

# **BRAY PARISH NEIGHBOURHOOD PLAN 2016-2030**

Bray Parish Neighbourhood Plan Examination,  
A Report to the Council of the  
Royal Borough of Windsor and Maidenhead

by Independent Examiner, Nigel McGurk BSc(Hons) MCD MBA MRTPI

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## Introduction

### The Neighbourhood Plan

- 1 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.
- 2 This Report provides the findings of the examination into the Bray Parish Neighbourhood Plan (referred to as the Neighbourhood Plan).
- 3 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”* (Paragraph 183, National Planning Policy Framework)

- 4 The Neighbourhood Plan was prepared by a Steering Group established by Bray Parish Council.
- 5 As set out in paragraph 1.2 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Bray Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).
- 6 This Examiner's Report provides a recommendation with regards whether the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by the Council of the Royal Borough of Windsor and Maidenhead. The Neighbourhood Plan would thus form part of the development plan and be used to determine planning applications and guide planning decisions in the Bray Parish Neighbourhood Area.

Role of the Independent Examiner

- 7 I was appointed by the Council of the Royal Borough of Windsor and Maidenhead, with the consent of the Qualifying Body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 8 I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.
- 9 As the Independent Examiner, I must make one of the following recommendations:
  - that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
  - that the Neighbourhood Plan, as modified, should proceed to Referendum;
  - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
- 10 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond Bray Parish Neighbourhood Area to which the Plan relates.

Neighbourhood Plan Period

- 11 A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan clearly specifies that the document covers the period:

*"2016 to 2030."*

- 12 In addition, the Basic Conditions Statement submitted alongside the Neighbourhood Plan confirms, in paragraph 1.3, that:

*"The period of the Plan is from 2016 to 2030."*

- 13 Taking the above into account, the Neighbourhood Plan satisfies the relevant requirement in respect of specifying the plan period.
- 14 The front cover of the Neighbourhood Plan also refers to the publication date of the Submission Version. This reference would not be applicable to a made version of the Neighbourhood Plan and I recommend:
- **Neighbourhood Plan front cover, delete "Final for Submission September 2016"**

### Public Hearing

- 15 According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 16 However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 17 Further to consideration of the information submitted, I confirmed to the Council of the Royal Borough of Windsor and Maidenhead that I was satisfied that the Bray Parish Neighbourhood Plan could be examined without the need for a Public Hearing.
- 18 In making the above decision I was mindful that the Neighbourhood Plan has emerged through robust consultation (see *Public Consultation*, later in this Report) and that people have been provided with significant and appropriate opportunities to have their say.

## **2. Basic Conditions and Development Plan Status**

### **Basic Conditions**

- 19 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*<sup>1</sup> following the Localism Act 2011. 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 neighbourhood 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, European Union (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.<sup>2</sup>
  - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>3</sup>
- 20 In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:
- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;

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<sup>1</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

<sup>2</sup> 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.

<sup>3</sup> The Convention rights has the same meaning as in the Human Rights Act 1998.

- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

- 21 Subject to the content of this Report, I am satisfied that these three points have been met.
- 22 In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.



### European Convention on Human Rights (ECHR) Obligations

- 23 I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.
- 24 In the above regard, I note that Information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. Representations have been made to the Plan, some of which have resulted in changes and the Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses and shows the outcome of comments.

### European Union (EU) Obligations

- 25 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal<sup>4</sup>. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.
- 26 In this regard, national advice states:
- “Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”*  
(Planning Practice Guidance<sup>5</sup>)
- 27 National advice then goes on to state<sup>6</sup> that the draft plan:
- “...must be assessed (screened) at an early stage of the plan’s preparation...”*
- 28 This process is often referred to as a screening opinion, determination, statement or report. If the screening opinion identifies likely significant effects, then an environmental report must be prepared.

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<sup>4</sup> Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance.

<sup>5</sup> Paragraph 027, *ibid*.

<sup>6</sup> Planning Practice Guidance Reference ID: 11-028-20150209.

- 29 The Council of the Royal Borough of Windsor and Maidenhead consulted on a Strategic Environmental Assessment screening opinion in April 2015. The screening opinion states that:

*"...an SEA will not be required for this plan because it is unlikely to have significant environmental effects."*

- 30 The statutory bodies, Natural England, Historic England and the Environment Agency were consulted on the screening opinion. Each of the bodies wrote to the Council of the Royal Borough of Windsor and Maidenhead to formally agree with the above conclusion.

- 31 A Habitats Regulations Assessment screening opinion was also produced and consulted on by the Royal Borough of Windsor and Maidenhead in April 2015. A HRA is required if the implementation of the Neighbourhood Plan may lead to likely significant effects on European sites.

