

Warfield Neighbourhood Plan

Bracknell Forest Council's Examination Position Statement

11th February 2020

Introduction

Bracknell Forest Council (BFC) has prepared this position statement to respond to matters raised in Warfield Parish Council's (WPC) statement entitled: "The Warfield Neighbourhood Plan 'Qualifying Body' Response to Matters raised by the Examiner and in relation to the production of a 'Statement of Common Ground' – January 2020" and to provide the Examiner with the Council's position on pertinent issues raised to date during the course of the Warfield Neighbourhood Plan (WNP) Examination.

WPC, as the Qualifying Body (QB), produced its statement in response to the Examiner's request, in her letter of 11th June¹, for a Statement of Common Ground (SoCG) "identifying points of disagreement as well as agreement". This followed a meeting with BFC on 9th July 2019. The statement, provided to BFC for comment, was not considered to be in the format of a SoCG as it did not provide a clear indication of areas of agreement and/or disagreement. As set out in the 'Introduction', it is understood and appreciated that WPC is keen to press-on and minimise any further cost and delay, and that it is WPC's intention to submit it to the Examiner in its current form.

BFC has already advised WPC that BFC therefore considers it appropriate to submit this statement in response to matters raised by both WPC and the Examiner, setting out BFC's position. It is hoped that this will assist the Examiner.

In the first instance BFC considers it necessary to reiterate, for the avoidance of doubt, that notwithstanding comments made in response to the Regulation 16 consultation, BFC remains supportive of the WNP. As stated by the Examiner in her most recent letter dated 25th June 2019, BFC would be supportive of a pragmatic means for the current Examination to progress to its conclusion.

BFC also wishes to highlight that, over the course of preparing the WNP, there have been a number of changes in legislation, policy guidance, evidence and legal judgements. Regrettably this has created a particularly complicated and challenging environment for the QB in preparing the WNP. Alongside this, BFC has been progressing its new Local Plan² through a series of consultations which have necessitated various changes to the plan.

Since the WNP Regulation 16 consultation there have been a few notable changes in emerging policy that the Examiner should be aware of. These are:

- i) BFLP's Hayley Green allocation (former Policy LP7): BFC's Regulation 16 consultation response³ was submitted in April 2019, prior to publication for consultation of BFC's Draft Bracknell Forest Local Plan in October 2019. In response to concerns raised by WPC at our meeting on 9th July 2019, Land at Hayley Green was no longer proposed for allocation in this document, instead leaving it to be dealt with through the WNP. The supporting text to LP4⁴, did however express BFC's support for the principle of the development of Land at Hayley Green for 235 dwellings and stated explicitly that, whilst the site is considered to be of a strategic nature, it would not undermine the approach being taken in the emerging plan in

¹ <https://www.bracknell-forest.gov.uk/sites/default/files/documents/wnp-e4-examiner-letter-110619.pdf>

² <https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/development-plan/draft-bracknell-forest-local-plan/background>

³ <http://consult.bracknell-forest.gov.uk/file/5392784>

⁴ p41, <https://consult.bracknell-forest.gov.uk/file/5519138>

terms of the Spatial Strategy. Whilst this is BFC's current position, due to the nature of plan-making it is possible that the approach may have to be amended following consideration of representations received.

- ii) 5 year housing land supply: Although there has been a period during the preparation of the WNP, when BFC has not been able to demonstrate a 5 year housing land supply (HLS), this position has changed. Currently, BFC is able to demonstrate a HLS of 6.08 years⁵. This is based on the position at 1st April 2019.
- iii) WNP2 primary school: After carrying out a round of consultation on the Local Plan in February/March 2018 (when land at Hayley Green was proposed for allocation - former proposed Policy LP7), the Local Education Authority (LEA) advised that latest evidence suggested that there was no longer a need for a primary school at Hayley Green.

This statement will now set out BFC's position on the following issues pertinent to the WNP examination:

- i. Principle of including Policy WNP2 in the Warfield Neighbourhood Plan;
- ii. Conformity of Policy WNP2 with National Policy;
- iii. Compatibility of Policy WNP2 with EU obligations; and
- iv. Minor modifications

These matters will now be considered in turn.

i. Principle of including Policy WNP2 in the Warfield Neighbourhood Plan

The WNP was submitted to BFC on 24th January 2019. Therefore, under transitional arrangements, the WNP is being considered under the National Planning Policy Framework (NPPF) (2012)⁶ and associated guidance. Para 184 of the NPPF states that any neighbourhood plan (NP) policies should be aligned with the strategic needs and priorities of the wider area, and Basic Condition E requires NPs to be in general conformity with the strategic policies contained in the development plan. A list of these policies was provided to the QB during the development of the plan. However, due to changes in national policy, not all of these adopted policies are now consistent with current national policy upon which the emerging Local Plan is based.

