

Report Title:	Eton and Eton Wick Neighbourhood Plan decision to proceed to referendum
Contains Confidential or Exempt Information?	NO - Part I
Member reporting:	Councillor Bateson Principal Member for Neighbourhood Planning
Meeting and Date:	Cabinet 24 May 2018
Responsible Officer(s):	Russell O'Keefe, Executive Director Jenifer Jackson, Head of Planning
Wards affected:	Eton Wick and Eton and Castle

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REPORT SUMMARY

- 1 This report seeks approval from Cabinet for the Eton and Eton Wick Neighbourhood Plan to proceed to referendum at the earliest practicable opportunity.
- 2 The Neighbourhood Plan has been formally examined by an independent examiner, and a number of changes have been recommended by the examiner to ensure that the plan meets the basic conditions.
- 3 The cost of the referendum can be claimed back from the government.

1 DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Cabinet notes the report and:

- i) Confirms that the plan meets the Basic Conditions tests and does not require a SA/SEA.
- ii) Accepts the proposed changes to the Neighbourhood Plan set out in Appendix B.
 - a. Gives delegated authority to the Head of Planning to issue a decision statement; and
 - b. agrees to put the modified Neighbourhood Plan to referendum. The date of the referendum to be set in accordance with the legal requirements; and
- iii) Delegates authority to the Head of Planning, in consultation with the Principal Member for Neighbourhood Planning, to make minor, non material, amendments to the Neighbourhood Plan prior to the referendum being announced.
- iv) Provides advance funding up to £20,000, if required, for the referendum; this will then be claimed back from Government.

2 REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 The National Planning Policy Framework (NPPF) and the Localism Act (2011) give local communities direct power to develop their shared vision for their neighbourhood and deliver the sustainable development they need. Neighbourhood planning provides a powerful set of tools for local people to get the right type of development for their community. The referendum is the culmination of the neighbourhood plan production process.

- 2.2 The Royal Borough is encouraging neighbourhood planning across the Borough. There are currently 10 neighbourhood plan areas in the Borough at different stages of production. Eton and Eton Wick is the third Neighbourhood Plan to reach this stage in the process.
- 2.3 The group producing the plan has placed community consultation at the heart of their plan, undertaking a series of consultations and developing evidence to support their policies, they have also worked closely with a national consultancy to undertake the production of this neighbourhood plan. This process has generated a lot of interest in the local community. The plan and the policies within it have been supported by the majority of respondents at the earlier stages.
- 2.4 Following publication, the neighbourhood plan was scrutinised by an independent examiner. The examiner was appointed by the Royal Borough, with the agreement of the Qualifying Body. This examination was carried out without a public examination, using the written representations process, and the examiner's report recommends that the plan proceeds to referendum, subject to modifications, see Appendix A.
- 2.5 These modifications are considered necessary by the independent examiner, to ensure the neighbourhood plan meets the Basic Conditions, as required by the Localism Act. The Basic Conditions for Neighbourhood Plans are:
- 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
 - The making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
 - Prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).
- 2.6 Officers have reviewed the plan in light of the proposed modifications and conclude that the plan will continue to meet the Basic Conditions when incorporating the Examiner's modifications. The assessment of the Examiner's modifications can be found at Appendix B. Since receiving the modifications, these have been discussed with representatives of the Qualifying Body who have agreed that these changes are acceptable and that they wish for it to proceed to referendum at the earliest practicable opportunity there have been two major concerns raised by the steering group about the examiner's report.
- 2.7 One of the areas which has been recommended for deletion as a policy is telecommunications. Improvement to Telecommunications in the Neighbourhood Plan area is important to the whole community and so it is proposed to have this as a project at the back of the plan, the proposed wording has been agreed with members of the steering group. The other area of concern are the changes proposed to the policy relating to Eton High Street (policy BL2). The original policy did not completely comply with the current practice and advice and so has been modified by the examiner, but elements of the original policy remain. It is proposed to seek the making of this plan through a referendum, but assuming it is successful at referendum, develop a new

single issue policy or element of the plan relating to Eton High Street. This approach has been agreed in principle with members of the steering group.

- 2.8 If approved, the referendum will be held at the earliest practicable opportunity, in accordance with legislation. The question to be used in the referendum is set by the 'Neighbourhood Planning (Referendums) Regulations 2012', and must be "Do you want the Royal Borough of Windsor and Maidenhead to use the neighbourhood plan for Eton and Eton Wick to help it decide planning applications in the neighbourhood area?
- 2.9 If more than 50% of those voting in the referendum answer 'yes', the plan would then form part of the Development Plan for the Royal Borough and would need to be formally 'made' (adopted) by the Royal Borough. This 'making' of the neighbourhood plan would be a decision made by full Council.

Table 1: Options

Option	Comments
1. Accept the modifications of the Examiner, issue a decision statement to this effect and approve the Neighbourhood Plan to go forward to referendum. The recommended option.	This is the next step in the Borough adopting localism in planning, to enable our communities to shape their area. It enables the community as a whole to decide if the plan should be used by the Council for determining planning applications.
2. Reject some or all of the modifications of the examiner and delegate authority to the Executive Director Place to publish the decision. This option is not recommended.	Officers and the steering group producing the plan have agreed that the modifications are acceptable and that the plan is suitable to be the subject of a referendum.
3. Do not approve the neighbourhood plan to go forward to referendum This option is not recommended.	The plan has been recommended to proceed to referendum, subject to the modifications listed, by an independent examiner and it is supported by officers and the group producing the plan. This option would deny the local community the opportunity to express their formal support for the plan.

3 KEY IMPLICATIONS

Table 2: Key implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
An adopted neighbourhood plan that delivers the wishes of the community.	From Referendum date to 2030	Neighbourhood Plan receives 50-65% of voters choosing "yes".	Neighbourhood Plan receives 65-80% of voters choosing "yes".	Neighbourhood Plan receives 80%+ of voters choosing "yes".	Day of referendum

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Development in accordance with policies of the neighbourhood plan.	Panel and appeal decisions do not comply with the plan policies.	Planning applications and appeals are determined in accordance with the neighbourhood plan.	Majority of applications submitted comply with the policies of the neighbourhood plan.	All applications submitted comply with the policies of the neighbourhood plan.	

4 FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 The Council has received grant payments from the Department of Communities and Local Government in association with the progress of this particular plan (grants have also being received in association with the progress of other plans).
- 4.2 A further grant payment of £20,000 can be applied for once a date has been set for the referendum, this will fund the referendum. This will be the final grant that can be applied for in association with this plan, this grant is to cover the cost of the examination and referendum. Cabinet is asked to forward fund the cost of the referendum in the event that cost is incurred before the funding is received from Government

Table 3: Financial impact of report's recommendations

REVENUE	2018/19	2019/20	2020/21
Addition	£20,000	£0	£0
Reduction	£20,000	£0	£0
Net impact	£0	£0	£0

5 LEGAL IMPLICATIONS

- 5.1 The Localism Act (2011) and The Neighbourhood Planning (General) Regulations (2012) give power to Local Planning Authorities to approve a neighbourhood plan to proceed to referendum. Under the Neighbourhood Planning Act 2017 if the referendum results in a simple majority 'Yes' vote the Neighbourhood Development Plan will immediately form part of the Development Plan for the Royal Borough. Following this Act the Council should 'have regard to a post-examination neighbourhood development plan when dealing with an application for planning permission, so far as that plan is material to the planning application'.

