

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

Introduction

This statement sets out the Warfield Parish Council (the ‘Qualifying Body’) response to the examiners request to prepare a Statement of Common Ground (SoCG) with Bracknell Forest Council (BFC) in respect of their Regulation 16 comments.

It responds to BFC’s Regulation 16 comments and sets out the areas of agreement in respect of BFC’s comments and those areas where the Qualifying Body (QB) considers no change to the submitted plan are necessary.

The statement is intended to assist the Independent Examiner in her considerations and to inform an exploratory meeting as indicated in her letter dated 11 June 2019 should the Examiner feel such a meeting will continue to be necessary in relation to Policy WNP2 Hayley Green.

This statement has been forwarded to Bracknell Forest Council for their comments. BFC confirmed by email on the 1st November that due largely to other commitments related to a further consultation on the Draft Bracknell Forest Local Plan (see below) it had not been able to respond to the QB’s statement.

BFC suggested two options in moving forward, one of which was to submit to the Examiner the QB’s statement as currently drafted. Unfortunately, the QB have no further resources available to prepare a single document that includes both the QB and BFC comments.

Given these circumstances and the extended period of the examination to date the QB has chosen to submit its response direct to the Examiner in the hope that this submission will be acceptable and avoid further delay to the examination of our Plan (which was submitted to BFC in January 2019)

Bracknell Forest Draft Local Plan

The Examiner may be aware that BFC commenced a further consultation on a revised growth strategy¹ - The Draft Bracknell Forest Local Plan Part 1 – Strategic Revised Growth Strategy (DLP1) – in October 2019.

DLP1 makes changes to the list of proposed housing sites and its Policy LP4 no longer allocates land at Hayley Green (WNP2) but instead references it within the policy. Paragraph 6.27 of DLP1 also references the Land at Hayley Green in the context of NPPF paragraph 65. The paragraph stating:

“The site proposed for allocation is Land at Hayley Green for 235 dwellings. Whilst the site is of a strategic nature, it is not considered that it undermines the approach being taken in this Plan in terms of the Spatial Strategy. Due to the variation in timescales, different procedures and risks that are associated with taking a neighbourhood plan and local plan forwards, the site is also included in Policy LP4 as an endorsement of the principle of development of this site.”

While this endorsement of the principle of development is welcomed, it continues to raise the important question of whether the WNP2 is ‘strategic in nature’ and hence how this statement will be viewed in the

¹ <https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/planning-policy/development-plan/draft-bracknell-forest-local-plan/draft-bracknell-forest-local-plan>

context of this Examination.

Part One

Warfield Parish Council's Position Statement regarding Policy WNP2 – Hayley Green.

The statement was drafted following a meeting between the Qualifying Body and Bracknell Forest Council on the 9th July and has been submitted to BFC.

Part Two

Warfield Parish Council's response to BFC's Regulation 16 'Basic Conditions' comments set out in their Appendix 1 comments included with the BFC letter dated 2nd April 2019.

Minor Modifications

In addition to the QB's response to BFC comments on 'general conformity' in Part Two, BFC also issued a further 12 pages of comments on the Submission Plan with their letter dated 2nd April 2019 (Appendix 2 comments "other suggested changes/detailed comments...").

A number of these detailed comments relate to the availability of updated plans as a result of the time period that has accrued between the preparation of the Submission Plan and the Regulation 16 consultation and these maps could be updated in the Referendum version of the plan. However, some comments relate to differences in writing style, while others relate to amendments to policy text, but which BFC do not consider are matters of 'general conformity'.

Given the role of a Neighbourhood Plan Examiner is tightly defined (Paragraph: 055 Reference ID: 41-055-20180222) the QB does not intend to address these suggested minor modifications to the supporting text or policies in any detail as many of BFC's 'suggested changes' would not, in the view of the QB, materially change the Submission Plan. While some may update the plan given the passage of time, many others are not considered necessary.

However, the QB invites the Examiner to consider whether any these suggested minor modifications fall outside the scope of Section 4B Paragraph 10(3)(e) of the Town & Country Planning Act 1990 (as amended).

PART ONE

EXAMINATION MATTER: POLICY WNP2 – HAYLEY GREEN

WARFIELD PARISH COUNCIL POSITION STATEMENT

Introduction

The purpose of this Statement is to advise the Examiner of the Warfield Neighbourhood Plan (WNP), of the Parish Council's (WPC) position in relation to Policy WNP2, which proposes to allocate land for housing in the settlement of Hayley Green.

It supplements Part Two which contains the QB's further detailed response the BFC's Regulation 16 comments on 'Basic Condition' matters.

Background

BFC objects to the inclusion of Policy WNP2 in its Regulation 16 comments to the Examiner, having not raised these matters at an earlier stage. It considers the policy fails to meet the 'basic conditions' as the emerging Local Plan proposes to include a site allocation policy of a similar type in the same location, and hence the policy is 'strategic' in nature.

As the current housing supply trajectory for the Borough has already been met for the WNP plan period (to 2026) BFC also considers the allocation unnecessary and therefore not in 'general conformity' with adopted countryside policies. BFC also alleges that the evidence supporting the policy is weak and that WPC has been led by the land interests.

