consideration to each of the Neighbourhood Plan policies and also considers in combination effects in respect of other plans or programmes. The screening assessment concludes *“that no likely significant effects are likely to occur with regards to the integrity of the European sites within and around Bracknell Forest Borough, due to the implementation of the BNP. As such the BNP does not require a full HRA to be undertaken. Nevertheless, any net gain in residential development that takes place within the relevant part of the Neighbourhood Area will have to comply with Policy CS14 of the Core Strategy relating to the Thames Basin Heaths Special Protection Area. Such development has already been subject to HRA and avoidance and mitigation measures agreed with Natural England”.* Consultation responses from the statutory consultation bodies confirm agreement

with this conclusion. I am satisfied requirements relating to Habitats Regulations assessment have been met.

44. There are a number of other EU obligations that can be relevant to land use planning including, the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive, but none appear to be relevant in respect of this independent examination.

45. I conclude that the Neighbourhood Plan:

- is compatible with the Convention rights
- does not breach, and is otherwise compatible with, EU obligations
- is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

46. The Guidance²¹ states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive):

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

47. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of

²¹ National Planning Policy Guidance paragraph 031 reference ID:11-031-20150209

Local Plans²² which requires plans to be “*consistent with national policy*”.

48. Lord Goldsmith has provided guidance²³ that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”
49. Section 2 of the Basic Conditions Statement seeks to demonstrate the Neighbourhood Plan has been prepared with regard to national policies as set out in the Framework. A table identifies which components of the Framework the principal objectives of the Neighbourhood Plan align with. A further table identifies specific paragraphs of the Framework that each policy of the Neighbourhood Plan relates to and sets out a commentary to assist interpretation.
50. The Neighbourhood Plan taken as a whole seeks to shape and direct development. This is precisely the role national policy envisages for a neighbourhood plan.
51. The objectives of the Neighbourhood Plan relating to transport and connectivity; services; environment; communications; and built form are all consistent with components of the Framework and in particular those aspects relating to promoting sustainable transport; promoting healthy communities; supporting high quality communications infrastructure; conserving and enhancing the natural environment; and requiring good design.
52. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that need to ‘*have regard to*’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “*having*

²² Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

²³ the Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord’s Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.”

53. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.²⁴ The Guidance states, *“This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions”*²⁵.
54. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.
55. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement includes at Section 3 a statement that seeks to demonstrate that the strategic objectives of the Neighbourhood Plan *“comprise a balance of social and environmental goals, with some limited contribution towards economic goals”*. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. In particular I consider the Neighbourhood Plan seeks to:
- Promote sustainable modes of transport through improved provision for walking and cycling
 - Ensure transport impact assessment of strategic scale developments and appropriate mitigation

²⁴ Paragraph 14 National Planning Policy Framework 2012

²⁵ Paragraph 41-072 (ID: -072-20140306) National Planning Policy Guidance

- Support development proposals that improve the quality of public and community transport
- Ensure convenient siting of any new primary healthcare facilities which must include adequate parking provision
- Support a shop and cafe and appropriate public open space at the Blue Mountain strategic site
- Resist loss of allotments and strongly support new provision
- Protect designated biodiversity sites
- Protect air quality
- Designate ten Local Green Spaces
- Ensure new development includes superfast broadband connection
- Require infill and backland development to be of a high standard
- Require protection of heritage assets

56. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find that the Neighbourhood Plan, taken as a whole, has regard to national policies and advice contained in guidance issued by the Secretary of State and contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

57. The Framework states that neighbourhoods should develop plans that “*support the strategic development needs set out in Local Plans*”.²⁶ “*Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them.*”

²⁶ Paragraph 16 National Planning Policy Framework 2012

*Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies”.*²⁷

58. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”²⁸

59. In this independent examination I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).

60. Bracknell Forest Council has produced a ‘Strategic policies of the Bracknell Forest Development Plan for Neighbourhood Planning purposes’ document. This document states the Development Plan in Bracknell Forest comprises listed policies from:

- South East Plan (Saved Policy NRM6 Thames Basin Heaths Special Protection Area only)
- Bracknell Forest Borough Local Plan Adopted January 2002 (Saved Policies of September 2007 that have not subsequently been replaced)
- Bracknell Forest Borough Core Strategy Adopted February 2008
- Bracknell Forest Council Site Allocations Local Plan Adopted July 2013
- Bracknell Forest Borough Policies Map Adopted July 2013

61. The Development Plan applying in the Binfield Neighbourhood area also includes the Replacement Minerals Local Plan and the Waste Local Plan for Berkshire however these are not relevant to this independent examination.