6 RISK MANAGEMENT

Table 4: Impact of risk and mitigation

Risks	Uncontrolled Risk	Controls	Controlled Risk
Community will not have an opportunity to guide development in their area.	Medium	Approve the neighbourhood plan to go to the public vote in a referendum.	Low
Risk of legal challenge if examiner's recommendations not accepted.	Medium	Accept the examiner's recommendations.	Low
If not approved, planning applications and issues in the neighbourhood area will not be dealt with in a way the communities intended	Medium	Approve plan for referendum and if successful use in planning decisions.	Low
Development in neighbourhood area may continue to receive significant levels of objection from residents and not meet some local needs.	High	Approve plan for referendum and if successful use in planning decisions.	Medium

7 POTENTIAL IMPACTS

- 7.1 The examiner has confirmed that the neighbourhood plan meets the Basic Conditions. One of these conditions is that it must be compatible with human rights requirements. Officers agree that the plan, with modifications, meets the Basic Conditions.
- 7.2 The recommendations in this report has no identified equality impacts.
- 7.3 Another of the Basic Conditions is to contribute to the achievement of sustainable development. The neighbourhood plan was supported by a Strategic Environmental Assessment screening that concluded that the plan would not trigger significant environmental effects. In addition to this, the Council has confirmed that it believes the plan meets the Basic Conditions, including in terms of sustainability.

8 CONSULTATION

- 8.1 The report will be considered by Planning and Housing Overview and Scrutiny Panel in May 2018, comments will be reported to Cabinet.

- 8.2 During the production of the Neighbourhood Plan the Steering Group undertook several consultations and engagement events with Local Stakeholders in the Neighbourhood Plan Area. After the Draft Neighbourhood Plan was submitted to the Royal Borough a formal process of consultation was undertaken by planning officers and the results of this were forwarded to the independent examiner for their consideration during the examination process. The consultation process has met the legal requirements.

9 TIMETABLE FOR IMPLEMENTATION

Table 5: Implementation timetable

Date	Details
Summer (June) 2018	Referendum
September 2018	Depending on the Outcome of the referendum formal Making of the Neighbourhood Plan

- 9.1 Implementation date if not called in: Immediately

10 APPENDICES

- 10.1 The appendices to the report are as follows:

- Appendix A – Examiner's Report - The examiner's report is appended for consideration and should be read in conjunction with the submission version of the neighbourhood plan which is available on the Council's website at <http://www.rbwm.gov.uk/web/>
- Appendix B – Officer Assessment of the recommended changes to the neighbourhood plan.

11 BACKGROUND DOCUMENTS

- National Planning Policy Framework (NPPF) - <https://www.gov.uk/government/publications/national-planning-policyframework--2>
- Localism Act (2011) <http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
- Neighbourhood Planning (General) Regulations (2012) <http://www.legislation.gov.uk/uksi/2012/637/schedule/1/made>
- Neighbourhood Planning (Referendum) Regulations (2012) <http://www.legislation.gov.uk/ukdsi/2012/9780111525050/contents>
- Neighbourhood Planning Act 2017 <http://www.legislation.gov.uk/ukpga/2017/20/contents/enacted>
- Cabinet Report – Neighbourhood Planning Designations (March 2013)

12 CONSULTATION (MANDATORY)

Name of consultee	Post held	Date issued for comment	Date returned with comments
Cllr David Copping	Lead Member for Planning	26.04.18	27.04.18
Alison Alexander	Managing Director	26.04.18	26/04/18
Russell O'Keefe	Executive Director	26.04.18	27.04.18
Andy Jeffs	Executive Director	26.04.18	26.04.18
Rob Stubbs	Section 151 Officer	26.04.18	27.04.18
Nikki Craig	Head of HR and Corporate Projects	26.04.18	27.04.18
Louisa Dean	Communications	26.04.18	27.04.18

REPORT HISTORY

Decision type: Key decision February 18	Urgency item? No	To Follow item?
Report Author: Jenifer Jackson, Head of Planning, 01628 796042		

ETON AND ETON WICK NEIGHBOURHOOD PLAN 2016-2036

Eton and Eton Wick 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

March 2018



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Introduction

The Neighbourhood Plan

- 1 This Report provides the findings of the examination into the Eton and Eton Wick Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Eton Town Council.
- 2 It provides a recommendation in respect of whether the Neighbourhood Plan should go forward to a Referendum. Were this to be the case and were more than 50% of votes to be in favour the Neighbourhood Plan, then the Plan would be formally *made* by the Council of the Royal Borough of Windsor and Maidenhead. The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Eton and Eton Wick Neighbourhood Area.
- 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 As set out on in Paragraph 1.2 on page 4 of the Basic Conditions Statement, which was submitted alongside the Neighbourhood Plan, Eton Town Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan. The Neighbourhood Plan relates only to the designated Eton and Eton Wick Neighbourhood Area and there is no other neighbourhood plan in place in the Eton and Eton Wick Neighbourhood Area.
- 5 All of the above meets 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).

Role of the Independent Examiner

- 6 I was appointed by the Council of the Royal Borough of Windsor and Maidenhead, with the consent of the Qualifying Body, to conduct the examination of the Eton and Eton Wick Neighbourhood Plan and to provide this Report.
- 7 As an Independent Neighbourhood Plan 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 have more than five years' direct experience as an Independent Examiner of Neighbourhood Plans. I also have more than twenty five years' 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 the Eton and Eton Wick Neighbourhood Area to which the Plan relates.
- 11 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

Neighbourhood Plan Period

- 12 A neighbourhood plan must specify the period during which it is to have effect.
- 13 The front cover of the Neighbourhood Plan provides a clear reference to the plan period, 2016 – 2036.
- 14 Also, the “*Vision and objectives*” Chapter of the Neighbourhood Plan refers to the plan period on page 9; and both the front cover and Paragraph 1.2 of the Basic Conditions Statement, referred to above, also reference the plan period.
- 15 Taking the above into account, the Neighbourhood Plan meets the requirements in respect of specifying the period during which it is to have effect.

Public Hearing

- 16 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.
- 17 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.
- 18 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 Eton and Eton Wick Neighbourhood Plan could be examined without the need for a Public Hearing.
- 19 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

- 20 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*¹ 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.²
 - An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.³
- 21 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;

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

² 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.

³ 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.

- 22 Subject to the content of this Report, I am satisfied that these three points have been met.
- 23 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

- 24 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.
- 25 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

- 26 There is no legal requirement for a neighbourhood plan to have a sustainability appraisal⁴. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.
- 27 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 Guidance⁵)
- 28 National advice then goes on to state⁶ that the draft plan:
- "...must be assessed (screened) at an early stage of the plan's preparation..."*
- 29 This process is often referred to as a screening opinion, report determination or statement. If the screening opinion identifies likely significant effects, then an environmental report must be prepared.

⁴ Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance.

⁵ Paragraph 027, *ibid*.

⁶ Planning Practice Guidance Reference ID: 11-028-20150209.

- 30 In considering “*Compatibility with EU Legislation*,” the Basic Conditions Statement submitted in support of the Neighbourhood Plan establishes that:

“RBWM Council has determined after consultation with Natural England, the Environment Agency and Historic England that the NDP is not likely to have significant environmental effects and, therefore, a Strategic Environmental Assessment is not required.”

- 31 In reaching the above conclusion, the Basic Conditions Statement notes that the Neighbourhood Plan does not allocate sites for development.

- 32 Further to the above, the likelihood of proposals within the Neighbourhood Plan having an adverse impact on internationally designated wildlife sites, taking into account the requirements of the European Habitats Directive, was also considered. In this regard, the Basic Conditions Statement confirms that:

“Following a HRA (Habitats Regulations Assessment) screening determination undertaken by RBWM Council it (has been) found that the Eton and Eton Wick Neighbourhood Plan will not have an adverse effect on the integrity of internationally designated sites either on its own or in combination with other plans and does not need to be subject to a Habitats Regulations Assessment.”