- 32 Whilst the Habitats Regulations Assessment (HRA) screening opinion identifies the Windsor Forest and Great Park Special Area of Conservation (SAC) as being within 5km of and partly within the Neighbourhood Area, it goes on to conclude that the Neighbourhood Plan:

*"...is unlikely to have significant environmental effects...because the plan does not allocate sites for development...does not include proposals that will affect any sensitive natural or heritage assets...does not appear to lead to any significant environmental effects."*

- 33 The HRA screening opinion was also consulted upon and none of the statutory bodies, above, demurred from its conclusions.

- 34 Further to all of the above, national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

*"It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations"* (Planning Practice Guidance<sup>7</sup>).

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<sup>7</sup> Planning Practice Guidance Reference ID: 11-031-20150209.

- 35 In undertaking the work that it has, the Council of the Royal Borough of Windsor and Maidenhead has considered the Neighbourhood Plan's compatibility with European obligations and found that neither a full Strategic Environmental Assessment, nor a full Habitats Regulations Assessment are required. Having regard to this and to all of the above, I am satisfied that the Neighbourhood Plan meets the basic conditions in respect of meeting European obligations.

### **3. Background Documents and the Bray Neighbourhood Area**

#### Background Documents

36 In undertaking this examination, I have considered various information in addition to the Bray Neighbourhood Plan. This has included (but is not limited to) the following main documents and information:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- The Saved Policies of the Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations Adopted June 2003)
- Basic Conditions Statement
- Consultation Statement
- Strategic Environmental Assessment and Habitats Regulations Assessment Screening Reports

Also:

- Representations received

37 In addition, I spent an unaccompanied day visiting the Bray Neighbourhood Area.

Bray Neighbourhood Area

- 38 The boundary of the Bray Neighbourhood Area corresponds with that of Bray Parish.
- 39 The Neighbourhood Plan includes a Map on page 7 (Map 1), which identifies the boundary of the Neighbourhood Area.
- 40 The Royal Borough of Windsor and Maidenhead formally designated the Bray Parish Neighbourhood Area on 21<sup>st</sup> March 2013. This satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

## **4. Public Consultation**

### Introduction

- 41 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 42 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

### Bray Parish Neighbourhood Plan Consultation

- 43 A Consultation Statement was submitted to the Council of the Royal Borough of Windsor and Maidenhead alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*<sup>8</sup>.
- 44 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Bray Parish Neighbourhood Area, having regard to Paragraph 183 of the Framework.
- 45 Bray Parish Parish Council established a Steering Group and commenced work on the Neighbourhood Plan in 2011. Initial consultation events were held across three different venues in November and December of that year, with the aim of launching the plan-making process. These were followed up by the production of a printed survey booklet, delivered across the Parish. The 286 responses were collated and the results published.

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<sup>8</sup>Neighbourhood Planning (General) Regulations 2012.

- 46 The survey was followed by a series of workshops, held during 2012 and further consultations took place in Fifield and Oakley Green in September 2013. An additional survey on a possible project for village development was then conducted in Fifield in October 2014.
- 47 During a ten week period between May and July 2015, the draft plan was consulted upon. This was supported by the production and distribution (electronically and physically) of a 12 page summary document and response form. This included the hand-delivery of more than 3,500 summary documents.
- 48 Responses to the consultation, of which there were 112, were collated and reviewed by the Steering Group, and changes were subsequently made to the emerging plan.
- 49 Consultation was well-publicised. As well as via the delivery of leaflets and fliers, it was supported by the ongoing provision of information on a dedicated website. The website included information about Steering Group meetings – of which more than 70 were held during the plan-making process; as well as other matters relating to the emerging plan.
- 50 The Consultation Report provides evidence to show that public consultation formed an important part of the plan-making process and that the Parish Council was proactive in encouraging community involvement in neighbourhood planning. Matters raised were considered and the reporting process was transparent.
- 51 Taking all of the above into account, I am satisfied that the consultation process was robust.

## **5. The Neighbourhood Plan – Introductory Section**

52 The basic conditions, which the Neighbourhood Plan must meet, are set out earlier in this Report. Taking these into account and for clarity, I recommend:

- **Page 3, second Para, fourth line, change to “...and *must have regard to the Government’s...*”**

53 There is a formatting error on page 53 and I recommend:

- **Page 3, second Para, fourth line, change formatting to “*RBWM*”**

54 For clarity, I recommend:

- **Page 3, second Para, sixth line, change to “...process in 2012, by *formally designating it a “Qualifying Body”* and has...”**

55 No indication is provided in respect to what the “*rights of authors*” referred to on Page 4 might be and consequently, this reference in the Neighbourhood Plan is unclear. I recommend:

- **Page 4, first Para, change to “...joint authors of this Report.” (delete rest of sentence)**