62. There is no requirement for a neighbourhood plan to include particular types of development and land use policies, nor is there any requirement for a neighbourhood plan to deal with any particular development and land use issues.

63. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan.

²⁷ Paragraph 184 National Planning Policy Framework 2012

²⁸ Paragraph 41-077 (ID: 41-077-20140306) National Planning Policy Guidance

64. In considering a now repealed provision that “a local plan shall be in general conformity with the structure plan” the Court of Appeal stated “the adjective ‘general’ is there, “to introduce a degree of flexibility.”²⁹ The use of ‘general’ allows for the possibility of conflict. Obviously there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.
65. The Guidance states, “When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:
- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with*
 - *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy*
 - *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy*
 - *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”³⁰*
66. My approach to the examination of the Neighbourhood Plan policies has been in accordance with this guidance. If there were to be a conflict between a policy in a neighbourhood plan and a policy in a local plan the conflict must be resolved in favour of the policy contained in the last of those plans to become part of the Development Plan.³¹
67. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

²⁹ Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P &CR 31

³⁰ Paragraph 41-074 (ID 41-074-20140306) National Planning Policy Guidance

³¹ Section 38(5) Planning and Compulsory Purchase Act 2004

The Neighbourhood Plan policies

68. The Neighbourhood Plan includes 14 policies:

- TC1: Provision for Cycling and Walking
- TC1.1: Enhancing Historic Provision for Cycling and Walking
- TC2: Improvements to Key Local Junctions and Pinchpoints
- TC3: Bus and Community Transport Provision
- CF1: Provision of New Primary Healthcare Facilities and Associated Car Parking
- CF2: Provision of a Community Shop and Cafe
- CF3: Allotment Space
- ENV1: Protection of Designated Biodiversity Sites
- ENV2: Air Quality
- ENV3: Protection and Maintenance of Local Green Spaces
- ENV4: Public Open Space
- CO1: High Speed Broadband
- BF1: Infill and Backland Development
- BF2: Protection of Heritage Assets

69. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.”* *“Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*³²

70. The Guidance states *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when*

³² Paragraphs 184 and 185 National Planning Policy Framework 2012

determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

71. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*

72. *“A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.”³³*

73. If to any extent a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is made they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn.

Policy TC1: Provision for Cycling and Walking

74. This policy seeks to establish that strategic developments should provide dedicated footways and cycleways. Elsewhere, where possible, pedestrians and cyclists should not share space. A provision of the policy relates to safe access to schools as part of the Blue Mountain strategic development and another provision relates to community engagement in that area to identify key safe pedestrian and cycle routes. Proposals to improve dedicated cycle access to Bracknell Town Centre and Bracknell Railway Station will be strongly supported.

³³ See section 38(6) of the Planning and Compulsory Purchase Act 2004.

75. A representation states the provision of dedicated footways and cycleways into the existing built-up areas of Binfield including Binfield village is dependent upon available land and is unclear. I recommend a modification so that the policy refers to dedicated footways and cycleways being provided 'where practical' to more closely reflect the approach set out in paragraph 35 of the Framework. I also recommend reference is made to the design of a scheme, and use of the word "towards" rather than "into" in order to achieve clarity as to how provision can be made, in accordance with paragraph 17 of the Framework.
76. The representation also states that development can only make provision for safe access to new schools on land within the developers control. I recommend modification in this respect also in order to achieve clarity in accordance with paragraph 17 of the Framework. The representation also states the phrase "*pedestrians and cyclists do not have to share space*" is unclear. I recommend modification in order to achieve clarity in accordance with paragraph 17 of the Framework.
77. Bracknell Town Council has expressed support for the policy and in particular the intention to improve access to Bracknell Town Centre and the railway station. Another representation states it is unclear how this latter aspect is to be achieved outside the Neighbourhood Plan area nor is it clear what is being sought. It is acceptable for the Neighbourhood Plan to express support for particular access improvements but the Neighbourhood Plan can only apply to land within the Neighbourhood Area. I recommend a modification in this respect.
78. Bracknell Forest Council suggests substitution of 'new education facilities' in place of 'new schools' however it is not within my role to recommend a modification to broaden the scope of a policy. Bracknell Forest Council also suggests the third paragraph of the policy would be better as supporting text. I recommend that this change is made as the paragraph relates to community engagement and is not a land use policy.
79. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community.
80. The policy is in general conformity with the strategic policies contained in the Development Plan, in particular Policy CS23 of the Core Strategy and Policy SA7 of the Site Allocations Local Plan.