- 33 Further to 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 Guidance⁷).

- 34 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 EU regulations and it has not raised any concerns in this regard.

- 35 Given all of the above, I am satisfied that the Neighbourhood Plan meets the basic conditions in respect of European obligations.

⁷ Planning Practice Guidance Reference ID: 11-031-20150209.

3. Background Documents and the Eton and Eton Wick Neighbourhood Area

Background Documents

36 In undertaking this examination, I have considered various information in addition to the Eton and Eton Wick 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) (referred to in this Report as the RBWM Local Plan)
- Basic Conditions Statement
- Consultation Statement

Also:

- Representations received

37 In addition, I spent an unaccompanied day visiting the Eton and Eton Wick Neighbourhood Area.

Eton and Eton Wick Neighbourhood Area

- 38 The boundary of the Eton and Eton Wick Neighbourhood Area is shown on a plan on page 5 of the Basic Conditions Statement and is illustrated by Figure 1 on page 5 of the Neighbourhood Plan.
- 39 The Royal Borough of Windsor and Maidenhead formally designated the Eton and Eton Wick Neighbourhood Area on 14th October 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

- 40 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.
- 41 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.

Eton and Eton Wick Neighbourhood Plan Consultation

- 42 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*⁸.
- 43 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Eton and Eton Wick Neighbourhood Area, having regard to Paragraph 183 of the National Planning Policy Framework.
- 44 Eton Town Council established a Steering Group, comprising Town Councillors and local volunteers and undertook two initial Drop-In events in Eton and Eton Wick in September 2014. These were attended by around 60 people and the feedback left was collated to inform the plan-making process.

⁸Neighbourhood Planning (General) Regulations 2012.

- 45 In September 2015, a second round of public consultation took place, in the form of a questionnaire. These were distributed throughout the Neighbourhood Area, as well as being made available in various venues and on-line. The questionnaire was supported by Drop-In events and around 250 completed surveys were returned.
- 46 The pre-submission draft version of the plan was then produced and this underwent consultation between October and December 2016. Again, consultation was supported by Drop-In events. The Drop-Ins were attended by 36 people and 62 formal responses to the draft plan were received.
- 47 Consultation was well-publicised. As well as making use of posters and the distribution of leaflets, consultation was publicised via mobile information boards. Copies of Steering Group meeting agendas and minutes were published on the Eton Town Council web site and the local mini-magazine, *Eton Matters*, and social media provided for additional means of communication.
- 48 The Consultation Report provides evidence to show that public consultation formed an important part of the plan-making process. Matters raised were taken into account and the reporting process was transparent. Given this and all of the above, I consider that the consultation process was effective and robust.

5. The Neighbourhood Plan – Introductory Section

49 The opening paragraph of the Neighbourhood Plan refers to Appendices. Appendices do not form part of the Neighbourhood Plan but are, by definition, appended to it. Whilst the Appendices provide useful guidance, they do not carry the same material planning weight as made neighbourhood planning policies. For clarity, I recommend:

- **Page 4, first para, change last sentence to “*These Appendices provide important guidance in support of the Policies set out in this Neighbourhood Plan.*”**

50 A Neighbourhood Plan is “*made*” whilst a District-wide Local Plan, for example, is “*adopted*.” For consistency and clarity, I recommend:

- **Page 4, penultimate para, change to “*Once made (or adopted), the Neighbourhood Plan will form part of the development plan and will have legal...*”**

51 The Council of the Royal Borough of Windsor and Maidenhead is the local planning authority with statutory responsibility for determining planning applications. This is not a duty undertaken “*in consultation with Eton Town Council.*” I recommend:

- **Page 4, penultimate para, end last sentence “*...applications in the Neighbourhood Area.*” (delete rest of sentence)**

52 National planning policy, as set out in the National Planning Policy Framework (the Framework), recognises the importance of safeguarding the nation's heritage. In doing so, the Framework establishes the need to “*conserve*” heritage assets (as opposed to “*preserve*” heritage assets), having regard to their significance. Having regard to national policy, I recommend:

- **Page 6, penultimate para, change opening sentence to “*Conserving and protecting...*”**
- **Page 7, penultimate bullet point, change to “*To conserve the heritage characteristics and significance of the settlements...*”**
- **Page 9, third para, change last sentence of “*Vision*” to: “*...valuing the character and conserving the historical...*”**

53 The basic conditions are set out earlier in this Report. Having regard to these and for precision, I recommend:

- **Page 7, first sentence, change to “...Local Plan *and have regard to the National Planning Policy Framework (NPPF).*”**

6. The Neighbourhood Plan – Neighbourhood Plan Policies

Housing and Development

Policy HD1: Housing Type and Location

- 54 The Neighbourhood Plan does not allocate land for housing development and there is no need for it to do so. However, in general terms, Policy HD1 supports residential development within Eton and Eton Wick that provides a mix of dwellings and contributes to housing needs. In this respect, the Policy has regard to Chapter 6 of the Framework, which sets out the national planning policy requirements for the delivery of a wide choice of high quality homes.
- 55 However, as drafted, the first part of the Policy appears ambiguous. In this respect, national planning advice⁹ 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.”*
- 56 It states that all applications should include an appropriate mix of dwellings by size, type and tenure reflecting local needs in the town and village. However, no indication is provided of what might be appropriate and furthermore, it is not clear how such a requirement might apply to all applications – some applications might be for a single dwelling, for example.
- 57 In addition to the above, there is no requirement for developments of ten or fewer dwellings to provide affordable housing. Consequently, a requirement for all applications to provide for a mix of tenures would be contrary to national policy and advice.

⁹ Planning Policy Guidance, Paragraph: 042 Reference ID: 41-042-20140306.

- 58 The third part of Policy HD1 limits support for the development of previously developed land to *“small incremental development.”* No definition is provided in respect of what this might comprise and further, it is unclear, when the Framework encourages the effective reuse of brownfield land, why the Policy seeks to impose an, albeit undefined, limit on its redevelopment. This part of the Policy lacks clarity and fails to have regard to Paragraph 154 of the National Planning Policy Framework (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.”

- 59 Part of the *“Introduction”* to Policy HD1 sets out requirements and consequently, it reads as though it comprises a Policy even though it is not. For clarity, only the Policies of the Neighbourhood Plan contain the land use planning policy requirements. Supporting text is simply that. Also, some of the text relates to other Policies. These are matters addressed in the recommendations below.