56 Part of the text on page 5 has been overtaken by events. I recommend:

- **Page 5, delete third Para (“The draft Plan was...bring it into force.”)**

57 The first sentence of the last paragraph on page 5 is unnecessary as it effectively repeats part of the preceding paragraph and detracts from clarity. It also refers to “*statuary*” as opposed to “*statutory*.” I recommend:

- **Page 5, last Para, delete first sentence “The development and...Referendum.”**



- 58 There is a typographical/grammatical error on page 8, I recommend:
- **Page 8, Para 5, change to “...the Parish, *which include an urban extension...*”**
- 59 Paragraph 7 on page 8 appears as a Policy requirement, which it is not, rather than as a simple statement of fact and I recommend:
- **Page 8, Para 7, change to “The *only retail premises in the Parish are located in the recognised...Fifield;*”**
- 60 For clarity, I recommend:
- **Page 9, first main Para, first line, change to “...highways, *the M4...*”**
- 61 No evidence is provided to demonstrate that the presence of single lane roads creates “*excessive use*” by heavy goods vehicles. Consequently, this is a confusing reference and for clarity, I recommend:
- **Page 9, first main Para, sixth line, change to “...feature, *together with significant use by heavy goods vehicles, leads to issues related to congestion and related concerns regarding speed and safety.*”**
- 62 Flood Management is not the “*sole prerogative*” of the Environment Agency and I recommend:
- **Page 10, fourth Para, fifth line, delete sentence “Flood Management...Councils.”**
- 63 Landscaping can comprise an important element of many kinds of development. Objective 4 on page 11 fails to contribute to the achievement of sustainable development, as it could severely limit and in many cases, serve to prevent the use of appropriate landscaping. In making the recommendation below, I am also mindful of the absence of an appropriate Policy basis on which Objective 4 might be achieved.
- 64 I recommend:
- **Page, 11, delete Objective 4**

65 No substantive evidence has been provided to demonstrate that there is any possibility of “ensuring” that traffic in the Neighbourhood Area is not increased. Consequently, this appears as a potentially misleading objective. I recommend:

- **Page 12, change Objective 8 to “Seek to ensure that congestion across...”**

66 No indication is provided in respect of how Bray Parish Council can “ensure” the content of regulations and I note that it cannot ensure the content of planning policies outside those of the Neighbourhood Plan. I recommend:

- **Objective 10, change to “Ensure that neighbourhood planning policies generally support...”**

67 The reference to the Green Belt on page 13 is confusing. For example, it suggests that Chapter 9 of the National Planning Policy Framework establishes Green Belt purposes that include, for example, preserving and enhancing gaps “between Windsor and Maidenhead, whose outskirts already extend into Bray Parish either side.” This is not the case.

68 This section goes on to suggest that national Green Belt policy seeks to achieve a number of other things that it does not, for example, “Control landscaping to ensure that it is only in the interests of agriculture, flooding or equestrianism...”

69 For precision, I recommend:

- **Page 13, below “Green Belt Preservation and Enhancement,” delete second Para and all bullet points (from “According...” to “...visitors.”) and replace with: “The Government attaches great importance to Green Belts. The National Planning Policy Framework establishes national Green Belt policy in Chapter 9, “Protecting Green Belt.” This sets out, in Paragraph 80, the five purposes of Green Belt, which are: to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”**

70 Further to the above, it is not clear why the small sections, "*Scope of the Plan*" and "*The Green Belt*" do not form part of Section I. of the Neighbourhood Plan, as neither contain Policies. As set out, the presentation appears confusing, such that the Policy Section of the Neighbourhood Plan is not clearly distinguishable from the, important, background information contained within the document.

71 For clarity, I recommend:

- **Page 13, change titles to "*F. Scope of the Plan*" and "*G. The Green Belt*"**
- **After the end of Section G, begin new page with heading "*Neighbourhood Plan Policies*"**