81. The policy has regard to the components of the Framework concerned with promoting sustainable transport. Subject to the recommended modification this policy meets the basic conditions.

Recommended modification 1:

In Policy TC1

- **In the first paragraph after “parish shall” insert “where practical be designed to” and delete “into” and insert “towards”**
- **Replace the second paragraph with “In particular proposals for the Blue Mountain strategic development should be formulated alongside school travel plans and provide for safe access for pedestrians and cyclists to new schools including access points from any wider school designated area beyond the strategic development.”**
- **Delete the third paragraph and transfer to supporting text**
- **Replace the fifth paragraph with “Where possible, developments should include segregated footways and cycleways”**
- **In the final paragraph after “cycle access” delete “to” and insert “towards”**

Policy TC1.1: Enhancing Historic Provision for Cycling and Walking

82. This policy seeks to establish support for proposals that protect and enhance footpaths and bridlepaths as an important aspect of the Binfield historic rural character.

83. Bracknell Forest Council suggests clarification is necessary as to meaning of historic rural character and location of routes.

84. The policy is not sufficiently precise to provide decision makers with a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. I recommend modification of the policy wording and addition of map based information to achieve clarity.

85. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

community. The policy properly seeks to reinforce local distinctiveness.

86. The policy is in general conformity with the strategic policies contained in the Development Plan, in particular Policy of the CS23 Core Strategy.

87. The policy has regard to the components of the Framework concerned with promoting sustainable transport, and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the basic conditions.

Recommended modification 2:

In Policy TC1.1

- **Delete “existing” and replace with “historic”**
- **Delete “, and an important aspect the Binfield historic rural character,”**
- **Add historic footpaths and bridlepaths to the Policies Map**

Policy TC2: Improvements to Key Local Junctions and Pinchpoints

88. This policy seeks to establish a requirement for any strategic scale development to consider, through a transport assessment, the cumulative transport impact on identified junctions and pinchpoints. Suitable mitigation is required where there is potential severe impact.

89. Bracknell Forest Council states strategic scale development has not been defined and requires amendment to achieve consistent decision making. The policy refers to “Any strategic scale development”. This element of the policy is not sufficiently precise to provide decision makers with a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. The Framework states “all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment”. I recommend modification of the policy wording in this respect.

90. Bracknell Forest Council and another representation state no evidence is presented to confirm the pinchpoints exist. The Guidance states *“Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain*

succinctly the intention and rationale of the policies in the draft neighbourhood plan". Whilst I am satisfied that local knowledge will have provided a basis for identification of local junctions and pinchpoints to be assessed, no evidence has been established. I am mindful of the fact the requirement for mitigation is limited to instances where potential impacts are severe, which has regard for national policy. In addition, the policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. I recommend modification to enable flexibility to ensure necessary assessment of any junction or pinchpoint potentially affected by a development proposal.

91. The policy is in general conformity with the strategic policies contained in the Development Plan, in particular Policy CS23 of the Core Strategy.
92. The policy has regard to the components of the Framework concerned with building a strong, competitive economy; ensuring the vitality of town centres; and promoting sustainable transport. Subject to the recommended modification this policy meets the basic conditions.

**Recommended modification 3:
In Policy TC2**

- **Delete "Any strategic scale development will be" and insert "Any development that generates significant amounts of movement"**
- **After "transport impact on" delete "the" and after "pinchpoints" delete "identified on the Policies Map"**

Policy TC3: Bus and Community Transport Provision

93. This policy seeks to establish strong support for new development proposals that contribute towards improvements in the quality of public and community transport services and/or supporting infrastructure serving the Neighbourhood Plan area. The policy also requires demonstration of community engagement.
94. A representation states *"It is not the role of strategic developments to provide additional services to serve existing communities. They need only to provide services/mitigation for the development itself. Bus subsidies are included within the Councils CIL123 list, and therefore couldn't additionally come forward through a separate S106*

contribution.” Bracknell Forest Council suggests the policy should only relate to physical measures and that the second part of the policy relating to community engagement should use “encourage” rather than “must”, and should be re-positioned as supporting text as it relates to process rather than policy. I have recommended a modification in order to ensure the policy only relates to the use and development of land.