The archived NPPG that was relevant to the NPPF 2012 clarifies that in considering 'general conformity' the Examiner will consider:

1. whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with; and
2. the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy.

At the 9th July 2019 meeting, WPC stated its concerns regarding BFC's decision to identify development at Hayley Green as 'strategic' in nature. BFC's view was that the scale of development proposed had implications for assessments and associated strategies of a

⁵ <https://www.bracknell-forest.gov.uk/sites/default/files/documents/five-year-housing-land-supply-calc.pdf>

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<https://webarchive.nationalarchives.gov.uk/20180608095821/https://www.gov.uk/government/publications/national-planning-policy-framework--2>

strategic nature that were being developed by the Council and its partners e.g. transport, air quality and the Strategic Flood Risk Assessment (SFRA). It was also considered to have the potential to impact on the spatial strategy and delivery of housing.

To better understand the cause of WPC's concerns, BFC invited the QB to provide further information. The QB has opted to set out its reasoning in its statement. With reference to the NPPF, it states that "custom and practice had evolved to interpret its paragraph 184 to mean that neighbourhood plans should not normally stray into strategic policy making without the full support of the LPA and an alignment of the evidence bases". However it goes on to state that this "did not prevent successful, strategic-type policy proposals coming forward through 'made' neighbourhood plans, for example in Newport Pagnell, even when, as there, they resulted in 'greenfield' site allocations delivering significantly more homes in the plan period than provided for by adopted strategic policy or envisaged or required by the LPA in emerging policy".

Basic condition E is concerned specifically with a NP's general conformity with the strategic policies contained in the development plan. Whilst BFC remains of the view that WNP2 is 'strategic' in nature, it is also considered to meet the requirements of Basic Condition E in being in 'general conformity' with the development plan. WNP's conformity with BFC's strategic policies will now be considered.

a. Delivering sustainable development

Policy WNP2 seeks to allocate land for residential development that is currently in the countryside, outside of the existing defined settlement boundary. In the context that BFC has a HLS in excess of 6 years, development on land outside of settlement would be contrary to Core Strategy strategic policy 'CS9 – Development on Land Outside Settlements'. The WNP is however seeking to allocate land through the NP process. The allocation of land for development would be tested against the locational principles set out in strategic policy 'CS2 – Locational Principles'. The policy states that "Extensions to defined settlements [will be allocated] with good public transport links to the rest of the urban area or with firm proposals to provide such links". For development that has then been allocated, the policy goes on to state that "Development will be permitted which is consistent with the character, accessibility and provision of infrastructure and services within that settlement."

BFC is satisfied that, notwithstanding other comments made in this statement and as part of the Regulation 16 consultation response, Policy WNP2 requirements would provide for a sustainable form of development. As the Examiner highlighted in her 11th June 2019 letter; given the NPPF's encouragement for NPs to plan positively, regard should be had to the NPPF's presumption *in favour* of sustainable development (paras. 11-16) and section 6 – Delivering a wide choice of high quality homes.

Because of: i) the NPPF's vision for NPs to plan positively for development in the area, and ii) the composition of WNP2 that would require a sustainable form of development, notwithstanding other comments made in this statement and as part of the Regulation 16 consultation response, BFC is able to confirm that BFC considers WNP2 to be in general conformity with strategic policy CS2 – Locational Principles' that effectively requires development to be sustainable.

b. Meeting Bracknell Forest's housing need

The development plan's strategic policy for local housing need: 'Policy CS15: Overall Housing Provision', is not based on an up-to-date housing need assessment conducted using the standard method in national planning guidance and is therefore considered to be out of date.

Using the 'standard method' as the basis for calculating the housing requirement⁷ (as required by the NPPF (2019), para. 60) and a base date of 1st April 2019, BFC is able to demonstrate a HLS of just over 6 years. There is therefore considered to be no immediate need for the WNP2 allocation. There are also other outstanding commitments likely to deliver beyond the current deliverable supply. The WNP plan period is up to 2026. However, any additional housing delivered as a result of WNP2 will accord with the Government's ambition of boosting supply. Furthermore, it is likely that the site will still be delivering housing post 2026 and therefore contribute to the period being planned for in the emerging Local Plan. It is also relevant that housing need represents a minimum requirement rather than a maximum.