## **6. The Neighbourhood Plan – Neighbourhood Plan Policies**

### The 'Bray Green Gap'

#### **Policy BNP-GG1: Bray Green Gap**

- 72 The majority of the Neighbourhood Area is protected by Green Belt and the Neighbourhood Plan is supportive of national Green Belt policy. However, it seeks, in addition, to establish a “*Green Gap*.” This would effectively overlay existing Green Belt.
- 73 Policy BNP-GG1 is confusing in the above regard. For example, it seeks to impose a policy to protect against coalescence, when this is already a Green Belt purpose. However, whereas Green Belt policy, as set out in Chapter 9 of the National Planning Policy Framework (the Framework), “*Protecting Green Belt land*,” establishes a detailed approach to preventing urban sprawl whilst keeping land permanently open, it is not clear exactly how Policy BNP-GG1 would ensure that development protects “*the distinct and separate identities of existing settlements*,” or how it might work alongside existing policies to achieve this.
- 74 Further to the above, no detail is provided to set out in what way development might “*protect the landscape and environmental qualities*” of the proposed Green Gap. Furthermore, the supporting text only briefly refers to very general elements of the local landscape, based on a study dating from 2004 and provides little substantive evidence relating to “*environmental qualities*.”
- 75 To add to the ambiguous nature of the Policy in this regard, the proposed Green Gap itself is shown on Map 3 as an arrow. Whilst the text refers to the “*boundaries of the gap*,” it is only general and lacking in necessary detail – for example, the southern boundary is referred to as comprising “*open arable fields*.” Consequently, there is a lack of precision in respect of the precise area the proposed Green Gap would cover.

- 76 Taking the above into account, Policy BNP-GG1 is imprecise. It does not give a decision maker a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework which states that:

*“Only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan.”*

- 77 In addition to the above, the supporting text to Policy BNP-GG1 suggests that the Green Gap would extend to the River Thames in the north. This would mean that it would include existing developed land. However, no indication is provided of how development within these existing built-up areas, for example, domestic extensions, might be treated. A requirement to simply “*protect*” landscape and environmental qualities would conflict with much more detailed Green Belt policy, which provides support for development that is not inappropriate to the Green Belt.

- 78 Similarly, the Policy gives no detail in respect of what “*inappropriate development on Urban edge land*” actually comprises. Again, the Policy is imprecise in this regard.

- 79 Taking all of the above into account, Policy BNP-GG1 does not have regard to national policy. Furthermore, the Policy is ambiguous. In this regard, Planning Practice Guidance<sup>9</sup> is explicit:

*“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 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.”*

- 80 Notwithstanding all of the above and taking into account all of the information submitted by Bray Parish Council, I am especially mindful that the character of the local landscape and the features within it are extremely important to the local community.

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<sup>9</sup> Paragraph: 042 Reference ID: 41-042-20140306

81 Having regard to this, I note that Paragraph 58 of the Framework requires development to respond to local character and taking this and all of the above into account, I recommend:

- **Delete wording of Policy BNP-GG1 and replace with “*Development within the Neighbourhood Area must respect local character. The improvement of landscape quality and the retention and/or restoration of boundary features such as hedgerows will be supported.*”**
- **Delete Map 3**
- **Page 14 delete section B**
- **Pages 15 and 16, delete supporting text and replace with “*The Neighbourhood Area’s landscape has an important bearing of the quality of the environment. The Parish Council is keen to ensure that new development respects landscape quality and where possible, takes opportunities to improve landscape quality in those areas where it may have become degraded.*”**

***A Landscape Character Assessment report was published by RBWM in 2004. This provides background information.***

- **Change title of Policy to “*Local Character*”**
- **Page 11, bullet point 2, delete “, and in particular...either side;”**

## The Built Environment

### **Policy BNP-BE1: Development Brief and Statement of Community Consultation**

- 82 The Bray Parish Neighbourhood Plan does not seek to allocate land for development and there is no requirement for it to do so. However, the Neighbourhood Plan does seek to introduce Policies relating to the control of residential development in the Neighbourhood Area.
- 83 Policy BNP-BE1 seeks to impose a requirement for proposals for five or more dwellings to submit a Development Brief to the Royal Borough of Windsor and Maidenhead as part of any planning application. This would be required to provide specific information, the content of which is set out in Section VII of the Neighbourhood Plan. The Policy also goes on to require all applications requiring such a Development Brief to be accompanied by a Statement of Community Consultation, the content of which is specified in Section VIII of the Neighbourhood Plan.
- 84 National guidance<sup>10</sup> establishes that the submission of a valid application for planning permission requires the following: a completed application form; compliance with national information requirements; the correct application fee; and the provision of local information requirements. In respect of the latter of these, Planning Practice Guidance states that:
- “A local planning authority may request supporting information with a planning application. Its requirements should be specified on a formally adopted “local list” which has been published on its website less than 2 years before an application is submitted. Local information requirements have no bearing on whether a planning application is valid unless they are set out on such a list.”*
- 85 Bray Parish Council is not the local planning authority and there is nothing before me to suggest that the requirements set out in Policy BNP-BE1 are specified on the Council of the Royal Borough of Windsor and Maidenhead's local list. Consequently, the Policy does not have regard to national policy and it does not meet the basic conditions.

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<sup>10</sup> Ref: Planning Practice Guidance Reference ID: 14-016-20140306.

86 I note that the Council of the Royal Borough of Windsor and Maidenhead has expressed significant concerns with the content of Policy BNP-BBE1.