WPC/BFC Meeting

At the request of the Examiner, representatives of WPC and BFC met on 9 July to discuss "whether (WNP2) should be regarded as a strategic policy which would be out of general conformity with the Local Plan". The meeting also discussed other matters raised by BFC since the submission of the plan. WPC informed BFC that it was willing to accommodate the majority of the modifications suggested on the other SoCG matters and it would add its comments to the statement.

On the Policy WNP2 matter, BFC set out its concerns. BFC is unsure that WPC will secure a majority vote in favour of the WNP in due course. It is unsure that the evidence base in support of the policy aligns with its own evidence in respect of the detailed distribution of development and open space on the site. It also restated its view that, by the fact that it was proposing to make an allocation in its Local Plan, the policy had to be considered strategic.

Now, it has since become clear to WPC following an email from BFC on 18 July that BFC has not properly understood the consequence of it determining a WNP policy as strategic. In that email, it appears that BFC no longer considers the policy to undermine the emerging spatial strategy in its Local Plan but again states its view that the policy is strategic.

Both WPC and we assume the Examiner are very aware of the delineation of 'strategic' from 'non-strategic' policy making in the new NPPF. This has replaced the ambiguity of the 2012 NPPF, from which 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. That 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.

Although the WNP was submitted prior to the enactment of the new NPPF, neither the Examiner nor BFC can ignore the clarity now brought to this matter. In which case, WPC considers it essential to demonstrate firstly that Policy WNP2 is not strategic and secondly that as a non-strategic policy it is in ‘general conformity’ with the relevant and up to date policies of the adopted Core Strategy and with the reasoning and evidence of the emerging Local Plan.

The Evolution of Policy WNP2

Before doing so, the WPC would like to bring to the Examiner’s attention that the identification of Hayley Green as a suitable location for housing growth and accompanying improvements to local greenspace provision came through the early work of the WNP in 2015. This was two years before the Pre-Submission WNP, including Policy WNP2, and three years before BFC chose to almost replicate the policy in its Draft Local Plan in 2018. The WNP policy evolved from workshops with the local community and land promoters over that time, with WPC knowing that its plan must make housing site allocations to lead and manage change, given the housing land supply position of BFC.

BFC has never properly explained its reasoning for choosing to repeat the allocation, which came as a surprise to WPC, other than what the WPC considers to be an ‘eleventh hour’ and poorly-evidenced attempt to argue that a primary school should be delivered as part of the allocation. WPC notes the discouragement of the PPG dating back to 2014, with its Paragraph: 043 Reference ID: 41-043-20140306 stating that, *“if a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the neighbourhood area.”*

The WNP evidence base and other documents tell this story in considerable detail, not least to reassure the residents of Hayley Green of the rationale for choosing that location and of the policy requirements to deliver a successful scheme. WPC does not take this responsibility lightly and is aware that a minority of residents object to the policy. It will not be complacent when it comes to the referendum.

WPC reassures the Examiner that at no point has it been led by the land promoters. Rather, once the broad location was chosen as the preferred location by WPC, it set the brief to those promoters to assemble the necessary evidence to inform a suitable and deliverable policy. WPC therefore strongly refutes the BFC allegations in this regard.

Determining the meaning of ‘Strategic’

The guidance for determining if a policy is strategic is set out in Paragraph: 076 Reference ID: 41-076-20190509 of the PPG. Of the seven criteria, only the sixth is specific to site allocations. It states that the degree to which an allocation is strategic will be informed by “whether bringing the site forward is central to achieving the vision and aspirations of the local plan or spatial development strategy.”

The 235 homes proposed in both the WNP and Draft Local Plan represent approx. 7% of the 3,216 home residual requirement for Bracknell’s housing supply to meet OAN and it is by far the smallest of the four ‘large sites’ proposed in the Local Plan. BFC also now admits that the allocation does not need to come forward until 2026. With all that in mind, WPC considers that no reasonable interpretation of that

criterion would conclude that the allocation is ‘central’ to the Local Plan. Policy WNP2 cannot therefore be deemed contrary to national policy as per Basic Condition A.

Responding to Housing Need

The PPG Paragraph 044 Reference ID: 41-044-20190509 states that, “A neighbourhood plan can allocate additional sites to those in a Local Plan where this is supported by evidence to demonstrate need above that identified in the Local Plan... (but it should not) be used to constrain the delivery of a strategic site allocated for development in the Local Plan.”

WPC notes the inference here is that a neighbourhood plan will be following behind an adopted or emerging Local Plan. However, the Hayley Green proposal not only predates the Local Plan by some years, but has also informed the Local Plan strategy, resulting in BFC’s decision to effectively repeat it. At the time the proposal was being developed by WPC there was no indication that it may end up being additional to, and not part of, the calculation of housing need.

BFC now argues that the allocation is only necessary in the period post 2026, given current commitments. But it accepts that its adopted housing supply policies are out of date and it has not been able to demonstrate it has an adequate land supply position for some considerable time. It is not for WPC to interrogate each and every housing commitment to 2026 to identify potential delivery weaknesses. Instead, it is for BFC to justify how 235 homes, the majority of which can be delivered in the next five years, would undermine its housing supply strategy to such an extent that it justifies deleting a flagship policy of the WNP. BFC has not done so at any stage of the process.