The ambition of WPC in seeking to steer future housing development in the Neighbourhood Area to meet future housing need is recognised. The NPPF (2012) is supportive of this, in that a positive locally-led approach to development is a key tenet of neighbourhood planning, as stated in NPPF (2012) paragraphs 16,17, 184 & 185.

Whilst BFC's preference would be for WPC to amend the plan period to 2019 – 2036, to justify additional housing beyond the current adopted plan period, it is understood that WPC would be resistant to this due to the need for further statutory consultations. It is noted that the QB's statement was drafted in the context of BFC not having a 5 year HLS at the time - this is not currently correct.

Notwithstanding this, BFC's position can be confirmed that, with or without this amendment, WNP2:

- responds to the NPPF's vision for NPs to plan positively;
- would assist /supplement the number of dwellings that BFC is now planning for; and
- would not materially undermine BFC's strategic policies on housing need or the spatial strategy in the emerging Local Plan, thereby meeting the requirement of Basic Condition E.

ii. Conformity of Policy WNP2 with National Policy

In BFC's Regulation 16 response, BFC stated that the disposition of land uses as illustrated on the Hayley Green concept plan (Inset map 2) is not based on robust evidence, as it conflicts with BFC's own evidence base that informed the emerging Local Plan. In particular with regards to drainage and landscape sensitivity, impacting the location of housing. BFC remains of this view. In light of PPG (Paragraph: 040 Reference ID: 41-040-20160211) that requires policies to be based on "proportionate" and "robust evidence", as currently drafted, the WNP does not meet the requirements of Basic Condition A.

BFC recognises that the WNP supporting text refers to the plan showing disposition of land uses as a 'concept plan' (inset Map 2, p51), and that the policy requires the submission of a detailed masterplan for "approval prior to any planning applications being submitted". To strengthen this, BFC has recommended changes to Policy WNP2 text to ensure that the masterplan is "agreed with the Council in accordance with the requirements of Policy WNP2 and other relevant Development Plan policies" (ref. Reg 16 consultation response, pp 19-20) to make it clear that any development that comes forward, amongst other planning policy requirements, would be required to mitigate its impact on infrastructure and would respond to an evidence base agreed with BFC that informs the best disposition of land.

⁷ NPPF (2019), para. 60: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

BFC had not previously suggested this amendment against a Basic Condition, but instead under 'Appendix 2 – BFC other suggested changes/detailed comments on the Warfield Neighbourhood Plan'. However on reflection, BFC consider it appropriate to make this change to meet the requirements of Basic Condition A – regard to national policies and advice that requires NPs to be based on proportionate, robust evidence.

Therefore, subject to this amendment, given that the site's masterplan would need to be agreed with BFC and accord with development plan policy, and any other material considerations, BFC is satisfied that WNP2 would meet the requirements of Basic Condition A.

iii Compatibility of Policy WNP2 with EU obligations

Neither BFC nor WPC dispute the need for an Air Quality Assessment (AQA) to inform an Appropriate Assessment (AA) in order to be able to demonstrate that implementation of policy WNP2 would meet the requirements of the EU Habitat Regulations.

Whilst BFC's preference is for WPC to use BFC's AQA, BFC's assessment is proving to be particularly challenging, and the timetable for its completion has slipped from the beginning of 2020 to late Spring 2020. It is appreciated therefore, that in order for WPC to maintain a degree of control of the Examination timetable, it intends to commission Locality Technical Support to undertake this work, specifically for policy WNP2. BFC is supportive of this and will assist where possible. BFC will await the Examiner's advice on how this would impact on the Examination timetable.

Subject to the completion of an AQA and subsequent AA of Policy WNP2, that is able to demonstrate that the requirements of the Habitat Regulations can be satisfied, BFC is of the view that the WNP would be compatible with EU obligations and meet the requirements of Basic Condition F.

iv Minor modifications

In BFC's Regulation 16 consultation response, a number of minor modifications were suggested to improve the effectiveness of the plan. Whilst BFC appreciates that these are not matters for discussion at the Examination, a number of NP Examiners have recommended the incorporation of such amendments in their concluding remarks. BFC would request the Examiner to consider a similar approach with the WNP.