

# INDEPENDENT EXAMINATION OF THE WARFIELD NEIGHBOURHOOD PLAN

EXAMINER: Mary O'Rourke BA(Hons) DipTP MRTPI

Jason Mawer  
Clerk to Warfield Parish Council

Matt Lunn  
Bracknell Forest Council

Examination Ref: 01/MOR/WNP

Via email

29 March 2021

Dear Mr Mawer and Mr Lunn

## WARFIELD NEIGHBOURHOOD PLAN EXAMINATION

### *Introduction and Background*

As you are aware, the initial examination into the Warfield Neighbourhood Plan (WNP/the Plan) commenced in 2019 and there was an exchange of letters with the (then) Examiner Jill Kingaby within which she set out, amongst other matters, the need for necessary additional Habitats Regulations Assessment (HRA), in compliance with the Sweetman court judgement.<sup>1</sup> As a result, it was not possible for any substantive progress to be made on the examination until completion of the necessary HRA work.

AECOM subsequently undertook the necessary HRA work on behalf of the Parish Council, which in practice has taken considerably longer than was initially anticipated due to the air quality assessments. As a result, the HRA (dated February 2021) was not completed and forwarded to the Examiner until 18 February 2021.<sup>2</sup> Unfortunately, given the considerable time that had elapsed, Ms Kingaby was not available to resume the examination due to other work commitments.

Bracknell Forest Council (BFC), with the agreement of Warfield Parish Council (WPC), has now appointed me as the Examiner to progress the examination of the October 2018 submission version of the WNP. I will make my own independent assessment of the matters that relate to this examination and will not be bound by any earlier work done by the previous Examiner.

First, I would like to clarify several procedural matters. I also have a number of initial questions for BFC and WPC, set out in the Annex to this letter.

### 1. Examination Documentation

I can confirm that I have received a complete submission of the draft Plan and accompanying documentation, including the Basic Conditions Statement (August 2018, updated January 2019), the Consultation Statement (January 2018) and the Regulation 16<sup>3</sup> representations. I also have the

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<sup>1</sup> Examination Ref: 01/JK/WNP letter dated 16 May 2019: <https://www.bracknell-forest.gov.uk/sites/default/files/documents/wnp-e1-examiners-initial-letter-160519.pdf>

<sup>2</sup> Letter from Jason Mawer, Warfield Parish Clerk: <https://www.bracknell-forest.gov.uk/sites/default/files/documents/e12-appendix-1-copy-of-bfcne-response-from-e-mail.pdf>

<sup>3</sup> The Neighbourhood Planning (General) Regulations 2012 (as amended).

Final Sustainability Appraisal Report (October 2018) and the Warfield HRA dated February 2021. I have seen the supporting evidence as set out on WPC's web page and I have read the Regulation 16 representations.

I am aware that the previous Examiner requested in her letter of 10 June 2019<sup>4</sup> that there should be further discussion between the Parish Council and Bracknell Forest Council regarding policy WNP2 and whether it should be regarded as a strategic policy. It is my understanding that whilst further discussion did take place, it did not result in the production of a Statement of Common Ground, as had been requested. However, I confirm that I have the Qualifying Body's Response to Matters raised by the Examiner and in relation to the Production of a 'Statement of Common Ground' (January 2020), with its Appendix 1 and its Position Statement on policy WNP2 Hayley Green, and Bracknell Forest Council's Examination Position Statement (11 February 2020).

In addition to concern about the Hayley Green allocation and policy WNP2, the examination letter of 16 May 2019 also noted that representations had been made about the consultation process and asked for WPC's response, albeit I have not seen anything from WPC in response.

The attached Annex includes questions on both matters, as I consider these are matters that are fundamental to the assessment of the WNP as to compliance with the Regulations and accordance with the Basic Conditions.<sup>5</sup>

## 2. Site Visit

As part of my examination, I intend to undertake an unaccompanied site visit to the neighbourhood plan area. However, I intend to wait until I have responses to the questions I have set for WPC and BFC before fixing a suitable date. I will write separately to advise in due course.

## 3. Written Representations

At this stage, I consider the examination can be conducted solely by the written representations procedure, without the need for a hearing. However, I reserve the option to convene a hearing should a matter(s) come to light where I consider that a hearing is necessary to ensure the adequate examination of an issue, or to ensure that a person has a fair chance to put a case.

## 4. Further Clarification

I have a number of initial questions seeking further clarification from both WPC and BFC. I have set these questions out in the Annex to this letter. I would be grateful if a written response could be provided within 4 weeks of receipt of this letter.

Once I have responses to these questions, I anticipate that I will have a set of further questions for WPC relating to the more detailed content of the Plan.

## 5. Examination Timetable

I appreciate the examination of the Plan has not been able to be progress for some considerable period of time. However, as I have raised a number of questions, I must provide the opportunity for the preparation of an appropriate response, and this may take more time. Please be assured that I will seek to mitigate any delay as far as is practicable.

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<sup>4</sup> Examination Ref: 03/JK/WNP letter dated 11 June 2019: <https://www.bracknell-forest.gov.uk/sites/default/files/documents/wnp-e4-examiner-letter-110619.pdf>

<sup>5</sup> Paragraph 8(2), Schedule 4B to the Town and Country Planning Act 1990 (as amended).