WPC does not support the suggestion from BFC that the plan period be extended to 2036. It has committed to a timely review of the made WNP to roll it forward to 2036 or beyond, depending on the strategic policy framework at that time. The explanation for adopting a shorter plan period in the prevailing uncertainty of 2017 – 2018 is given in the Basic Conditions Statement. Modifying the plan period at this late stage may require further statutory consultations and is unnecessary.

Conformity with the adopted Core Strategy

BFC considers Policy WNP2 is not in general conformity with policies CS2, CS9, CS15 and CS16 of the adopted Core Strategy. In combination, those policies resist development outside existing settlement boundaries in the countryside.

The WNP is planning for future needs and has taken the sensible step, recommended by the NPPF, of planning positively to help meet those needs over the next decade. It has been especially motivated to ensure future development is properly plan-led, during a time where BFC has failed to make speedy enough progress with its own Local Plan and has failed to maintain a proper housing land supply. Is BFC seriously suggesting that for the WNP to be in general conformity it ought to have made no provision for new homes for ten years?

As BFC has acknowledged, by repeating WNP2 in its Draft Local Plan, the proposal not only does not prejudice strategic policy making, it is consistent with how sustainable development should be planned, in precisely the same ways that resulted a decade ago in the Core Strategy policies.

Summary

WPC has reminded BFC of the 2012 and 2019 NPPF commitments to the plan-led system and to neighbourhood planning, most succinctly expressed in paragraph 15 of the new NPPF but originating in paragraph 183 of the original. It considers BFC's arguments for deleting Policy WNP2 as contrary to both the spirit and provisions of the NPPF.

Further, it considers the way in which BFC has handled the matter over the last two years to be contrary to the support expected of LPAs in supporting neighbourhood plans. WPC has had to incur considerable additional post-submission costs as a result of BFC setting out its position very late in the process and of its intransigence when common sense ought to have prevailed to enable an orderly examination.

WPC regrets that it has not been able to agree a solution with BFC, as desired by the Examiner, and will now await further instruction from the Examiner on the way forward.

Appendix 1 – BFC comments in relation to Basic Conditions and Qualifying Body (QB) Response

Where comments relate to the ‘basic conditions’ these are referred to as:

- A) regard to national policy and guidance
- D) contribution to the achievement of sustainable development
- E) general conformity with strategic policies contained in the Development Plan
- F) does not breach EU obligations
- G) meets prescribed conditions (significant effect on a European Site as defined in the Conservation of Habitats and Species Regulations 2012)

B) & C) are not referred to as these only apply to Neighbourhood Development Orders.

Policy/ Page/ Para. No.	Suggestion	BFC Regulation 16 Comments	QB Response
Comments on the Submission version of the Warfield Neighbourhood Plan			
General: Compatibility with EU Legislation	Basic Condition F	<p>The making of the neighbourhood plan currently breaches, and is not compatible with, EU obligations specifically the Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively). A SEA/HRA Screening Decision issued in October 2016 concluded that significant effects were not likely to occur with regard to the integrity of the European sites within and around Bracknell Forest Borough, due to the implementation of the Warfield Neighbourhood Plan.</p> <p>Since this time the Case 323/1/Court of Justice of the European Union “People over Wind and Peter Sweetman v Coillte” has arisen. This means that Neighbourhood Plans must now be subject to Appropriate Assessment and it is no longer permissible to take account of mitigation measures at the HRA screening stage. To date the Qualifying Body has not requested that Bracknell Forest Council (BFC) undertakes an Appropriate</p>	<p>The QB has agreed to prepare background information necessary for the LPA (the competent body) to prepare an Appropriate Assessment of the Neighbourhood Plan if agreement is reached on retention of the Hayley Green allocation.</p> <p>Locality Technical Support to undertake this work has been agreed by the QB and AECOM await further instructions.</p>

Policy/ Page/ Para. No.	Suggestion	BFC Regulation 16 Comments	QB Response
		<p>Assessment of the Warfield Neighbourhood Plan nor has it provided the Council with the information BFC would require in order to carry out an Appropriate Assessment. BFC is in the process of bringing forward its Local Plan and a Draft Habitats Regulations Assessment of the Draft Bracknell Forest Local Plan (including a proposed allocation at Hayley Green) was published for consultation in January 2018 (before the Sweetman case). Part of this assessment concluded that further work was necessary to establish the effect on the integrity of Habitats Sites as a result of air quality effects in combination with other Plans and Projects (with reference to the Wealden Case - Wealden District Council v. Secretary of State for Communities and Local Government, Lewes District Council and South Downs National Park Authority [2017] EWHC 351 (Admin)) (March 17). A Local Plan Air Quality Assessment is ongoing and will not be completed in time for the proposed Examination of the Warfield Neighbourhood Plan in May 2019. To date no Appropriate Assessment of the Bracknell Forest Local Plan has been undertaken and this will form part of the evidence base for the Submission Local Plan (current timescale for publication February – March 2020).</p>	
p27	Basic Condition A & E	<p>Para 5.2: (b) “SustainProtect and enhance...” to be consistent with the existing BLP/Core Strategy and the emerging BFLP. In accordance with the Town and Country Planning (Listed Buildings and Conservations Areas) Act 1990, the Council has a statutory duty to preserve and enhance the character of the conservation - s72 of the LBC Act refers). “Conserve and Protect, enhance and manage the existing network...” To be consistent with the existing BLP/Core Strategy and the emerging BFLP.</p>	<p>Accept this minor modification in accordance with Section 4B Paragraph 10(3)(e) of the Town & Country Planning Act 1990 (as amended).</p>