95. Bracknell Forest Council also suggests the policy should make clear that proposals that meet the policy requirement should still be considered in relation to other material considerations. With regard to the issue of decision making the Framework states “*the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise*”³⁴. On this basis it would be inappropriate for policies to state “development will be permitted” or “planning permission will be granted”. The proper basis for decision making is however made clear through use of the term “proposals will be supported” in recognition that the basis of decision making is the development plan unless material considerations indicate otherwise. The material considerations at the time of determination of a future planning application are unknown and therefore cannot be dismissed through a policy that states planning permission will be granted. As the policy establishes that proposals will be strongly supported it provides a practical framework within which decisions on development proposals can be made but does not preclude balancing of other considerations in decision making. I do not consider modification is necessary in this respect in order to meet the basic conditions.
96. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community.
97. The policy is in general conformity with the strategic policies contained in the Development Plan, in particular Policy CS23 of the Core Strategy.
98. The policy has regard to the components of the Framework concerned with promoting sustainable transport. Subject to the recommended modification this policy meets the basic conditions.

³⁴ Paragraph 196 National Planning Policy Framework 2012

**Recommended modification 4:
In Policy TC3**

- In line 1 after “towards” insert “physical”
- Delete the second paragraph and include in supporting text substituting “are encouraged to” for “must”

Policy CF1: Provision of New Primary Healthcare Facilities and Associated Car Parking

99. This policy seeks to require siting of new primary healthcare facilities to be accessible to the existing community as well as new population; to have capacity for future needs; and to have adequate parking provision.

100. A representation states a robust evidence base would be needed to justify any requirement for a new healthcare facility within the area and as there may not always be room to allow future expansion this should only be required “*where possible and where necessary*”. Bracknell Town Council has commented on the challenges associated with implementation of this policy.

101. The Framework states planning policies should ensure an integrated approach to considering the location of housing, economic uses and community facilities and services. The elements of the policy relating to appropriate siting and adequate parking provision seek to shape and direct sustainable development to ensure that local people get the right type of development for their community.

102. A requirement to design, or provide, facilities to meet future capacity needs would be inappropriate. The policy requirement for facilities to be designed to ‘allow for’ potential future capacity needs does however have regard to the Framework which states planning policies should plan positively for the provision of local services. The term “potential future capacity needs” is however imprecise and open ended. I therefore recommend a modification so that capacity needs should be defined to relate to the strategic development concerned.

103. The policy is in general conformity with the strategic policies contained in the Development Plan.

104. The policy has regard to the components of the Framework concerned with promoting healthy communities and promoting sustainable transport. Subject to the recommended modification this policy meets the basic conditions.

Recommended modification 5:

In Policy CF1

Replace the second paragraph with “Primary healthcare facilities provided as part of a strategic development should be designed to allow for the latest assessment of needs arising from the strategic development concerned when it is completed.”

Policy CF2: Provision of a Community Shop and Cafe

105. This policy seeks to establish strong support for the provision of a convenience retail store and cafe of a scale that is ancillary to the main uses at the Blue Mountain strategic site.
106. Support, as opposed to a requirement, does not raise the issue of viability as set out in paragraph 173 of the Framework. Bracknell Forest Council considers the scale of the proposed community shop does not undermine strategic policy but considers the wording “convenience retail store” should be clarified. The Framework refers to local shops in the context of promoting healthy communities. This local level of retail provision is not inconsistent with the sequential test to be applied in accordance with paragraph 24 of the Framework in respect of main town centre uses that include the scale and type of retail uses needed in town centres. I consider modification of the Policy is necessary in order to provide a practical framework within which decisions on planning applications can be made in accordance with paragraph 17 of the Framework and to meet the basic conditions.
107. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community.
108. The policy is in general conformity with the strategic policies contained in the Development Plan, in particular Policies CS1 and CS21 of the Core Strategy, and Policy SA7 of the Site Allocations Local Plan.
109. The policy has regard to the components of the Framework concerned with building a strong, competitive economy; ensuring the vitality of town centres; promoting sustainable transport; and promoting healthy communities. Subject to the recommended modification this policy meets the basic conditions.

Recommended modification 6:

In Policy CF2 delete “convenience retail store” and insert “local shop”

Policy CF3: Allotment Space

110. This policy seeks to establish strong support for proposals to provide new allotment space and opposes loss of allotments unless alternative and equivalent allotment space is provided meeting specified criteria. Bracknell Town Council has praised this policy.