87 In the above regard, I am also mindful that the Framework, whilst very encouraging of early engagement and consultation, is explicit in stating that a local planning authority:

*"...cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they do offer."* (Paragraph 189)

88 In the supporting text preceding Policy BNP-BE1, no indication is provided of what *"normal unrestricted planning rules"* might comprise and the inclusion of this phrase therefore detracts from the clarity of the Neighbourhood Plan.

89 It is not clear what part of the Framework the third paragraph of supporting text on page 17 is referring to and there is no evidence to demonstrate that the Framework limits development to those areas of land specified. Much of the final part of the supporting text, from the end of page 18 through to page 19, reads as though it comprises a Policy, which it does not.

90 Taking all of the above into account, I recommend:

- **Delete wording of Policy BNP-BE1 and replace with new wording *"For developments of five or more dwellings, developers are encouraged to provide a Development Brief and a Statement of Community Consultation, taking into account the criteria set out in Sections VII and VIII of the Neighbourhood Plan."***
- **Section VII, change first sentence to *"Policy BNP-BE1 encourages the provision of Development Briefs. These should seek to provide the following information:"***
- **Section VIII, change second sentence to *"Policy BNP-BE1 encourages the provision of Statements of Community Consultation. These should seek to provide the following information:"***



- **Page 17, second Para, fifth line, delete “...and subject to normal unrestricted planning rules.”**
- **Page 17, delete third Para (“The NPPF recognises...the Green Belt.”)**
- **Page 19, first Para, delete from the last sentence to the end of bullet points, inclusive (from “Any proposals should take into account...” to “...landscape and wildlife.”)**
- **Page 19, penultimate Para, change to “*Having regard to Paragraph 189 of the National Planning Policy Framework, Policy BNP-BE1 is designed to provide for community involvement at an early...*”**

Plan Housing Assessment Criteria

**Policy BNP-BE2: Single Dwelling Housing Assessment Criteria**

- 91 As set out, Policy BNP-BE2 is confusing.
- 92 The Policy is introduced by the supporting text as only applying to proposals within the Green Belt, although there is no reference to the Green Belt in the Policy.
- 93 The Policy goes on to apply only to residential development relating to extensions to single dwellings, the development of single dwellings and *"small redevelopments"* (which are not defined). The Policy itself requires such development to *"meet the Plan Housing Assessment Criteria...to provide acceptable conditions."*
- 94 Policy BNP-BE2 does not contain any *"Plan Housing Assessment Criteria"* but makes a reference to development providing *"acceptable conditions."* The following Policy, Policy BNP-BE3 does set out *"Plan Housing Assessment Criteria,"* but these are for *"Multiple Dwelling"* development, not the types of development outlined in Policy BNP-BE2.
- 95 The Policy goes on to refer to proposals making use of previously developed land, complementing local character and protecting the amenity of neighbours; and ends with a requirement for the presentation of *"Compliance with the Plan Housing Assessment Criteria."* Notwithstanding the absence of clarity in respect of what these Criteria might be, as they relate to Policy BNP-BE2, no indication is provided in respect of how *"degrees of satisfaction"* might be assessed, who by and on what basis. Further, there is no information in respect of to what degree *"the criteria"* need to be satisfied, in order to be acceptable.
- 96 The supporting text to Policy BNP-BE2 sheds little further light on the requirements of the Policy. The text on page 20 states that:
- "The construction of new housing is considered inappropriate in the Green Belt."*

- 97 This is simply not the case and is in direct conflict with Paragraph 89 of the Framework, which identifies circumstances where development, including residential development, is not inappropriate in the Green Belt.
- 98 Page 18 of the supporting text refers to the “*normal RBWM planning policies*” without indicating what these might comprise and states that whilst proposals should meet “*Plan Housing Assessment Criteria*,” some proposals may be acceptable where not all assessment criteria are met. No detail is provided in respect of which criteria should or should not be met.
- 99 The text goes on to provide a confusing reference to Permitted Development, by referring to development that is not Permitted Development and a subsequent list of types of housing development indicates that “*some plans for additional housing may be acceptable where not all assessment criteria are met*” but does not provide relevant further detail in respect of what may or may not be acceptable.
- 100 In addition, whilst Policy BNP-BE2 (and the Policy that follows it) are presented as applying only to the Green Belt, the supporting text on page 18 appears to refer to land and development across the whole of the Neighbourhood Area. This adds to the considerable confusion and lack of clarity.
- 101 Taking all of the above into account, Policy BNP-BE2 is not precise and it fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework, referred to earlier in this Report.
- 102 In making the recommendations below I note that national planning policy, particularly that set out in Chapter 9 of the Framework, “*Protecting Green Belt land*,” provides clear and comprehensive planning policy in respect of development in the Green Belt. I recommend:
- **Delete Policy BNP-BE3**
  - **Page 18, delete from first Para, “The Plan Housing Assessment Criteria...” to end of penultimate sentence “...facilities is also a priority.”**
  - **Page 20, delete “B. Plan Housing Assessment Criteria” and text (“the construction of...the following policies apply”)**