Policy/ Page/ Para. No.	Suggestion	BFC Regulation 16 Comments	QB Response
Policy WNP1	Basic Condition A & E	<ul style="list-style-type: none"> The policy map (ref. WNP1 key) indicates that the Policy WNP1 applies only to specific areas referred to as ‘settlements’. This needs amending as the policy should apply to the whole parish as it is overarching. 1st para: Development can be appropriate in the Green Belt under ‘very special circumstances’ (NPPF (2012) para. 88), and some forms of development are not inappropriate in the Green Belt (NPPF (2012) para. 89 and 90). Text should be amended to clarify this. 2nd para: The Hayley Green ‘settlement boundary’ extends the defined settlement as delineated on BFC’s policies map, to include the whole of the Hayley Green housing allocation (Policy WNP2). It is considered more appropriate to deal with this in the emerging Local Plan as a strategic matter and once the extent of the new built up area is clearer. The Neighbourhood Plan should however show the boundaries of the site that is being allocated. 2nd para: The policy refers to defining the settlement boundaries of Newell Green, Warfield Street and Hayley Green - subsequent policies suggest that the boundaries are identifying character areas as opposed to settlement boundaries. As currently worded, it is unclear what the policy approach is in respect of other areas of built development that fall within the defined settlement boundary e.g. the existing urban area south of Harvest Ride and the Land at the Warfield strategic development site. 2nd para: Does not define infill or clarify the policy position on non-infill development. It is considered to be contrary to Policy CS2 which states that “Development will be permitted within defined settlements”, i.e. all 	<p>The QB wishes to retain the spatial portrait description and move the parish spatial context map (Plan C) from section 2, to the supporting text of Policy WNP1. The policy should continue to retain Policy WNP2 Hayley Green allocation within the settlement boundary as proposed on the Policies Map.</p> <p>The QB does not accept any contradiction exists between Paragraph 2 of Policy WNP1 and Policies WNP3, 4 and 5. The Policy Map illustrates the settlement boundaries of Newell Green, Warfield Street and Hayley Green; that they are concomitant with the boundaries of the character areas is unsurprising given the intention of policies WNP3 to 5 is to promote good design within the settlement boundaries.</p> <p>BFC has confirmed policy CS2 is a strategic policy, the QB consider WNP 1 is consistent with Policy CS2, but does not consider it necessary to repeat every aspect of strategic policy, including the definition of infill</p>

Policy/ Page/ Para. No.	Suggestion	BFC Regulation 16 Comments	QB Response
		<p>development, not just infill.</p> <p>3rd para: Does not reflect that there are different policies in the NPPF and the BFC Development Plan for countryside in the Green Belt and for countryside outside of the Green Belt. It is therefore not consistent with the NPPF.</p> <ul style="list-style-type: none"> • 3rd para: ‘appropriate forms of development’ is not defined and is too ambiguous a term to be effective in decision making. Considerations in the determination of planning applications are less rigorous than existing policy, and could lead to unacceptable development. This conflicts with strategic Core Strategy policy CS9 that protects land outside of settlements. <p>The following changes are recommended:</p> <ul style="list-style-type: none"> • “Proposals for development outside these settlement boundaries will only be supported if they are appropriate forms of development and they are consistent with <u>Development Plan policies relating to and specifically those relating to</u> the historic environment, heritage assets, landscape character, protecting the natural environment and where they will not compromise the delivery of the green infrastructure network.” 	<p>development, as this definition already forms part of the Development Plan.</p> <p>The QB anticipates that decision makers will read the WNP alongside the strategic policies of the Development Plan.</p>
Policy WNP2	Basic Condition A	<ul style="list-style-type: none"> • The Council is supportive of the principle of allocating this land in its emerging Local Plan. • Point xii: In line with Planning Policy Guidance, the flood risk assessment should take account of all issues identified within Planning Practice Guidance Flood Risk and Coastal Change, Paragraph: 030 Reference ID: 7-030-20140306; rather than be limited to the issues identified (e.g. the fluvial flood risk in the north east of the site; flood risk ‘elsewhere’ rather than only ‘adjoining’). • Point xvi: References to the Council’s SPDs should be in 	Draft policy LP7 (HG) was only of strategic importance because of the school (DLP para 6.47), a need for which has not been evidenced.

