

**Planning and Compulsory Purchase Act 2004, as amended
by The Localism Act 2011, Schedule 9**

**DECISION STATEMENT BRINGING THE BINFIELD NEIGHBOURHOOD PLAN
INTO LEGAL FORCE**

This document is the Decision Statement required to be prepared under Section 38A(9) of the Planning and Compulsory Purchase Act 2004 (as amended) and Regulation 19(a) of the Neighbourhood Planning (General) Regulations 2012 (as amended) (“the Regulations”)¹. It sets out the Council’s considerations and formal decision in bringing the Binfield Neighbourhood Plan into legal force following the successful local referendum held on 3 March 2016.

1.0 SUMMARY

- 1.1 Following an independent Examination and Referendum, Bracknell Forest Council’s Executive on 12th April 2016 decided to bring the Binfield Neighbourhood Plan into legal force under Section 38A(4) of the Planning and Compulsory Purchase Act 2004 (as amended) (“the 2004 Act”).
- 1.2 The Binfield Neighbourhood Plan now forms part of the statutory Development Plan for Bracknell Forest.
- 1.3 In accordance with Regulation 19 of the Regulations, this Decision Statement can be viewed on the Council’s website:
www.bracknell-forest.gov.uk/binfieldparishneighbourhoodarea
- 1.4 In accordance with Regulation 20 of the Regulations, the Binfield Neighbourhood Plan can be viewed on the Council’s website:
www.bracknell-forest.gov.uk/developmentplan
- 1.5 Hard copies of this Decision Statement and the Binfield Neighbourhood Plan can be inspected at:
 - Time Square, Market Street, Bracknell RG12 1JD (between 9am and 5pm Monday to Friday);
 - Binfield Parish Council Office, Benetfeld Road, Binfield, RG42 4EW (Between 9am and 12pm Monday to Friday); and
 - Binfield Library, Benetfeld Road, Binfield, RG42 4JZ (Open: Monday 2pm to 7pm; Tuesday 2pm to 5pm; Thursday 9.30am to 5pm; Friday 2pm to 5pm; Saturday 9.30am to 4pm).

¹ http://www.legislation.gov.uk/ukxi/2012/637/pdfs/ukxi_20120637_en.pdf

2.0 BACKGROUND

- 2.1 The Binfield Neighbourhood Plan relates to the area that was designated by the Council as a Neighbourhood Area on 11th February 2014. This area is coterminous with the Binfield Parish boundary and is entirely within the Local Planning Authority area.
- 2.2 The Binfield Neighbourhood Plan was examined by Mr. Christopher Collison; the Council received his Examiner's report on 3rd December 2015. The report concluded that subject to making the modifications recommended by the Examiner, the Plan met the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum. The Examiner also recommended that the referendum area was based on the Neighbourhood Area that was designated by the Council on 11th February 2014.
- 2.3 On the 20 January 2016 the Post Examination Decision Statement, which is a report that outlines all the Examiner's modifications and confirms the Council's consideration and decision on them, was published by the Council on its website and hard copies were made available. The Post Examination Decision Statement, and the decision to submit the Binfield Neighbourhood Plan to a referendum, were both agreed by the Executive Member for Planning and Transport on 19 January 2016.
- 2.4 On the 3 March 2016, the Binfield Neighbourhood Plan successfully passed referendum with 82% voting in favour of the Binfield Neighbourhood Plan being used to help to decide planning applications in the Binfield Parish Neighbourhood Area.
- 2.5 On 10 May 2016, the Executive of Bracknell Forest Council resolved that the Binfield Neighbourhood Plan (incorporating modifications set out in the Post Examination Decision Statement), be brought into legal force and become part of the statutory Development Plan for Bracknell Forest Council. It will sit alongside the other adopted Local Plans that together form the Development Plan.
- 2.6 Bracknell Forest Council will continue to produce its Comprehensive Local Plan which will set the strategic context within which the Binfield Neighbourhood Plan will sit.

3.0 DECISION AND REASONS

- 3.1 Section 38A(4)(a) of the 2004 Act requires the Council to make the Neighbourhood Plan if more than half of those voting in the referendum have voted in favour of the Plan being used to help decide planning applications in the Neighbourhood Area. The Binfield Neighbourhood Plan was endorsed by more than the required threshold in the referendum on 3 March 2016 (xx% voted in favour).
- 3.2 Section 38A (6) of the 2004 Act states that the Local Planning Authority is not subject to the duty if it considers that the making of the Plan would breach, or would otherwise be incompatible with, any EU obligation or any of the Convention rights. In the report to Executive on 10 May 2016, the Council appended an Initial Equalities Impact Screening Assessment which concluded that that the policies in the Binfield Neighbourhood Plan were not considered to prejudice any particular section of the community. The Council issued a Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) Screening Determination in July 2015, which confirmed to Binfield Parish Council that a SEA and a full HRA were not required on the Binfield Neighbourhood Plan. The Examiner also concluded in his December 2015 report that the Binfield Neighbourhood Plan is compatible with the Convention rights; does not breach, and is otherwise compatible with, EU obligations; and 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. The Council therefore does not consider that the Binfield Neighbourhood Plan (incorporating modifications set out in the Post Examination Decision Statement) is in breach of the relevant legislation.

- 3.3 The Council considers that the Binfield Neighbourhood Plan meets the basic conditions (set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 as amended), its promotion process was compliant with legal and procedural requirement, it does not breach the legislation (set out in Section 38A(6) of the 2004 Act) and confirms that more than half of those who voted in the referendum on 3 March 2016, voted in favour of making the Plan.
- 3.4 As a result of the Executive resolution of 10 May 2016, Bracknell Forest Council has brought the Binfield Neighbourhood Plan into legal force in accordance with Section 38A (4) of the 2004 Act. The Binfield Neighbourhood Plan forms part of the statutory Development Plan for Bracknell Forest and can be used in decision making on planning applications in Binfield Parish Neighbourhood Area. Consequently, decisions on whether or not to grant planning permission in Binfield Parish will need to be made in accordance with Binfield Neighbourhood Plan, unless material considerations indicate otherwise.

4.0 OTHER INFORMATION

- 4.1 In accordance with Regulation 19(b) of the Regulations, a copy of this Decision Statement has been sent to:
- The qualifying body, namely Binfield Parish Council
 - The persons who asked to be notified of the decision.
- 4.2 This Decision Statement, the Binfield Neighbourhood Plan and relevant documents can be viewed as set out in paragraph's 1.3 to 1.5 of this Decision Statement.
- 4.3 Section 61N of Schedule 9 of the Town and Country Planning Act 1990 (as amended) states that any person who is aggrieved by the making of the Binfield Neighbourhood Plan under Section 61E(4) or (8) may make an application to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004 (as amended) on the grounds that:
- the document is not within the appropriate power;
 - a procedural requirement has not been complied with.
- 4.4 Any such application must be made promptly and in any event no later than 6 weeks after the date of this Decision Statement, i.e. no later than Thursday 29th June 2016.

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Date: 20th April 2016