**Policy BNP-BE3: Multiple Dwelling – Housing Assessment Criteria**

- 103 Policy BNP-BE3 seeks to impose requirements on proposals for the development of more than one dwelling within the Green Belt.
- 104 The first requirement is ambiguous. It refers to *“strong Parish and community benefits”* without providing any indication of what these might be, or of who will assess them and on what basis.
- 105 The second requirement restricts residential development in the Green Belt to previously developed land. This fails to have regard to national Green Belt policy which, amongst other things, provides for new-build residential development in the Green Belt comprising infilling and/or the provision of affordable housing for local community needs.
- 106 The Policy then requires proposals to be *“close to existing village facilities.”* Again this conflicts with national Green Belt policy, which does not impose such a requirement. In this respect, I am also mindful that the reference to *“close to”* is undefined and does not therefore provide for clarity. This part of the Policy also refers to *“functioning farm land”* without providing a definition and goes on to state that pedestrian and cycle pathways should be *“addressed”* without indicating what this actually means.
- 107 The fourth requirement of the Policy refers to *“adjoining housing”* without any indication that Green Belt development will necessarily adjoin existing housing and the Policy goes on to require development to meet Technical Housing Standards. This latter requirement does not have regard to Ministerial Guidance<sup>11</sup> which states:
- “Neighbourhood plans should not be used to apply the new technical standards.”*
- 108 Taking all of the above into account, Policy BNP-BE3 is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal. It does not have regard to national policy and does not meet the basic conditions.

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<sup>11</sup> Ref: Secretary of State for Communities and Local Government, Written Statement HCWS488 made on 25 March 2015.

109 In making the recommendations below I am mindful of the importance afforded by the local community to the character of the Green Belt and of the national policy requirement to respond to local character, as set out in Paragraph 58 of the Framework.

110 I recommend:

- **Delete wording of Policy BNP-BE3**
- **Replace with new wording *“Development in the Green Belt is restricted by national policy. Where residential development does occur in the Green Belt, it should demonstrate that it respects local character and that it does not result in significant harm to the amenity of neighbours.”***
- **Page 17, second Para, delete last sentence (“Housing development...Section B following.”)**

Housing Traffic Considerations

**Policy BNP-BE4: (A) Transport Assessment / Transport Statement**

- 111 The supporting text preceding Policy BNP-BE4 is worded as though it comprises a Policy, which it does not.
- 112 National planning policy establishes, in Paragraph 32 of the Framework, that:
- “All developments that generate significant amounts of movement should be supported by a Transport Statement of Transport Assessment.”*
- 113 The first part of Policy BNP-BE4 (A) requires provision of a Transport Statement or Assessment and has regard to national policy. However, Policy BNP-BE4 also requires such provision where development proposals would *“potentially affect a known and evidenced traffic hazard.”* No indication is provided of any known and evidenced traffic hazards and no definition of what *“potentially affect”* means is provided. Consequently, this part of the proposal, which does not have regard to national policy and guidance, appears imprecise.
- 114 There are two grammatical errors in the Policy and these are addressed in the following recommendations:
- **Policy BNP-BBE4 (A), delete “...or would potentially affect a known and evidenced traffic hazard...”**
  - **Change sixth line of Policy to “...deal with...” and change seventh line to “...improving pedestrian and cycle...”**

**Policy BNP-BE4: (B) Residential Development and Enhanced Public Transport**

115 This Policy comprises an aspirational statement and is not a land use planning policy. Furthermore, no evidence is provided to demonstrate that the Policy has regard to Paragraph 204 of the Framework which, in respect of planning obligations, states that they should only be sought where they meet the following tests:

*"...necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development."*

116 Taking the above into account and having regard to the local aspiration of enhancing public transport, I recommend:

- **Delete Policy BNP-BE4 (B) and replace with a *"Community Action: Enhancing Public Transport. The Parish Council will, where possible and appropriate, seek to encourage provisions for the enhancement of public transport through the use of planning obligations and/or Community Infrastructure Levy."***
- **For clarity, a Community Action is not a land use planning policy. It establishes and records an aim or aspiration of the Parish Council. Consequently, the Community Action above should not have the appearance of a planning policy in the Neighbourhood Plan and should not appear in a Policy text box.**

**Policy BNP-BE4: (C) New Developments and Public Rights of Way**

117 National policy states that:

*“Planning policies should protect and enhance public rights of way and access.”* (Paragraph 75, the Framework)