111. The policy includes the term “will not be permitted”. With regard to the issue of decision making the Framework states “*the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise*”³⁵. On this basis it is inappropriate for a policy to state development will be permitted, or as in this case, will not be permitted. The proper basis for decision making would be made clear through use of the term “proposals will not be supported” in recognition that the basis of decision making is the development plan unless material considerations indicate otherwise. The material considerations at the time of determination of a future planning application are unknown and therefore cannot be dismissed through a policy that states planning permission will not be granted. I consider modification of the policy is necessary in order to meet the basic conditions.

112. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community.

113. The policy is in general conformity with the strategic policies contained in the Development Plan.

114. The policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the recommended modification this policy meets the basic conditions.

Recommended modification 7:

In Policy CF3 delete “permitted” and insert “supported”

³⁵ Paragraph 196 National Planning Policy Framework 2012

Policy ENV1: Protection of Designated Biodiversity Sites

115. This policy seeks to establish that development proposals that would result in either the loss of or unacceptable harm to a Local Nature Reserve or Local Wildlife Site as shown on the Policies Map will not be permitted unless one of two specified circumstances prevail.
116. Bracknell Forest Council suggests removal of the phrase “as shown on the Policies Map” so that the policy could apply to the current position at the time of decision making. I have recommended a modification to this effect. I consider it is helpful to show the Local Nature Reserves and Local Wildlife Sites that currently exist on the Policies Map. The addition of a note on the Policies Map to confirm these are shown as at the time of preparation of the Neighbourhood Plan and subject to variation throughout the Plan period is a matter I have dealt with in the Annex to my report.
117. Bracknell Forest Council suggests clarification of the term “*relocation*”. Another representation states the policy is not consistent with Saved Policy EN4 of the Bracknell Forest Local Plan 2002 and should refer to a mitigation hierarchy and not make specific reference to habitat translocation. I consider modification of the policy is necessary in order to more clearly reflect national policy in particular with respect to avoidance of significant harm to biodiversity through locating on an alternative site with less harmful impacts.
118. The policy includes the term “*will not be permitted*”. With regard to the issue of decision making the Framework states “*the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise*”³⁶. On this basis it is inappropriate for a policy to state development will be permitted, or as in this case, will not be permitted. The proper basis for decision making would be made clear through use of the term “proposals will not be supported” in recognition that the basis of decision making is the development plan unless material considerations indicate otherwise. The material considerations at the time of determination of a future planning application are unknown and therefore cannot be dismissed through a policy that states development proposals will not be permitted. I consider modification of the policy is necessary in order to meet the basic conditions.

³⁶ Paragraph 196 National Planning Policy Framework 2012

119. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community.
120. Subject to the recommended modification this policy is in general conformity with the strategic policies contained in the Development Plan, in particular saved Policy EN4 of the Bracknell Forest Borough Local Plan (saved policies), and has regard to the components of the Framework concerned with conserving and enhancing the natural environment and meets the basic conditions.

Recommended modification 8:

Replace Policy ENV1 with “Development proposals that would result in significant harm to a Local Nature Reserve or Local Wildlife Site will not be supported unless the applicant can demonstrate the proposal cannot be located on an alternative non-designated site with less harmful impacts, and adequate mitigation, or failing that compensatory measures are proposed. Where as a last resort compensatory measures involving creation of off-site habitat and/or relocation of species are agreed by the Local Planning Authority these should be implemented in partnership with an appropriate nature conservation body.”

Policy ENV2: Air Quality

121. This policy seeks to establish that any proposal which is required to be accompanied by an Environmental statement will be expected to demonstrate it is not likely to result in the breach of EU limits for air pollution or measures will be expected to be put in place to adequately mitigate impact to ensure the limit is not breached.
122. The policy seeks to shape sustainable development to ensure that local people get the right type of development for their community.
123. The policy is in general conformity with the strategic policies contained in the Development Plan, in particular Policy CS6 of the Core Strategy.
124. The policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment and in particular paragraph 124 that relates to air quality. This policy meets the basic conditions.