Policy/ Page/ Para. No.	Suggestion	BFC Regulation 16 Comments	QB Response
		<p>the supporting text and not the main policy as they are guidance. The SPDs have been adopted in accordance with the requirements of Reg 14 the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council’s SPDs cannot be subject to examination through the Neighbourhood Plan and it is not appropriate to examine them against the basic conditions. The reference to the SPDs in the policy (rather than the supporting text) would be contrary to national policy and guidance and therefore contrary to Basic Condition A.</p>	
Policy WNP2	Basic Condition F	<p>Because of the inclusion of a site allocation, the making of the neighbourhood plan currently breaches, and is not compatible with, EU obligations. This specifically relates to Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively).</p>	See previous comments on HRA.
p32, Inset Map 2; and SA App A WNP” Hayley Green Allocation	Basic Condition A	<p>Para 5.20:</p> <ul style="list-style-type: none"> • The NPPF 2012 requires ‘that each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area’ (para 158); and ‘Planning policies and decisions should be based on up-to-date information about the natural environment and other characteristics of the area’ (para 165). Themes of the effective use of land and allocating land of lesser environmental value run through the Framework. Further, plans are required to be deliverable. • Planning Policy Guidance, Neighbourhood Planning, goes on to state ‘Proportionate, robust evidence should support the choices made and the approach taken. The 	<p>The policy is not land interest led and the QB strongly refutes the suggestion that the land owners vested interests have driven the layout.</p> <p>The layout has been driven by both the constraints of the land and the community benefit that would accrue from the creation of the publicly accessible green space (as described in para. 5.18). The Policy reflects the development principles outlined in para. 5.20). The policy approach is entirely consistent with NPPF 185 as redrafted into NPPF 2019 para. 29 and should be seen as an exemplar approach as now defined within the National Design Guide (paragraph 17) .</p>

Policy/ Page/ Para. No.	Suggestion	BFC Regulation 16 Comments	QB Response
		<p>evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan. A local planning authority should share relevant evidence, including that gathered to support its own plan- making, with a qualifying body.’ Paragraph: 040 Reference ID: 41-040-20160211.</p> <ul style="list-style-type: none"> • Bearing in mind the above, whilst the concept plan does promote the retention of hedgerows and trees; the concept plan and Sustainability Appraisal (SA) do not draw upon all the relevant evidence. For example, the BFC landscape sensitivity evidence (which is listed in Appendix A Schedule of Evidence) identifies the eastern edge of the site as having the most sensitive landscape given its rural edge, with lower areas of sensitivity to the west of the site; fluvial and surface water flood risk exist on site (predominantly to the east of the site) . • The SA states (Appendix A) ‘An agreement with the landowner(s) that the proposed area of land that formed the ‘designated open green space’ would be delivered as part of the overall development.’ • The allocation of a site must relate to land use and the best use of land for planning purposes. An owner’s vested interests should not override the best disposition of future land uses within the site which should in turn be based on robust evidence. Otherwise deliverability of the site is questioned. 	<p>The Land Interests have undertaken their own technical studies to ensure the layout is based on the ‘the best disposition of the land’ which also creates a community benefit unlike the layout proposal advocated by the Local Planning Authority which, as far as the QB are aware, has not benefitted from any community engagement or design workshops.</p> <p>Although prepared beforehand, the approach taken to preparing the concept layout and development principles for the policy is entirely consistent with the ‘bottom up’ approach to design now advocated in the National Design Guide (paragraph 17) which was published on the 1st October 2019 and given materiality through the Written Ministerial Statement (HLWS1803).</p> <p>Planning Practice Guidance requires that a NP must provide sufficient clarity to enable a policy to fulfil the DM role that it is intended to do – the development principles outlined in the policy provide such clarity.</p>
Policy WNP3	Basic Condition A Suggested amendments	<p>1st para:</p> <ul style="list-style-type: none"> • References to the Council’s SPDs should be in the supporting text and not the main policy as they are guidance. It is not appropriate to examine them against the basic conditions. It is considered that this would be contrary to planning legislation, therefore contrary to 	<p>The QB believes Supplementary Planning Documents provide additional planning policy guidance to supplement policies in the development plan and the design clauses in the Policy. The BFC Character Area SPD forms an important material</p>

Policy/ Page/ Para. No.	Suggestion	BFC Regulation 16 Comments	QB Response
		<p>Basic Condition A.</p> <ul style="list-style-type: none"> • There is a need to simplify and to remove reference to BFC’s Character Area Assessment SPD and WNP’s supporting documents. Recommend the following amendments: • “Development proposals in the Newell Green Character Area, as shown on the Policies Map, will be supported, provided they are of a high quality design that responds positively to the Character Area Study and have should have full regard to the following design principles and the recommendations of the BFC Character Area Assessment:”. 	<p>consideration in decision making and hence the purpose is to draw an applicant’s attention to it and require applicants to demonstrate their design response.</p>
Policy WNP3	Basic Condition A & E Suggested amendments	<ul style="list-style-type: none"> • Point i – SA9 requires a neighbourhood centre which is planned to be partly on Priory Fields, and will consist of a new Community Hub building. This is likely to conflict with the policy requirement to respect the ‘open character’ of Priory Fields. Similarly at Warfield Memorial Ground (WMG), an SA9 policy objective is to enhance existing areas of open space – one project being to improve recreational facilities at WMG, which could include a new sports pavilion. Policy WNP3 would conflict with this strategic policy. • Point ii: Text is too restrictive. Subdivision might be achievable without compromising the character of the area. The starting point for the assessment of a proposal is the principal of sustainable development and as drafted the policy would be in conflict with the specific guidance within section 7 of the NPPF 2012 and specifically para 65. This should be deleted and existing and emerging Development Plan policies relied upon. • Point iii: This requirement is too prescriptive and should not prevent architectural variety that is sympathetically 	<p>The recommendation of the Character Area Assessment SPD has been addressed in Policy and therefore appropriate to include. Historic England has supported the policy stating they fulfil paragraph 125 and 126 by setting clear guidelines for development but leaving sufficient room for innovation.</p> <p>The QB accepts that the policy can be amended into two sections dealing with design then heritage matters.</p>