- 60 I recommend:

- **Policy HD1, delete part i) of the Policy**
- **Change part iii) of the Policy to *“The development of brownfield land within Eton Wick will be supported where it contributes to meeting housing needs.”***
- **Change final part of the Policy to *“...infrastructure strategy; and provide for a mix of dwellings by size, type and tenure.”***
- **Introduction, page 13, first para, change to *“...flooding. It is important that suitable infrastructure provision is provided, commensurate with the scale of development proposed.”***
- **Introduction, page 13, second para, change to *“This Neighbourhood Plan seeks to encourage small scale development that is delivered at a...”***
- **Introduction, page 13, delete third paragraph.**
- **Introduction, page 14, delete first, second and third paragraphs.**

Policy HD2: Housing Infill and Extension

- 61 Policy HD2 states that housing development “*will be permitted*” so long as it respects local character. However, the Neighbourhood Plan has no power to determine planning applications and so cannot state whether or not a development proposal will be permitted.
- 62 Further to the above, such an approach fails to take into account relevant considerations – such as the impact of development on residential amenity, highway safety or other matters. Consequently, it could – and there is no substantive evidence to the contrary - provide support for inappropriate forms of development and therefore fail to contribute to the achievement of sustainable development.
- 63 The Policy then goes on to set out support for any residential development, including new dwellings and household extensions, so long as such development has regard to local character and “*minimises*” loss of light, odours and noise; and “*appreciates*” environmental considerations. This latter requirement is ambiguous and fails to provide any land use planning controls. The other requirements would support development that results in loss of light, odours and noises, so long as such things were “*minimised*.” “*Minimised*” is not defined and consequently comprises an imprecise term that 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.
- 64 Whilst it supports development that may result in some, *minimised* harm in respect of loss of light, noise and odours, the Policy takes no account of impacts on other things, such as the outlook of neighbouring occupiers or highway safety. This could result in support for inappropriate forms of development and result in the Policy failing to contribute to sustainable development.
- 65 Notwithstanding all of the above, I note that Policy HD2 does attempt to set out a positive framework for residential development and extensions, having regard to the national policy requirement to deliver a wide range of high quality housing.
- 66 Taking this and the above into account, I recommend:

- **Change the wording of Policy HD2 to *“New dwellings and residential extensions should respect local character and make a positive contribution to it. Development should reflect local architectural vernacular and respect residential amenity.”***
- **Delete last two sentences of Justification (which seek to impose planning application form requirements - which are not the responsibility of the Neighbourhood Plan - and also contain a reference which is in direct conflict with the Policy itself)**

Policy HD3: Development within Eton

- 67 Policy HD3 is concerned with Eton's distinctive heritage. National policy, in Chapter 12 of the Framework, "*Conserving and enhancing the historic environment*," states that:

"...heritage assets are an irreplaceable resource.."

- 68 The Framework goes on to require that the nation's heritage be conserved in a manner appropriate to its significance. In seeking to conserve Eton's heritage, Policy HD3 has regard to national policy.

- 69 The first part of Policy HD3 references the "*Eton Design Guidance*" which is appended to the Neighbourhood Plan. This document provides helpful guidance which:

"...will help developers and architects produce design proposals that are sympathetic to their surroundings..." (Appendix 1, Eton Design Guidance)

- 70 In this respect, the Eton Design Guidance is clear to point out that it:

"...is not intended to serve as an immutable set of criteria to which new development must adhere..."

- 71 The guidance is simply that. It is not an adopted planning document that has undergone rigorous examination, but provides helpful supporting information. Consequently, it is not appropriate – and conflicts with the Eton Design Guidance itself – for Policy HD3 to require development proposals in Eton to be in "*conformity*" with it. Rather, it is something to be taken into account.

- 72 Similarly to the previous Policy, the approach set out in the second part of Policy HD3 results in a Policy that could be taken to provide support for any form of development, so long as it does not detract from local character. Again, this could result in support for inappropriate forms of development that cause harm in respect of matters other than local character. As a consequence, the Policy does not contribute to the achievement of sustainable development.

73 The fourth part of Policy iv) requires all development in Conservation Areas and in areas “*sensitive to change*” (which are undefined, resulting in an imprecise Policy) to “*match*” features that contribute to historic distinctiveness and identity. No indication is provided of how this might be delivered in a viable manner, or whether it would even be possible. Further, it is not explained why “*matching*” would conserve or enhance the Conservation Area (or other areas).

74 This part of the Policy does not have regard to Paragraph 173 of the Framework, which requires:

“...careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable.”

75 In this respect, I note that there is significant difference, in policy wording terms, between “*matching*” and the later, more appropriate references to being “*sympathetic to...reflecting...*”

76 The second sentence of part v. a) of the Policy requires compliance with guidance which, as noted earlier in this Report, is inappropriate.

77 Also, national policy is clear in requiring that planning policy does not “*stifle innovation*” (Paragraph 58, the Framework). There is no evidence to support a contention that innovative design is necessarily harmful in a Conservation Area, or sensitive environment. Indeed, it may well be that innovative design is appropriate in such a context. In this regard and in the absence of any detailed information, it is not clear why part v. c) seeks to limit “*more innovate design features*” to the outskirts of Eton.

78 Part of the Justification reads as though it comprises a Policy, which it does not and I take this into account in the recommendations below.

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

- **Policy HD3 change first sentence to: “*Proposals for development within Eton should demonstrate how they have taken into account the Eton Design Guidance, set out in Appendix 1.*”**
- **Change second bullet point to: “*New development should not detract from the character of...surrounding area.*”**
- **Delete fourth bullet point**
- **Delete second sentence of part v. a) (“*Buildings that...supported.*”)**

- Part v. c), change second sentence to *“Innovative design is particularly welcome, provided that it does not...buildings.”*
- Justification, page 17, delete from fifth sentence to the end of the para (“New development in historic streets must not...character of Eton.”)

Policy HD4: Development within Eton Wick

- 80 Policy HD4 seeks to ensure that development does not harm the attractive characteristics of Eton Wick. In so doing, the Policy has regard to Paragraph 58 of the Framework, which requires development to:

"...respond to local character...and reflect the identity of local surroundings and materials..."

- 81 As worded, the first bullet point of Policy HD4 would prevent any development between buildings. No indication is provided of how this might work in practice. If all spaces between buildings were maintained, then it would be difficult, if not impossible, for any development at all to take place anywhere – the Policy would simply prevent development, which is not its intention. This is a matter addressed in the recommendations below.
- 82 The final bullet point of Policy HD4 requires all development to maintain and enhance pedestrian linkages. However, there is no evidence to demonstrate that such an onerous requirement would be deliverable, viable, or even possible for all development to achieve. Consequently, this part of the Policy does not have regard to Paragraph 173 of the Framework, referred to earlier in this Report, in respect of deliverability and viability.
- 83 In the above regard, I am mindful that a later Policy in the Neighbourhood Plan considers sustainable patterns of movement.
- 84 I recommend:
- **Policy HD4, change first bullet point to *"Respect spaces between buildings..."***
 - **Delete final bullet point**
 - **Introduction, delete last sentence (which reads as though it is a Policy, which it is not)**
 - **Justification, delete final sentence**

Policy HD5: Local views to Historic Buildings and Landscapes

- 85 As above, national policy requires development to respond to local character and to conserve heritage assets.
- 86 Policy HD5 seeks to safeguard the special character of the Neighbourhood Area by identifying and affording protection to local views, having regard to national policy.
- 87 As worded, however, Policy HD5 does not provide for a balanced approach, whereby, for example, harm arising from a development proposal might be considerably outweighed by benefits, but rather it simply states that “*no harm*” should arise. Such an approach is far more onerous than, say, national and local planning policy in respect of the safeguarding of heritage assets and as such, it may prevent sustainable development from coming forward. This is a matter addressed in the recommendations below.
- 88 The Policy does not designate Local Viewing Corridors. The supporting text refers to local views considered in Appendix 2. The recommendations below provide precision in respect of this and the Policy's text and supporting information.
- 89 The supporting text in the Introduction refers to land which the Policy does not address. It refers to “*vital*” views, but offers no policy protection. This is a confusing and unnecessary reference.
- 90 I recommend:
- **Policy HD5, change to “*Development should respect the following important local views: (Provide the list of 10 views set out in the Introduction here). Appendix 2 provides a detailed analysis of these important local views and identifies related viewing corridors. Proposals within viewing corridors should not detract from views of the landmark or landscape.*”**
 - **Introduction, delete all text and replace with “*The Neighbourhood Plan seeks to protect important local views.*”**

Policy HD6: Basement Building

- 91 In general terms, Policy HD6 seeks to prevent harm arising from flooding, having regard to Paragraph 100 of the Framework, which states that:

“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.”