Policy ENV3: Protection and Maintenance of Local Green Spaces

125. This policy seeks to designate ten areas as Local Green spaces on which proposals will not be permitted with the exception of two defined circumstances.
126. Bracknell Forest Council states it is the landowner for 8 of the proposed Local Green Spaces and confirms no objection to their designation in principle. Bracknell Forest Council considers it is unclear what additional protection is needed at Ryehurst Lane and Pope's Meadow due to existing designations. Bracknell Forest Council also considers modification of the policy wording is necessary to be consistent with the Framework. I agree that modification of the policy wording is necessary in order to meet the basic conditions and have made an appropriate recommendation below.
127. The Framework states *“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.”*³⁷
128. In respect of the areas intended for designation as Local Green Space I find the Local Green Space designation is being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designation is not capable of enduring beyond the end of the plan period. The intended designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.
129. The Framework states that: *“Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*
- *where the green space is in reasonably close proximity to the community it serves;*

³⁷ Paragraph 76 National Planning Policy Framework

- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land”.*³⁸

I find that in respect of each of the intended Local Green Spaces the designation relates to green space that is in reasonably close proximity to the community it serves; and the green area is local in character and is not an extensive tract of land.

130. Paragraphs 6.13 to 6.15 of the submission Neighbourhood Plan and the submitted supporting Green Space Justification paper set out sufficient evidence for me to conclude that the proposed areas for designation as Local Green Space are demonstrably special to a local community and hold a particular local significance.

131. Given the significance of designation of land as Local Green Space it is important that the precise areas of land concerned can be easily identified in order to provide a practical framework within which decisions on planning applications can be made. The location of the proposed Local Green Space designations is shown on Figure 6.1 of the Neighbourhood Plan and on the Policies Maps. The precise boundaries of each proposed designated area are clearly shown on a series of maps included as Appendix A. The achievement of total clarity is an example of best practice in neighbourhood plan preparation.

132. The policy is in general conformity with the strategic policies contained in the Development Plan.

133. Bracknell Forest Council states the policy wording is not consistent with the Framework. The policy seeks to establish a policy approach that is different to that set out in paragraphs 76 - 78 of the Framework. I recommend a modification to reflect national policy. Subject to the recommended modification this policy meets the basic conditions.

Recommended modification 9:

In Policy ENV3

Delete the text following “Meadow” and insert “New development is inappropriate in these areas which shall be kept permanently

³⁸ Paragraph 77 National Planning Policy Framework

open except in very special circumstances, for example to accommodate essential utility infrastructure that cannot be located elsewhere”

Policy ENV4: Public Open Space

134. This policy seeks to establish that proposals to provide public open space for passive and active recreation at the Blue Mountain strategic site will be welcomed.
135. Bracknell Forest Council states much of the public open space on the Blue Mountain allocation will be required for Special Protection Area mitigation covered by strategic policy and subject to Natural England requirements. The policy does however seek to shape and direct sustainable development to ensure that local people get the right type of development for their community.
136. A representation states community engagement has already been addressed and any additional requirement should be specified and justified. The second part of the policy relates to encouragement of comprehensive community engagement. This element of the policy does not provide a practical framework for decision making as required by paragraph 17 of the Framework and is concerned with process matters. I consider modification of the policy is necessary in order to ensure it only relates to the development and use of land and meets the basic conditions.
137. The policy is in general conformity with the strategic policies contained in the Development Plan, in particular Policy CS8 of the Core Strategy, Policy SA7 of the Site Allocations Local Plan, and saved Policy R4 of the Bracknell Forest Borough Local Plan (saved policies).
138. The policy has regard to the components of the Framework concerned with promoting healthy communities and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the basic conditions.

**Recommended modification 10:
In Policy ENV4 delete paragraph 2 which should be transferred to supporting text**

Policy CO1: High Speed Broadband

139. This policy seeks to establish that new residential, commercial and community properties should be served by a superfast broadband connection or where for specified reasons this is not possible suitable ducting to properties should be provided on an open access basis. Bracknell Town Council has stated broadband speeds remain an issue in rural areas and supports the policy where new development is concerned.
140. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community.
141. The policy is in general conformity with the strategic policies contained in the Development Plan.
142. The policy has regard to the components of the Framework concerned with supporting high quality communications infrastructure. This policy meets the basic conditions.