Policy/ Page/ Para. No.	Suggestion	BFC Regulation 16 Comments	QB Response
		<p>designed, for example 2.5 storey buildings in key locations, such as on the gateway site at Warfield Garage. The requirement to “maintain the existing plot ratio” is contrary to the NPPF 2012 (section 7) and Core Strategy Policy CS1 requirement to make efficient use of land.</p>	
Policy WNP4	Basic Condition A Suggested amendments	<p>1st para:</p> <ul style="list-style-type: none"> References to the Council’s SPDs should be in the supporting text and not the main policy as they are guidance. It is not appropriate to examine them against the basic conditions. It is considered that this would be contrary to planning legislation, therefore contrary to Basic Condition A. There is a need to simplify and to remove reference to BFC’s Character Area Assessment SPD and WNP’s supporting documents. Recommend the following amendments: “Development proposals in the Warfield Street Character Area, as shown on the Policies Map, will be supported, provided they are of a high quality design that responds positively to the Character Area Study and have should have full regard to the following design principles and the recommendations of the BFC Character Area Assessment:”. 	As response to WNP3
Policy WNP4	Basic Condition A & E Suggested amendments	<ul style="list-style-type: none"> Point i: Newell Hall is opposite the SA9 strategic development site, so it will be difficult to respect the ‘rural character’. Furthermore, it is located outside the area of application of the policy, as shown on the Policies Map. The following amendment should be made: “...setting of Newell Hall, Priory Cottage...” Point i: Important to note that where listed buildings are engaged that in order to be able to determine whether the design respects the setting of a listed buildings it will be necessary for the decision maker to exercise the 	As response to WNP3

Policy/ Page/ Para. No.	Suggestion	BFC Regulation 16 Comments	QB Response
		<p>statutory duty to preserve and enhance and consider the significance of the asset and the impact of a proposal on the significance. It would be better to separate out the heritage issues from the design issues here to ensure that the statutory requirement with respect to heritage matters is met.</p> <ul style="list-style-type: none"> Point ii: This point does not allow for variation in design. For example, the Northern Villages Character Area Assessment Area 1: Newell Green refers to ‘materials are predominantly red brick and white render, with the exception of Tudor Cottage and farm buildings that are clad in dark timber’(https://www.bracknell-forest.gov.uk/sites/default/files/documents/chapter-4-northern-villages-study- area.pdf). Whilst it is noted that there is consistency in terms of red brick and white render the wording does not recognise the existence of dark timber which it would be important to retain in the event of development taking place. 	
Policy WNP5	Basic Condition A Suggested amendments	<ul style="list-style-type: none"> 1st para: References to the Council’s SPDs should be in the supporting text and not the main policy as they are guidance. The SPDs have been adopted in accordance with the requirements of Reg 14 the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council’s SPDs cannot be subject to examination through the Neighbourhood Plan and it is not appropriate to examine them against the basic conditions. The reference to the SPDs in the policy (rather than the supporting text) would be contrary to national policy and guidance and therefore contrary to Basic Condition A. Point i: Important to note that where listed buildings are engaged that in order to be able to determine whether the design respects the setting of a listed buildings it will be 	As response to WNP3.

Policy/ Page/ Para. No.	Suggestion	BFC Regulation 16 Comments	QB Response
		<p>necessary for the decision maker to exercise the statutory duty to preserve and enhance and consider the significance of the asset and the impact of a proposal on the significance. Suggest separating out heritage issues from design issues here to ensure that the statutory requirement with respect to heritage matters is met.</p> <ul style="list-style-type: none"> • There is a need to simplify and to remove reference to BFC's Character Area Assessment SPD and WNP's supporting documents. Recommend the following amendments: <p>"Development proposals in the Hayley Green Character Area, as shown on the Policies Map, will be supported, provided they are of a high quality design that responds positively to the Character Area Study and have should have full regard to the following design principles and the recommendations of the BFC Character Area Assessment:".</p>	
Policy WNP8/ Policies map	Basic Conditions A & E	<ul style="list-style-type: none"> • <i>'The Neighbourhood Plan proposes the establishment of the Warfield Green Infrastructure Network within the Parish, as shown on the Policies Map.'</i> 'Proposes the establishment' is not clear policy wording and as such is not in line with Neighbourhood Planning, Planning Practice Guidance, which states <i>'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.'</i> Paragraph: 041 Reference ID: 41-041-20140306. Further, this paragraph significantly limits the application of the policy to only those areas of the network that are mapped. The map itself does not show all current areas of green infrastructure and does not allow future improvements to the network to fall within the definition of green infrastructure for the purposes of this plan. 	<p>The QB proposes the following amendment:</p> <p>Proposals that lead to the loss of land or features that form part of the network, that reduce its environmental quality or that will prejudice the completion of the a comprehensive network will be required to demonstrate that such loss is unavoidable.</p>