- 92 It is not the role of the Neighbourhood Plan to set out a “*presumption against basement extensions*.” If a basement extension needing planning permission meets all requirements and comprises sustainable development, then it should go ahead. Taking this into account, the opening part of Policy HD6 provides an inappropriate context for the rest of the Policy – which, in a contradictory manner, supports appropriate basement development.
- 93 No indication is provided of how development might “*compromise*” heritage assets and consequently, part iv) of the Policy is imprecise and 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.
- 94 Taking the above into account, I recommend:
- **Policy HD6, delete first sentence.**
 - **Delete criterion iv.**

Business, Leisure and Tourism

Policy BL1: Retail

- 95 Paragraph 28 of the Framework seeks to:

"...promote the retention and development of local services and community facilities in villages, such as local shops..."

- 96 In addition, the Framework goes on to recognise the importance of local services and facilities to the health of communities and requires planning policies to:

"...plan positively for...community facilities (such as local shops..."

- 97 Policy BL1 supports retail development appropriate to the respective centres of Eton and Eton Wick and has regard to national policy.

- 98 As set out, the Policy refers to "*adherence*" to guidelines, which appears to afford significant material planning weight to the un-adopted supporting information contained in Appendix 3 to the Neighbourhood Plan – rather than refer to its actual role as supporting information providing useful guidance. This is a matter addressed in the recommendations below.

- 99 The Policy goes on to refer to supporting "*applications*." This results in the scope for possibly unwitting support for inappropriate forms of development. For example, an application might include good shopfront architecture amongst a wide range of other development proposals. As set out, the Policy would support the application regardless of what these other proposals might comprise. This could result in support for inappropriate forms of development and consequently, comprise a Policy that fails to contribute to the achievement of sustainable development.

- 100 Taking the above into account, I recommend:

- **Change first sentence of Policy BL1 to "*Proposals to develop existing shopfronts and/or for advertisements should demonstrate that they have taken into account the Shopfront Design Guidance, set out in Appendix 3.*"**

- Change rest of Policy to *“Changes to shopfronts requiring planning permission should be responsive to the heritage characteristics of the local area and: i. In Eton, the retention of single retail units and the limiting of alterations to...supported. ii. In Eton Wick, improvements to shopfronts will be supported, as will the creation of flexible spaces capable of increasing vitality in the retail core.”*

Policy BL2: Eton High Street

- 101 Chapter 2 of the Framework, "*Ensuring the vitality of town centres*," recognises town centres as the heart of their communities and promotes policies to support their viability and vitality.
- 102 Policy BL2 seeks to support the vitality and viability of Eton town centre and in so doing, it has regard to national policy.
- 103 Permitted development rights provide for changes to retail units that do not require planning permission and the recommendations below take this into account. The Policy seek to impose a presumption against forms of development that would not be contrary to either local or national planning policy, or to permitted development rights. No substantive justification is provided in support of this departure from policy and in the absence of evidence to the contrary, this element of Policy BL2 fails to contribute to the achievement of sustainable development.
- 104 Part of the supporting text is worded as though it comprises Policy, which it does not.
- 105 Taking the above into account, I recommend:
- **Policy BL2, change part ii. to "*Development requiring planning permission for a change of use from retail to residential on the ground floor will not be permitted on Eton High Street.*"**
 - **Delete parts iii. and iv.**
 - **Introduction, change last sentence to "*It is important that new retail space does not detract...*"**
 - **Justification, second line, delete "..., removing separate...not supported."**
 - **Justification, delete last sentence of first para ("New retail...ground level.")**
 - **Delete last sentence of Justification ("The heritage...High Street.")**

Policy BL3: Eton Wick Local Centre

- 106 Policy BL3 is a positive Policy which provides for flexibility within Eton Wick Local Centre. This approach is in general conformity with Saved Policy S7 of the RBWM Local Plan, which supports proposals that would help to maintain the vitality of the shopping parade. The recommendations provide clarity in respect of demonstrating viability, in the interests of precision.
- 107 In addition, outside the Local Centre, the Policy provides for changes of use from non-viable retail uses in former residential buildings to commercial or residential uses. This approach provides for appropriate re-use and encourages the efficient use of buildings, thus contributing to the achievement of sustainable development and meets the basic conditions.
- 108 The Introduction refers to matters not covered by the Policy and again, part of the supporting text is written as though it comprises a Policy, which it does not. The Policy refers to viability and it is appropriate for the Policy itself to state how this will be measured.
- 109 I recommend:
- **Policy BL3, change part i. to “...Local Centre *where retail is unviable, will be supported. Proof of a lack of viability should be supported by up-to-date evidence of open and active marketing of the site at market value over a 12 month period.*”**
 - **Introduction, delete last sentence (“Enhancements to car parking...other users.”)**
 - **Justification, delete the last two sentences of the first para (“In order to demonstrate...marketing the site.”)**
 - **Justification, delete last sentence of second para, which does not relate to the provisions of the Policy**

Policy BL4: Meanwhile uses

110 Policy BL4 supports the temporary use of vacant premises as “*pop-up shops*.” This approach has regard to the Framework’s aim of supporting the vitality and viability of town centres.

111 No recommendations proposed.

Policy BL5: Healthcare Provision in Eton Wick

- 112 Policy BL5 seeks to support the provision of a *“small-scale satellite healthcare facility.”* This has regard to Chapter 8 of the Framework, *“Promoting healthy communities.”*
- 113 However, as set out, the Policy runs the risk of supporting wide and varied forms of development, in a wide range of locations, regardless of harm. For example, it would support the conversion of any house, anywhere in the Neighbourhood Area, so long as part of the conversion provided a small-scale satellite healthcare facility.
- 114 In the absence of any evidence to the contrary, I consider that such development could give rise to harmful impacts in respect of, for example, highway safety and residential amenity. In this way, the Policy, as set out, does not contribute to the achievement of sustainable development.
- 115 I recommend:
- **Delete wording of Policy BL5 and replace with *“The provision of a small-scale satellite healthcare facility in the Neighbourhood Area will be supported, subject to there being no over-riding harm to local character, residential amenity and/or highway safety.”***

Transport and Communications Infrastructure

Policy TI1: Sustainable Transport Network

116 Paragraph 75 of the Framework states that:

“Planning policies should protect and enhance public rights of way and access.”

117 In addition, Chapter 4 of the Framework, *“Promoting sustainable transport,”* encourages sustainable modes of transport and requires development to prioritise pedestrian and cycle movements.

118 Policy TI1 seeks to protect and enhance cycle-ways and footpaths and has regard to national policy.

119 As worded, part ii) if the Policy runs the risk of supporting inappropriate forms of development – for example, it would support any type of development so long as it also includes some improvements to pedestrian, cycling and public transport infrastructure. In the absence of detailed evidence to the contrary, I consider that such an approach could support inappropriate forms of development and give rise to unsustainable forms of development.