Policy BF1: Infill and Backland Development

143. This policy seeks to establish development principles for infill and backland development.
144. Bracknell Forest Council suggests the scope of the policy could be increased to include redevelopment of a site as well as reference to the exclusion of land in built up areas, such as private residential gardens, from the definition of previously developed land. There is no requirement for a Neighbourhood Plan to include policies relating to any particular types of development. I do not consider modification is necessary in this respect in order to meet the basic conditions.
145. Bracknell Forest Council also states the policy should refer to the correct title of the 'Character Area Assessments Supplementary Planning Document'. I have recommended a modification in the interests of clarity so that the policy will provide a practical framework for decision takers in accordance with paragraph 17 of the Framework. Bracknell Forest Council states footnote 10 referred to in the policy is unclear. I consider reference to possible future documents is inappropriate and does not provide a practical framework for decision

takers in accordance with paragraph 17 of the Framework. I recommend deletion of the footnote.

146. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy does not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. However, the policy does properly seek to promote or reinforce local distinctiveness.

147. The policy is in general conformity with the strategic policies contained in the Development Plan.

148. The policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes and requiring good design. Subject to the recommended modification this policy meets the basic conditions.

Recommended modification 11:

In Policy BF1

- **Delete footnote 10**
- **In 5 delete “or window” and insert “to windows”**

Policy BF2: Protection of Heritage Assets

149. This policy seeks to establish that development proposals will be required to sustain and enhance the setting of heritage assets.

150. Bracknell Forest Council suggests the term ‘heritage assets’ is defined in the Neighbourhood Plan. I recommend the definition of heritage asset set out in Annex 2 to the Framework is included in the Neighbourhood Plan as supporting text in order to provide a practical framework for decision takers in accordance with paragraph 17 of the Framework. Bracknell Forest Council suggests inclusion of inappropriate massing in addition to the reference to height. There is no requirement for a Neighbourhood Plan to include policy reference to inappropriate massing. Whilst I consider the suggestion would strengthen the policy I have not recommended a modification in this respect as this is not necessary to meet the basic conditions.

151. Bracknell Forest Council also raises issues in respect of the terms “views” and “provide an attractive interface with areas of open landscape.” I am satisfied views that contribute to the significance of a

heritage asset can be identified and impact of proposals on those views can be assessed. I do not however consider the term “provide an attractive interface with areas of open landscape” provides a practical framework for decision taking in respect of planning applications as required by paragraph 17 of the Framework. I recommend this latter term is deleted.

152. Berkshire Archaeology recommends the policy (and other references in the Neighbourhood Plan) should be extended to protect below ground archaeological remains which may be suitable for preservation, either in situ or by record, if affected by development proposals. There is no requirement for a Neighbourhood Plan to include a policy relating to below ground archaeological remains. No modification is necessary to meet the basic conditions.
153. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community.
154. The policy is in general conformity with the strategic policies contained in the Development Plan.
155. The policy is not sufficiently aligned with national policy in relation to the conservation and enhancement of the historic environment. The policy relates to the setting of heritage assets. The setting of a heritage asset can make a contribution to the significance of that heritage asset. The policy does not reflect the need to weigh the public benefit of schemes against unavoidable harm to the significance of heritage assets as set out in the Framework. I recommend a modification in this respect.
156. Subject to the recommended modification this policy meets the basic conditions.

Recommended modification 12:

In Policy BF2

- **Commence the policy with “Development proposals should demonstrate that negative impacts to the setting of heritage assets have been either avoided or minimised. Where the harm of any residual impacts of a proposed scheme is not justified by the public benefits that would be provided, it will not be supported.”**
- **Delete “and should create frontages that provide an attractive interface with areas of open landscape”**

- **Include the definition of heritage asset set out in Annex 2 to the Framework as supporting text**

Summary and Referendum

157. I have recommended the following modifications to the Submission Version Plan:

Recommended modification 1:

In Policy TC1

- **In the first paragraph after “parish shall” insert “where practical be designed to” and delete “into” and insert “towards”**
- **Replace the second paragraph with “In particular proposals for the Blue Mountain strategic development should be formulated alongside school travel plans and provide for safe access for pedestrians and cyclists to new schools including access points from any wider school designated area beyond the strategic development.”**
- **Delete the third paragraph and transfer to supporting text**
- **Replace the fifth paragraph with “Where possible, developments should include segregated footways and cycleways”**
- **In the final paragraph after “cycle access” delete “to” and insert “towards”**

Recommended modification 2:

In Policy TC1.1

- **Delete “existing” and replace with “historic”**
- **Delete “, and an important aspect the Binfield historic rural character,”**
- **Add historic footpaths and bridlepaths to the Policies Map**

Recommended modification 3:

In Policy TC2

- **Delete “Any strategic scale development will be” and insert “Any development that generates significant amounts of movement”**
- **After “transport impact on” delete “the” and after “pinchpoints” delete “identified on the Policies Map”**

Recommended modification 4:

In Policy TC3

- In line 1 after “towards” insert “physical”
- Delete the second paragraph and include in supporting text substituting “are encouraged to” for “must”

Recommended modification 5:

In Policy CF1

Replace the second paragraph with “Primary healthcare facilities provided as part of a strategic development should be designed to allow for the latest assessment of needs arising from the strategic development concerned when it is completed.”