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		Suggest this paragraph is modified such that the map shows areas of green infrastructure 'included but not limited to'.	
Policy WNP9	Basic Conditions A & E	<p>The Council is generally supportive of the policy being included within the Plan, however an objective of the SA9 strategic policy is to enhance existing areas of open space. One project is to improve recreational facilities at Warfield Memorial Ground (identified in the Warfield SPD), which could include replacing the existing sports pavilion with one of a slightly larger scale. This could conflict with the openness of the land, therefore be in conflict with NPPF Green Belt policy (NPPF 2012, para 89 & NPPF 2019, para 145), which this policy would trigger. Therefore the Policy does not meet Basic Condition A.</p> <ul style="list-style-type: none"> • Suggest deletion of Warfield Memorial Ground to avoid conflict. 	The policy supports the extension/partial redevelopment of established community uses.
Policy WNP10	Basic Condition A, D & E	<ul style="list-style-type: none"> • The inclusion of commercial enterprises located in the Green Belt such as the Moss End Garden Village is not appropriate. This policy supports their extension/ redevelopment which given that several of these are in the Green Belt could conflict with national and local Green Belt policy and in view of their isolated locations the extension or intensification of these commercial enterprises may not be sustainable development. Suggest the list of assets is amended to omit commercial uses in the Green Belt. • Development on 'Local Green Spaces' is permitted in 'very special circumstances' (NPPF (2012) para. 76), so text should be amended accordingly to avoid conflict. • Last para: Policy allows for "a new doctor's surgery or a new dentist facility" potentially in the countryside. This para should be deleted, as it conflicts with the strategic Development Plan policies CS2 (protection of land outside of settlement) and CS9 (locational principles). Instead, any 	<p>The QB wishes to propose the following amendments to the policy: ... of the buildings and ancillary land by way of its extension or partial redevelopment will be supported, subject to other planning considerations. <u>provided they accord with the relevant policies of the development plan.</u></p>

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		<p>proposals</p> <ul style="list-style-type: none"> • should be considered against existing development plan policy. 	
WNP11	Basic condition A	<ul style="list-style-type: none"> • NPPF para 83 states “Planning policies and decisions should enable: <ul style="list-style-type: none"> a) the sustainable growth and expansion of all types of business in rural areas...”. It is considered that provisos i. and possibly iv. are in conflict with this. Final para also appears to conflict with NPPF para 79. “Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply: <ul style="list-style-type: none"> a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside; b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; c) the development would re-use redundant or disused buildings and enhance its immediate setting; d) the development would involve the subdivision of an existing residential dwelling; or e) the design is of exceptional quality...” <p>Policy WNP11 appears far more restrictive than this.</p> <ul style="list-style-type: none"> • Reference to very special circumstances should be limited to land within the Green Belt. <p>The final sentence is too onerous and a condition or s106 obligation to this effect is unlikely to meet the basic tests of necessity or reasonableness in most cases. There is no</p>	<p>The QB proposes the following amendment: “...of agriculture or some other special need will only be granted in very special circumstances and be where they are in accordance with all other planning policies applicable to that location...”</p>

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		<p>such requirement in the NPPF, and while there may be an occasional need to tie the occupation of a dwelling to the land this should be</p> <p>f) assessed on a case by case basis and not subject to a blanket policy in the Development Plan.</p>	
Policy WNP12	Basic Condition A Clarification/ Correction	<p>Recommend splitting policy to deal with built heritage and archaeological assets (designated/non designated assets in one policy) and biodiversity in separate policy given the difference in the statutory duties in respect of both i.e. heritage – to preserve and enhance (and the relevant guidance as set out in the NPPF with respect to assessment of significance of the asset and impact on the significance) and biodiversity – to conserve.</p>	The QB wishes to retain the policy as currently drafted.
Policy WNP15	Basic Condition A	<p>Last para: References to the Council’s SPDs should be in the supporting text and not the main policy as they are guidance. The SPDs have been adopted in accordance with the requirements of Reg 14 the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council’s SPDs cannot be subject to examination through the Neighbourhood Plan and it is not appropriate to examine them against the basic conditions. The reference to the SPDs in the policy (rather than the supporting text) would be contrary to national policy and guidance and therefore contrary to Basic Condition A.</p>	See QB’s position described previously
Comments on the Sustainability Appraisal			
Para 8.11	Basic Condition A Amendment	<ul style="list-style-type: none"> • In addition to the identified fluvial flood risk to the east, there is a small area at risk of fluvial flooding within the site at the north eastern corner. This is not reflected in the SA, or subsequently in the plan itself. This potentially poses a risk to development; and an opportunity for enhancement. • Whilst the concept plan does not propose development 	<p>The Hayley Green Concept Layout sets aside an area to the north east of the site for public open space and SuDS purposes.</p> <p>The concept layout has been informed by detailed technical studies as required by the</p>