120 I recommend:

- **Change Policy TI1 part ii. to *“The provision of improvements to pedestrian, cycling and public transport infrastructure or the provision of new infrastructure between Eton and Eton Wick will be supported. Such development might include: four bullet points here (“The provision of off-road...and public transport”)***

Policy TI2: Car Parking

- 121 The Council of the Royal Borough of Windsor and Maidenhead has published a "*Parking Strategy*" (2004), which provides a detailed framework for car parking across the Borough. Further, RBWM Local Plan Policy P4 requires all development proposals to provide car parking in accordance with adopted car parking standards.
- 122 By way of contrast, the first part of Policy TI2 simply requires that new homes be provided with off street parking "*where practicable*." It is not clear, in the absence of any substantive detail, how such an approach would achieve the aims of providing appropriate levels of car parking, as set out in the Neighbourhood Plan's supporting text. Rather, the first part of Policy TI2 is ambiguous, imprecise and 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.
- 123 The second part of the Policy comprises an ambiguous statement, rather than a land use planning policy control. No indication of what an innovative solution might comprise is provided. The third part of the Policy adds to the imprecise nature of the Policy – whereby it counters the Policy aim of providing for off-road parking by suggesting the provision of on-road parking in service bays and on service roads. Notwithstanding that this approach would fail to achieve the aim of the Policy, no detailed information is provided in respect of how such an approach might be compatible with the purposes of service bays or roads and how, or whether, allowing car parking within them would contribute to the achievement of sustainable development.
- 124 The final part of the Policy seeks to protect existing parking spaces around the retail core and this approach has regard to national policy's promotion of vitality and viability in respect of town centres, as set out earlier in this Report.
- 125 I recommend:
- **Policy TI2, delete criteria i., ii. and iii**
 - **Change criterion iv. to "Development that reduces...will not be supported *unless* equivalent..."**

Policy TI3: Bicycle Parking

126 No detailed information is provided in respect of why Policy TI3 requires the number of bicycle parking spaces provided for new homes to equate to the number of bedrooms and there is no evidence to demonstrate that such an approach would be deliverable and viable in all cases. This part of the Policy fails to have regard to Paragraph 173 of the Framework, which notes that sustainable development requires careful attention to viability and requires plans to be deliverable.

127 The final part of Policy TI3 would support any type of retail or commercial development that included bicycle parking and consequently, it could result in support for inappropriate, unsustainable forms of development.

128 I recommend

- **Policy TI3, delete part i.**
- **Change part iii. to *"The provision of integrated bicycle parking solutions within commercial or retail development proposals in Eton and Eton Wick Local Centres will be supported."***

Policy TI4: Telecommunications Coverage

129 The Framework states that:

“Advanced, high quality communications infrastructure is essential for sustainable economic growth.”

130 Consequently, there is strong support for the provision of radio and telecommunications masts and sites for such installations to be provided to a minimum consistent with the efficient operation of the network.

131 Whilst the supporting text to Policy TI4 recognises the need for efficient telecommunications coverage, the Policy itself fails to have regard to national policy and does not meet the basic conditions.

132 Policy TI4 seeks to limit telecommunications development to that required to improving *“the service of a carrier”* to communities with poor reception. Whilst such a thing might be a benefit of telecommunications development, it fails to properly reflect its purpose – of providing infrastructure essential for sustainable economic growth.

133 Chapter 5 of the Framework provides clear guidance in respect of controls to ensure that necessary infrastructure does not cause undue harm to local character. Policy TI4 fails to have regard to this, but seeks to impose requirements that go well beyond those of national policy – for instance, seeking to ban telecommunications infrastructure in certain locations, or stating that it *“must not intrude”* on views.

134 Consequently, Policy TI4 would place significant hurdles in the way of telecommunications infrastructure, contrary to the requirements of national policy. Policy TI4 does not meet the basic conditions. In making the recommendation below, I am mindful that existing planning policies provide a positive framework for the appropriate delivery of telecommunications infrastructure.

135 I recommend:

- **Delete Policy TI4**
- **Delete Introduction and Justification on page 40**
- **Delete last sentence on page 33 (“As well as improvements...data transmission”)**

- **Delete para iii. on page 35**
- **Delete “and Communications Infrastructure” in the title towards the top of page 36**

Environment

Policy EN1: Green and blue infrastructure

- 136 Paragraph 109 of the Framework requires the planning system to contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible.
- 137 Policy EN1 supports biodiversity gains and in this respect, has regard to national policy.
- 138 However, the first part of the Policy is ambiguous. It requires development to retain a wide range of features, ranging from natural features to man-made landmarks. No detail is provided in respect of what kind of development, if any, might impact on and be able to retain all of these features – or why it should be required to do so.
- 139 For example, no evidence is provided of any one development site containing all of the features listed. This appears to be an issue in terms of the wording of the Policy – whilst the intent of the Policy seems to be to protect various things, its wording seeks to do something different, in that it requires development to retain various things. The result presents a confusing opening to the Policy and 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.
- 140 The second part of the Policy introduces requirements which, due to the absence of any substantive justification, appear entirely arbitrary. In the absence of any evidence, it is not possible to understand why the Policy introduces a presumption against development within 8 metres of streams and 5 metres from historic hedgerows. Furthermore, there is no definition of “*streams*” or “*historic hedgerows*” and no plans to show where such no-development zones are located. This part of the Policy is unsubstantiated and imprecise. It appears to run the risk of preventing sustainable development and there is no evidence to the contrary.

- 141 It is not clear how the third part of the Policy will operate in practice. It does not require the on-site replacement of open spaces, trees and shrubs, but rather states that new provision of such things elsewhere on site, were they to be lost as a result of development, would be "*expected*." No indication is provided of what might happen should such an expectation not be met and consequently, this part of the Policy does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.
- 142 Further to the above, "*significant*" is undefined and consequently, it is not possible to understand when any loss would be expected to be replaced and when it would not. The Policy is imprecise. Also, it is not clear why all trees, shrubs and open spaces are treated the same – some trees or shrubs might be worthy of replacement, others may not. In the absence of any relevant detail, this part of the Policy is ambiguous and provides little in the way of clarity.
- 143 The fourth part of the Policy would support any type of development so long as it provides for the planting of new trees and hedgerows. This could result in support for inappropriate forms of development and runs the risk of the Policy failing to contribute to the achievement of sustainable development.
- 144 No detail is provided in respect of how developers might ensure that any new trees will be "*disease resistant*" and consequently there is no evidence to demonstrate that the provision of disease resistant trees would be deliverable and viable in all cases. In this respect, the Policy does not have regard to Paragraph 173 of the Framework.
- 145 In the absence of any detail or justification, it is not clear why ensuring "*sympathetic development*" around trees of moderate quality necessarily results in sustainable development. In the absence of information to the contrary, it may be that such an approach could place a barrier in the way of a contribution to the achievement of sustainable development. It might, for example, prevent the replacement of trees of moderate value with trees of high value.
- 146 The final requirement of Policy vi. Is grammatically incorrect and this results in the final part of the sentence not making sense.
- 147 Again, part of the supporting text to the Policy reads as though it comprises a Policy, which it does not.

148 I recommend:

- Policy EN1, delete parts i. – v., inclusive
- Part vi., change to *“Proposals that can demonstrate net gains in biodiversity (in accordance with the DEFRA biodiversity impact calculator) and enhancements to ecological networks and connectivity will be supported.”*
- Change title of Policy to *“EN1 – Biodiversity”*
- Introduction, delete last sentence of first para and delete last part of last sentence (*“..., and all new development should...community.”*)
- Justification, change last sentence to *“...orders, but the Town Council is keen for ways to be found to maintain...”*

Policy EN2: Local Green Space Designations

- 149 Policy EN2 designates four areas of Local Green Space. Paragraph 76 of the Framework states that:

“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.

- 150 Consequently, Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts, providing protection comparable to that for Green Belt land.