118 Whilst to some degree, Policy BNP-BE4 (C) has regard to this, the Policy itself goes considerably further, by requiring any development in the Neighbourhood Area to create new footpaths/bridleways and provide for *“upkeep of existing”* rights of way. However, no substantive evidence is provided to demonstrate that all new development could viably deliver such a requirement. Consequently, the Policy fails to have regard to Paragraph 173 of the Framework, which states:

*“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable”*

119 Similarly, no evidence is provided to demonstrate that the Policy, as set out, has regard to Paragraph 204 of the Framework in respect of planning obligations, as referred to earlier in this Report. Also, it is not clear why the Policy seeks to apply to land outside the Neighbourhood Area, as the Neighbourhood Plan's Policies can only apply to the Neighbourhood Area itself.

120 Taking the above into account, I recommend:

- **Policy BNP-BE4 (C), change to *“The protection and enhancement of the public rights of way network through the creation of new footpaths/bridleways and the enhancement and upkeep of existing rights of way in keeping with existing rural character, will be supported.”***



**Policy BNP-BE5: Building Line**

121 Policy BNP-BE5 seeks to maintain building lines. This has regard to Paragraph 58 of the Framework, which requires development to respond to local character.

122 As worded, the Policy applies to all residential development – even that where they may not be an existing building line. This runs the risk of creating unnecessary confusion and detracts from the clarity of the Neighbourhood Plan. I recommend:

- **Policy NNP-BE5, change to “...should ensure that *existing building lines are maintained.*”**

Conservation Areas and Listed Buildings

123 The second paragraph on page 23 reads as though it comprises a Policy, which it does not. I recommend:

- **Page 23, second Para, second line, change to “*The Parish Council would like to see changes of use...adversely, particularly if these make the building more...*”**

E. Other Developments

124 This part of the Neighbourhood Plan sets out a list of requirements, labelled as “*residents’ general objectives.*” However, it does not form a Policy of the Neighbourhood Plan and no indication is provided of its purpose. Consequently, its inclusion within the Neighbourhood Plan Policy Section appears incongruous and is detrimental to the clarity of the document.

125 I recommend:

- **Page 23, delete Section E. Other Developments**

Other Developments: 1. Non-Residential Land Re-Use and Development

126 The inclusion of "1" in the title of this section of the Neighbourhood Plan is confusing. There is no apparent need for it to relate to "*Other Developments*" which in any case is recommended for deletion and I am particularly mindful that there is no further section, for example "2" or "3."

127 Taking this into account, I recommend:

- **Change title on page 23 to "*Other Developments: Non-Residential Land Re-Use and Development*"**

Policy BNP-BE6: Small Businesses

128 Chapter 3 of the Framework, "*Supporting a prosperous rural economy*," sets out national policy support for economic growth in rural areas. It states that, in order to promote a strong rural economy, neighbourhood plans should:

*"...support the sustainable growth and expansion of all types of business and enterprise in rural areas...promote the development and diversification of agricultural and other land-based rural businesses.."* (Paragraph 28, the Framework)

129 Policy BNP-BE6 seeks to provide for the sustainable growth of businesses in the Neighbourhood Area and supports the diversification of agricultural businesses. It goes on to provide a number of examples of the type of development that may be appropriate.

130 Policy BNP-BE6 meets the basic conditions. No changes are recommended.

**Policy BNP-BE7: Large Business**

- 131 The introductory text to Policy BNP-BE7 does not form part of the Policy. As a consequence of this, the Policy supports any form of large business anywhere in the Neighbourhood Area. This results in support for development that would fail to have regard to national policy in respect of the Green Belt, as set out in Chapter 9 of the Framework.
- 132 Even if the Policy and supporting text included a reference to and definition of "*Urban areas*," which it does not (resulting in an imprecise Policy), it would lend support to any form of large business, without regard to its impacts on local character or residential amenity. Such an approach could result in support for development that would fail to contribute to the achievement of sustainable development, contrary to the basic conditions.
- 133 Taking all of the above into account, Policy BNP-BE7 fails to have regard to national policy and is imprecise. It does not meet the basic conditions and I recommend:
- **Delete Policy BNP-BE7**

**Policy BNP-BE8 (A) and (B): Development of New and Extension to Existing Garden Buildings**

- 134 Policy BNP-BE8 (A) and (B) provides support for various forms of small scale development subject to the protection of local character and amenity.
- 135 It is generally a positive Policy that promotes sustainable development. However, as worded, the Policy would fail to have regard to national Green Belt policy, as set out in Chapter 9 of the Framework referred to earlier in this Report. The Policy fails to have regard to openness, which is an essential characteristic of Green Belts.
- 136 Further to the above, the Policy does not have regard to heritage policy, as set out in Chapter 12 of the Framework, "*Conserving and enhancing the historic environment.*" National heritage policy requires heritage assets to be safeguarded in a manner appropriate to their significance and the Policy does not provide for this.
- 137 Taking the above into account, I recommend:
- **Policy BNP-B8, after Policy title add "*Outside the Green Belt and subject to safeguarding heritage assets in a manner appropriate to their significance, the following forms of development requiring planning permission will be supported:*"**