Once I have received and reviewed the responses to my initial questions, I hope to be in a better position to make an informed assessment of the likely examination timetable.

If you have any process questions related to the conduct of the examination, which you would like me to address, please do not hesitate to contact the office team in the first instance.

In the interests of transparency, may I prevail upon you to ensure a copy of this letter, and any subsequent responses, are placed on the websites of the Warfield Parish Council and Bracknell Forest Council.

Thank you in advance for your assistance.

Your sincerely

**Mary O'Rourke**

Examiner

## ANNEX

### Warfield Neighbourhood Plan Examination

#### Examiner's Initial Questions

##### To Bracknell Forest Council (BFC)

1. Please provide the formal views of the Council, as the Competent Authority, on the Appropriate Assessment of the Warfield Neighbourhood Plan in the HRA of February 2021 and the conclusions therein. I would appreciate if the formal views of Natural England on the HRA could also be obtained and forwarded to me.

In addition, the Regulation 16 consultation on the Plan did not include the HRA that has now been produced. Therefore, interested parties have not had an opportunity to comment on the HRA as would be a legitimate expectation of that consultation process. What steps does the Council now propose to take to address this?

On a related point, in its letter of 18 February 2021, enclosing the HRA, WPC proposes modifications flowing from the HRA recommendations. What are the Council's views on these proposed modifications which are as a direct result of the HRA now produced?

2. Please confirm the formal title of the emerging Local Plan, which is referred to in the WNP as the 'Bracknell Forest Comprehensive Local Plan'. I understand the Pre-Submission version is currently out to consultation until 11 May 2021. The Planning Practice Guidance (PPG) at reference ID : 41-009-20190509 (to which the Plan must have regard) advises that it is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. Given the emerging Local Plan has now progressed to Regulation 19<sup>6</sup> consultation, does this give rise to any issues in relation to the approach of the submitted WNP (albeit I am assessing the WNP against the extant Development Plan for the area)?

In particular, I would request the following clarification:

- (i) The submitted WNP is for the period 2013-2026 and the Plan's Foreword commits to its early review in 2023. However, I note that BFC's preference would be for a plan period of 2019-2036 'to justify additional housing beyond the current adopted plan period'. Am I correct to assume the reasoning behind this is to align with the plan period of the emerging Local Plan? What does BFC envisage as the implications of such a change on the examination and on the Plan itself?
- (ii) The February 2020 Examination Position Statement noted BFC's continued support for the WNP and I understand that, after BFC's Regulation 16 consultation response in April 2019 and subsequent 9 July 2019 meeting with WPC, land at Hayley Green was no longer proposed for allocation in the draft Bracknell Forest Local Plan, and whilst considered to be strategic in nature, that its development would not undermine the approach being taken in the emerging plan in terms of the spatial strategy. Has there been any change to that approach? Please confirm whether it is still BFC's position that policy WNP2 would not undermine the spatial strategy of the emerging Local Plan.

I would also be grateful if you could please provide details of the most recent housing land supply assessment.

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<sup>6</sup> The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

3. Please confirm whether BFC's position remains as outlined in its February 2020 Position Statement, more particularly that policy WNP2 is considered to be in general conformity with the Development Plan, would provide for a sustainable form of development, and is in general conformity with strategic policy CS2.
4. Please advise as to the concerns of BFC, with regard to drainage and landscape sensitivity, in respect of Inset Map 2, the Hayley Green Concept Plan. What changes are suggested as being needed to Map 2, the policy text and supporting paragraphs?
5. Representations made on behalf of JPP Land Ltd referred to development at Newell Green subject of planning application 19/00006/OUT. Please provide a plan showing the site and details of the decision, if made.
6. The Basic Conditions Statement at paragraph 6.1 refers to the Human Rights Act 1998. Please provide the Council's view on the WNP, including its preparation, and its compatibility with any EU obligation or any of the Convention rights (within the meaning of the Human Rights Act 1990).

### **To Warfield Parish Council (WPC)**

7. Please address the request made by the previous Examiner, in her letter of 16 May 2019<sup>7</sup>, for a response from WPC to claims made in representations that alleged that the consultation process had been inadequate and unsympathetic to residents, especially in the vicinity of Hayley Green.
8. In respect of the Consultation Statement, please provide additional evidence of the involvement of the wider community in the Neighbourhood Plan preparation process, in particular details of dates, times, venues and attendance of open sessions and public meetings, and the Steering Group's response to any representations made. In particular, how the community was engaged in the assessment of potential development sites and site selection.
9. Please describe the process and public engagement undertaken which resulted in the layout shown on the Concept Plan at Inset Map 2.
10. In respect of the Basic Conditions Statement, as updated January 2019, does WPC consider there are any updates required to the Plan as a consequence of subsequent revisions or changes to national planning policy or legislation, for example the Use Classes Order<sup>8</sup> or to local policy, particularly in relation to the emerging Local Plan (having regard to the advice in the PPG referenced in qu. 2 above)? In this regard, please advise on BFC's preference for an amended Plan period of 2019-2036.

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<sup>7</sup> See footnote 1.

<sup>8</sup> The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.