- 151 In respect of the designation of Local Green Space, national policy establishes that:

“The Local Green Space designation will not be appropriate for most green areas or open space.” (Paragraph 77)

- 152 Thus, when identifying Local Green Space, plan-makers must demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

- 153 The Neighbourhood Plan and its supporting material provide evidence to demonstrate that the areas identified meet the requirements of national policy.

- 154 As worded, Policy EN2 doesn't quite reflect national policy and this is a factor addressed in the recommendations below.

- 155 It is not clear why the Policy refers to temporary structures, as the very short term temporary nature of the events referred to means that the temporary structures are very unlikely to require planning permission.

- 156 The final requirement of Policy EN2 is imprecise and is unsupported by any detailed justification relating to viability or deliverability. Further, no explanation is provided of why links between Local Green Spaces and other green spaces are required. There is no evidence to demonstrate that such an onerous approach reflects existing national or regional policy, for example.
- 157 As important designations, it is essential that the areas of Local Green Space are clearly shown in the Neighbourhood Plan. The Neighbourhood Plan only includes a very unclear Figure, which can best be regarded as "indicative."
- 158 It is essential that the boundaries of each Local Green Space are clearly shown in the Neighbourhood Plan, preferably against an Ordnance Survey base, so that there can be no doubt or confusion in respect of precisely where each Local Green Space begins and ends.
- 159 It is not clear how the Neighbourhood Plan distinguishes between the "importance" of various green spaces and consequently, the supporting text appears confusing in this regard.
- 160 Taking all of the above into account, I recommend:
- **Policy EN2, change opening sentence to "*The areas listed below and shown on the accompanying plans are designated as areas of Local Green Space where new development is ruled out other than in very special circumstances: (List the four areas here)*"**
 - **Provide a new set of plans below the Policy. These should clearly identify the precise boundary of each Local Green Space against an Ordnance Survey base.**
 - **Delete sections ii. and iii. of Policy EN2**
 - **Introduction, final para, first line, delete "...equally..."**

Policy EN3: Flooding

161 National planning policy in respect of flooding and flood risk is set out in Chapter 10 of the Framework, *“Meeting the challenge of climate change, flooding and coastal change.”*

162 National policy states that:

“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.” (Paragraph 100, the Framework)

163 Whilst Policy EN3 aims to be in general accordance with the above, as set out it appears as isolated extracts from various sources of information. Further, the text is not supported by substantive detail within the Neighbourhood Plan or its supporting documentation.

164 It is not the role of the Neighbourhood Plan to repeat existing policies, to impose requirements on other organisations, or to set out policies dependent upon other documents outside the control of the Neighbourhood Plan. Policy EN3 does all three of these things.

165 Prospective developers do not hold the statutory responsibility for providing drainage, wastewater and water supply capacity in the network and it is not clear, in the absence of any substantive information in the Neighbourhood Plan or its supporting evidence, why situating the floor levels of development above 300mm will, in all circumstances, be a relevant, viable, deliverable and appropriate development solution across the Neighbourhood Area.

166 No indication is provided, for example, of how any such development might relate to the provision of compensatory measures. The requirement set out is not supported by detailed justification or evidence and appears as an isolated extraction from a Technical Report¹⁰, which was itself produced for other purposes than Neighbourhood Plan Policy EN3.

167 No definition is provided of what a *“very low”* hazard rating might comprise, who will measure this, or on what basis. The Neighbourhood Plan is imprecise in this regard.

¹⁰ Strategic Flood Risk Assessment for the Royal Borough of Windsor and Maidenhead (2014)

- 168 Paragraph iv. of the Policy seeks to raise the status of a Technical Report, not controlled by the Neighbourhood Plan, to that of adopted planning policy. It goes on to require development to accord with another organisation's criteria, again not controlled by the Neighbourhood Plan.
- 169 It is not clear why, in all circumstances, Sustainable Urban Drainage Systems (SuDS) must ensure run-off is "*equivalent to green field conditions.*" No substantive evidence is provided to justify such an approach, or to demonstrate that it has regard to national policy in respect of flood risk requirements, viability and deliverability.
- 170 It is not clear why, whenever a building is being retained as part of a development, the Policy requires measures to provide its increased "*resilience/resistance*" to flooding. Again, no justification or evidence is provided to demonstrate why such an unduly onerous blanket-approach has regard to national policy in respect of flood risk requirements, viability and deliverability.
- 171 Whilst a positive idea, the Policy's imposition of a requirement for all development to "*explore opportunities to recreate river corridors and wetland habitats in urban areas*" is not supported by any detail or justification in respect of viability or deliverability, having regard to Paragraph 173 of the Framework.
- 172 Part of the supporting text reads as though it comprises a Policy, which it does not.
- 173 Whilst I recognise above that it was the intention of Policy EN3 to address flood risk, the approach taken results in wording that does not meet the basic conditions and consequently, does not comprise an appropriate land use planning policy. I recommend:
- **Policy EN3, delete paras i., ii., iii., iv., v. and vii.**
 - **Para viii., change to "*The recreation of river corridors and wetland habitats in urban areas will be supported. This might comprise: - the design...of the river(s).*"**
 - **Introduction, first para, second sentence change to "*The Town Council is concerned to ensure that developers consider the net...avoided. It will be important for Thames Water to be consulted as appropriate and developers are recommended to engage with Thames Water at the earliest opportunity.*"**
 - **Justification, delete final two paras ("Development...proposed.")**

7. The Neighbourhood Plan: Other Matters

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

175 I recommend:

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

8. Summary

176 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.

177 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.

178 Taking the above into account, I find that the Eton and Eton Wick Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

9. Referendum

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

Referendum Area

- 180 I am required to consider whether the Referendum Area should be extended beyond the Eton and Eton Wick Neighbourhood Area.
- 181 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.
- 182 Consequently, I recommend that the Plan should proceed to a Referendum based on the Eton and Eton Wick Neighbourhood Area approved by the council of the Royal Borough of Windsor and Maidenhead and confirmed by public notice on 14th October 2013.

Nigel McGurk, March 2018
Erimax – Land, Planning and Communities



Appendix B – Eton and Eton Wick Neighbourhood Plan

Examiner's Recommended Changes

Location of change	Page of Plan	Proposed Change	Commentary on examiner's view	Officer recommendation
Introductory section	Page 4 first para	Change last sentence to "These Appendices provide important guidance in support of the Policies set out in this Neighbourhood Plan."	Appendices provide useful guidance, they do not carry the same material planning weight as made neighbourhood planning policies.	Accept the change.
Background	4, penultimate para	Change to "Once made (or adopted), the Neighbourhood Plan will form part of the development plan and will have legal..."	This makes clear the use of the correct term for clarity.	Accept the change.
Background	4, penultimate para, last sentence	End last sentence "...applications in the Neighbourhood Area." (delete rest of sentence)	This is to set out the correct legal procedure.	Accept the change.
Our Neighbourhood	6 penultimate para	Change opening sentence to "Conserving and protecting..."	This now complies with national guidance.	Accept the change.
The Plans Key Priorities	7 penultimate bullet point	Change to "To conserve the heritage characteristics and significance of the settlements..."	This now complies with national guidance.	Accept the change.
Vision and Objectives	9 third para	Change last sentence of "Vision" to: "...valuing the character and conserving the historical..."	This now complies with national guidance.	Accept the change
The Plans Key Priorities	7 first sentence	Change to "...Local Plan and have regard to the National Planning Policy Framework (NPPF)."	For precision and having regard to the Basic Conditions	Accept the change