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		<p>within the floodplain, the fluvial flood risk needs to be taken into account within policy WNP2 to ensure inappropriate development does not take place in this area; and to ensure it is assessed within the flood risk assessment. Reference can be made to the Strategic Flood Risk Assessment (April 2018) and Draft Sequential Test (February 2018) commissioned by BFC, both available here: https://www.bracknell-forest.gov.uk/draft-bracknell-forest-local-plan/evidence-base</p>	<p>Policy and provides the best disposition of the land while providing for a significant community benefit entirely consistent with NPPF 2012 paragraph 69 and 70 (now NPPF 2019 paragraph 91 & 92).</p>
Comments on the Basic Conditions Statement			
Para. 6.5	Basic Condition F	<p>Para 6.5 refers to advice sought from BFC in July 2018. It states that <i>'BFC advised that they had commissioned consultants to prepare a draft Habitat Regulations Assessment report for the draft Local Plan (which also includes the Hayley Green Allocation)...'</i> The Council has not commissioned consultants to prepare a Draft HRA Report as this is being done in-house. Paragraph 6.5 goes on to say that <i>'it was agreed that for the 'Qualifying Body' to undertake a full 'Appropriate Assessment' in parallel with the work commissioned by BFC would not be ideal'</i>. This is also incorrect. It is a legal requirement for the Plan to be subject to an Appropriate Assessment. The Council questions whether the Qualifying Body is confusing Habitats Regulations Assessment with Air Quality Assessment which will provide evidence on the effects of air quality on the integrity of Habitats Sites. This appears to be confirmed in paragraph 6.6 which refers to air quality assessment of the Local Plan.</p> <p>Indeed, in July 2018, the Council advised that if it were to undertake a HRA screening at that point in time, the opinion in relation to HRA would almost certainly change (in</p>	<p>The QB is not confused by its responsibilities nor those of the LPA. Indeed the QB's advisors and AECOM (the QB's contractor) have had to deal with similar situations elsewhere in the period following Case 323/1 of the Court of Justice.</p> <p>The section in the BCS is a summary of the email correspondence between the LPA and the QB in June/July 2018 in which the QB was seeking advice from the LPA on a way forward. This correspondence can be made available to the Examiner if required.</p> <p>These comments have now been largely superseded by the Examiners correspondence and the acceptance by both parties that subject to the retention of WNP 2 then further technical work by the QB will be prepared by AECOM (who are in place to undertake the work) for the submission to</p>

Policy/ Page/ Para. No.	Suggestion	BFC Regulation 16 Comments	QB Response
		<p>comparison to the HRA Screening Opinion of 2016) and conclude that the Warfield Neighbourhood Plan will require a full Appropriate Assessment (in the light of the Sweetman Judgement). At that time, BFC also advised that as the plan stands, it would not meet the basic condition “the making of the plan does not breach and is otherwise compatible with EU obligations”. This is because of the outstanding issue around air quality. An appropriate assessment undertaken without an air quality assessment would not be able to conclude ‘no likely significant effect’ on the Habitats Sites (in the light of the Wealden judgement).</p> <p>In paragraph 6.9 of the Basic Conditions Statement it states that, in the advice from the Council in July 2018, ‘<i>BFC would accept the Submission Plan and that further information could be submitted as it becomes available and be fed into the Examination</i>’. The Council understands that it has no alternative but to accept the Warfield Neighbourhood Plan (WNP) Submission Version (i.e. BFC cannot ‘refuse’ the Plan) and can only make representations in relation to whether the Neighbourhood Plan meets the ‘Basic Conditions’ and other relevant legal requirements set out in the Localism Act.</p> <p>In its advice of July 2018, the Council did state that it has commissioned an Air Quality Assessment of the Bracknell Forest Draft Local Plan. It was stated that this was intended to be an internal document and then updated and published when the Local Plan Submission sites are known and assessed. The Council also said that an internal draft Air Quality Assessment report was due to be with BFC in around two months time and that at that time the Council may have further information (on air quality) to feed into the Neighbourhood Plan Examination, or that may be able to help with the Council’s decision of whether or not the plan meets</p>	<p>BFC for them, as the competent authority, to complete their Appropriate Assessment.</p>

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		<p>the basic conditions/ can proceed to referendum. It was also pointed out in the advice of July 2018 that the risks / issues associated with using the BFC draft air quality modelling report rather than commissioning a separate report for the WNP included:</p> <ul style="list-style-type: none"> o Potential for delays to the Council’s programme o The air quality assessment may identify issues that may need to be addressed <p>Indeed over the last few months the progress of the Local Plan Air Quality Assessment has been slower than the Council originally envisaged due to the implications of the Kokott Judgement (based on the Opinion of Advocate General Kokott delivered on 25 July 2018). A Local Plan Air Quality Assessment is ongoing and will not be completed in time for the proposed Examination of the WNP in May 2019. To date no Appropriate Assessment of the Bracknell Forest Local Plan has been undertaken and this will form part of the evidence base for the Submission Local Plan (current timescale for publication February – March 2020).</p>	