**Policy BNP-BE9: Street Furniture, Advertising and Utility Infrastructure**

138 Policy BNP-BE9 seeks to prevent “*obtrusive*” forms of development. However, no indication is provided of how “*obtrusiveness*” will be measured, who by and on what basis. Consequently, the Policy is imprecise and it fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

139 Further to the above, I am mindful that advertising, by its very nature, seeks to draw attention to itself. It is not clear how a Policy requiring advertising to be unobtrusive would work in practice and the Neighbourhood Plan provides no detail in this regard. I also note that the provision of infrastructure and street furniture can fall outside the development management process and no information, or clarity, is provided in respect of how and when the Policy might apply in this respect.

140 I recommend:

- **Delete Policy BNP-BE9**

141 In testing the "*Other Developments*" Policies of the Neighbourhood Plan against the basic conditions, I have also considered the supporting text on pages 23 and 24 of the Neighbourhood Plan.

142 Permitted Development is precisely that and there is no need to state, in the supporting text, that the community supports it. Also, part of the supporting text is presented as though it sets out Policy requirements, which it does not. I recommend:

- **Delete last two lines of page 23 and first five lines of page 24 ("the community supports...etc.)**
- **Page 24, second Para, delete first sentence ("Local...encouraged.")**
- **Page 24, third Para, second line, change to "...limited. *The Parish Council* supports..."**
- **Page 24, delete fourth Para ("The use of...is encouraged.")**
- **Page 24, delete fifth Para ("Riding establishments...way of life.")**
- **Page 24, delete last Para ("The effect...connectivity.")**

## 7. The Neighbourhood Plan: Other Matters

- 143 The language used in the “*Recommendations*” in Section V of the Neighbourhood Plan – such as “*must...should...*” - results in the Recommendations appearing as Policy requirements. This detracts from the clarity of the Plan, as the Recommendations have no land use planning policy status. In addition, it is not entirely clear who the Recommendations are to and what the precise purpose of them is. It would therefore be clearer if they were re-worded as “*Aspirations.*”
- 144 In addition to the above, much of the supporting text in this Section is worded as though it comprises various Policy requirements, which is not the case.
- 145 For clarity, I therefore recommend:
- **Recommendation A, change to “*Aspiration A...Parish. The Parish Council would like to see development proposals...tonnes being resisted. The Parish Council would like to see proposals that would...traffic providing a road infrastructure plan...*”**
  - **Recommendation B, change to “*Aspiration B...The Parish Council would like to see developments that depend on transport...supermarkets, demonstrate that they...*”**
  - **Recommendation C, change to “*Aspiration C...The Parish Council would like to see planning decisions take account...*”**
  - **Recommendation D, change to “*Aspiration D...The Parish Council would like all proposals for new development that include provision for footpaths...*”**
  - **Sections B to E, set out on Pages 36 to 43 simply read as planning policies and supporting text. However, they are not planning policies and have no status as such. This is confusing and detracts from the clarity of the Neighbourhood Plan. I recommend the deletion of pages 36 to 43 (starting after the end of Aspiration D) in their entirety**



146 The recommendations made in this Report will have a subsequent impact on Contents, Policy and page numbering.

147 I recommend:

- **Update the Contents, Policy and page numbering, taking account of the recommendations contained in this Report.**

## **8. Summary**

148 Having regard to all of the above, a number of modifications are recommended in order to enable the Neighbourhood Plan to meet the basic conditions.

149 Subject to these modifications, I confirm that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood 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, European Union (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.

150 Taking the above into account, I find that the Bray Parish Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

## 9. Referendum

- 151 I recommend to the Council of the Royal Borough of Windsor and Maidenhead that, subject to the modifications proposed, **the Bray Parish Neighbourhood Plan should proceed to a Referendum.**

### Referendum Area

- 152 I am required to consider whether the Referendum Area should be extended beyond the Bray Neighbourhood Area.
- 153 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.
- 154 Consequently, I recommend that the Plan should proceed to a Referendum based on the Bray Neighbourhood Area approved by the Royal Borough of Windsor and Maidenhead and confirmed by public notice on 21<sup>st</sup> March 2013.

**Nigel McGurk, October 2017**  
**Erimax – Land, Planning and Communities**