Recommended modification 6:

In Policy CF2 delete “convenience retail store” and insert “local shop”

Recommended modification 7:

In Policy CF3 delete “permitted” and insert “supported”

Recommended modification 8:

Replace Policy ENV1 with “Development proposals that would result in significant harm to a Local Nature Reserve or Local Wildlife Site will not be supported unless the applicant can demonstrate the proposal cannot be located on an alternative non-designated site with less harmful impacts, and adequate mitigation, or failing that compensatory, measures are proposed. Where as a last resort compensatory measures involving creation of off-site habitat and/or relocation of species are agreed by the Local Planning Authority these should be implemented in partnership with an appropriate nature conservation body.”

Recommended modification 9:

In Policy ENV3

Delete the text following “Meadow” and insert “New development is inappropriate in these areas which shall be kept permanently open except in very special circumstances, for example to accommodate essential utility infrastructure that cannot be located elsewhere”

Recommended modification 10:

In Policy ENV4 delete paragraph 2 which should be transferred to supporting text

Recommended modification 11:

In Policy BF1

- Delete footnote 10
- In 5 delete “or window” and insert “to windows”

Recommended modification 12:

In Policy BF2

- Commence the policy with “Development proposals should demonstrate that negative impacts to the setting of heritage assets have been either avoided or minimised. Where the harm of any residual impacts of a proposed scheme is not justified by the public benefits that would be provided, it will not be supported.”
- Delete “and should create frontages that provide an attractive interface with areas of open landscape”
- Include the definition of heritage asset set out in Annex 2 to the Framework as supporting text

158. I also make the following recommendation in the Annex below.

Recommended modification 13:

Identified errors that are typographical in nature or arising from updates should be corrected. Modification of general text will be necessary to achieve consistency with the modified policies

159. I am satisfied that the Neighbourhood Plan³⁹:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the basic conditions:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;

³⁹ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.⁴⁰

I recommend to Bracknell Forest Council that the Binfield Neighbourhood Development Plan for the plan period up to 2026 should, subject to the modifications I have put forward, be submitted to referendum.

160. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.⁴¹ I have seen nothing to suggest the referendum area should be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by Bracknell Forest Council as a Neighbourhood Area on 11 February 2014.

Annex: Minor Corrections to the Neighbourhood Plan

I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁴² The Neighbourhood Plan includes a number of errors that are typographical in nature; or necessary adjustments arising from updates; or necessary adjustments to achieve improved clarity. I recommend these are adjusted as follows:

Paragraph 1.4 after 2012 add “(as amended)”

⁴⁰ Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁴¹ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁴² Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

Paragraph 1.6 replace “Housing” with “Built Form”

Figure 2.2 check Wykery Copse area

Paragraph 2.18 Figure 2.5 not 2.4

Paragraph 3.2 before “these strategic” insert “For the purposes of the Neighbourhood Plan”

Paragraph 4.10 adjust sub paragraph numbering

Paragraphs 6.3 and 6.5 – this general text should be revised in order to more accurately reflect the approach in the ‘conserving and enhancing the natural environment’ element of the Framework. In particular paragraph 6.5 should be amended to refer to significant not potential harm, and that compensation may be necessary if mitigation cannot be achieved.

Paragraph 6.6 should refer to relocation of species as well as habitat being only undertaken as a last resort and that this should not be in a location that would damage existing habitats or species.

Paragraphs 8.9 to 8.15 should be adjusted to reflect the wording of Policy BF1.

Add a note on the Policies Map to confirm Local Nature Reserves and Local Wildlife Sites are shown as at the time of preparation of the Neighbourhood Plan and subject to variation throughout the Plan period.

Delete key local junctions and pinchpoints from the Policies Map

Policies Map reference to ENV4 should read ENV3

A number of consequential modifications to the general text of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.

**Recommended modification 13:
Identified errors that are typographical in nature or arising from updates should be corrected. Modification of general text will be necessary to achieve consistency with the modified policies**

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3 December 2015
REPORT ENDS