Policy HD1	14	<p>Delete part i) of the Policy</p> <ul style="list-style-type: none"> • Change part iii) of the Policy to “The development of brownfield land within Eton Wick will be supported where it contributes to meeting housing needs.” • Change final part of the Policy to “...infrastructure strategy; and provide for a mix of dwellings by size, type and tenure.” 	This reworking is aimed at ensuring the policy is clearly worded for the decision maker to use.	Accept the change
Policy HD1 Introduction	13 first para	Change to “...flooding. It is important that suitable infrastructure provision is provided, commensurate with the scale of development proposed.”	To ensure that the supporting text does not read as though it is part of a policy.	Accept the change
Policy HD1 Introduction	13 second para	Change to “This Neighbourhood Plan seeks to encourage small scale development that is delivered at a...”	To ensure that the supporting text does not read as though it is part of a policy.	Accept the change
Policy HD1 Introduction	13 third para	Delete third paragraph.	To ensure that the supporting text does not read as though it is part of a policy.	Accept the change
Policy HD1 Introduction	14 first, second, third para	Delete first, second and third paragraphs	To ensure that the supporting text does not read as though it is part of a policy.	Accept the change
Policy HD2	15	Change the wording of Policy HD2 to “New dwellings and residential extensions should respect local character and make a positive contribution to it. Development	This rewording seeks to ensure the policy does not have unintended consequences and better complies with national guidance.	Accept the change

		should reflect local architectural vernacular and respect residential amenity.”		
Policy HD2 Justification	15	Delete last two sentences of Justification (which seek to impose planning application form requirements - which are not the responsibility of the Neighbourhood Plan - and also contain a reference which is in direct conflict with the Policy itself)	This is to ensure that the plan works within the powers available to a Neighbourhood Plan.	Accept the change
Policy HD3	16	<p>Policy HD3 change first sentence to: “Proposals for development within Eton should demonstrate how they have taken into account the Eton Design Guidance, set out in Appendix 1.”</p> <ul style="list-style-type: none"> • Change second bullet point to: “New development should not detract from the character of...surrounding area.” • Delete fourth bullet point • Delete second sentence of part v. a) (“Buildings.... that supported.”) <p>Part v. c), change second sentence to “Innovative design is particularly welcome, provided that it does not...buildings.”</p>	The original policy lacked clarity and went beyond national guidance with clear evidence or justification, it would have been difficult to implement.	Accept the change

Policy HD3 Justification	17	Delete from fifth sentence to the end of the para ("New development in historic streets must not...character of Eton.")	This change seeks to ensure that the justification is not confused with a policy.	Accept the change
Policy HD4	19	Policy HD4, change first bullet point to "Respect spaces between buildings...." • Delete final bullet point	The original Policy was more restrictive, lacked evidence to justify it and went beyond national policy.	Accept the change
Policy HD4 Introduction	19	Delete last sentence	This change seeks to ensure that the introduction is not confused with a policy.	Accept the change
Policy HD4 Justification	19	Delete final sentence.	Consequential amendment.	Accept the change
Policy HD5	20	Change to "Development should respect the following important local views: (Provide the list of 10 views set out in the Introduction here). Appendix 2 provides a detailed analysis of these important local views and identifies related viewing corridors. Proposals within viewing corridors should not detract from views of the landmark or landscape."	This is to ensure that the policy complies with guidance and case law.	Accept the change
Policy HD5 Introduction	20	Delete all text and replace with "The Neighbourhood Plan seeks to protect important local views."	The original wording was confusing.	Accept the change
Policy HD6	22	Delete first sentence.	It is not the role of the Neighbourhood Plan to set out a "presumption against basement extensions."	Accept the change

Policy HD6	22	Delete criterion iv.	No indication is provided of how development might “compromise” heritage assets.	Accept the change
Policy BL1	27	Change first sentence of Policy BL1 to “Proposals to develop existing shopfronts and/or for advertisements should demonstrate that they have taken into account the Shopfront Design Guidance, set out in Appendix 3.”	This is to attach the correct planning weight in determining applications to Appendix 3	Accept the change
Policy BL1	27	Change rest of Policy to “Changes to shopfronts requiring planning permission should be responsive to the heritage characteristics of the local area and: i. In Eton, the retention of single retail units and the limiting of alterations to...supported. ii. In Eton Wick, improvements to shopfronts will be supported, as will the creation of flexible spaces capable of increasing vitality in the retail core.”	The revised wording seeks to support appropriate development, rather than unintended harmful development.	Accept the change
Policy BL2	29	Change part ii. to “Development requiring planning permission for a change of use from retail to residential on the ground floor will not be permitted on Eton High Street.”	This is to ensure the policy works within the powers that are available to Neighbourhood Plans.	Accept the change

Policy BL2	29	Delete parts iii. and iv.	This is to ensure the policy works within the powers that are available to Neighbourhood Plans.	Accept the change
Policy BL2 Introduction	29	Change last sentence to "It is important that new retail space does not detract..."	Consequential amendments following the above changes to the policy wording.	Accept the change
Policy BL2 Justification	29	Second line, delete "..., removing separate...not supported." Delete last sentence of first para ("New retail...ground level.") Delete last sentence of Justification ("The heritage...High Street.")	Consequential amendments following the above changes to the policy wording.	Accept the change
Policy BL3	30	Change part i. to "...Local Centre where retail is unviable, will be supported. Proof of a lack of viability should be supported by up-to-date evidence of open and active marketing of the site at market value over a 12 month period."	The recommendations provide clarity and precision in respect of demonstrating viability.	Accept the change
Policy BL3 Introduction	30	Delete last sentence ("Enhancements to car parking...other users.")	Consequential amendments following the above changes to the policy wording.	Accept the changes
Policy BL3 Justification	30	Delete the last two sentences of the first para ("In order to demonstrate...marketing the site.") Delete last sentence of second para, which does not relate to the provisions of the Policy	To improve the clarity of the text.	Accept the change

Policy BL5	32	Delete wording of Policy BL5 and replace with “The provision of a small-scale satellite healthcare facility in the Neighbourhood Area will be supported, subject to there being no over-riding harm to local character, residential amenity and/or highway safety.”	The changes seek to safeguard local amenity.	Accept the change
Policy TI1	36	Change Policy TI1 part ii. to “The provision of improvements to pedestrian, cycling and public transport infrastructure or the provision of new infrastructure between Eton and Eton Wick will be supported. Such development might include: four bullet points here (“The provision of off-road...and public transport”)	The original Policy ran the risk of supporting inappropriate forms of development.	Accept the change
Policy TI2	37	Delete criteria i., ii. and iii Change criterion iv. to: ‘Development that reduces...will not be supported unless equivalent...’	This change is to clarify the policy and ensure it complies with national guidance.	Accept the change
Policy TI3	39	Delete part i. Change part iii. to “The provision of integrated bicycle parking solutions within commercial or retail development proposals in Eton and Eton Wick Local Centres will be supported.”	The changes seek to ensure that the policy complies with national policy and is more effective in achieving what is intended.	Accept the change

Policy TI4	40	Delete Policy TI4	The original policy did not comply with national policy.	Accept the change
Policy TI4 Introduction and Justification	40	Delete Introduction and Justification.	A consequential amendment following deletion of the policy.	Accept the change
Aspirations	33	Delete last sentence on page 33 (“As well as improvements...data transmission”)	A consequential amendment following deletion of Policy TI4.	Accept the change
Challenges	35	Delete para iii. on page 35	A consequential amendment following deletion of Policy TI4.	Accept the change
Infrastructure	36	Delete “and Communications Infrastructure” in the title towards the top of page 36	A consequential amendment following deletion of Policy TI4.	Accept the change
Policy EN1	43	Delete parts i. – v., inclusive Part vi., change to “Proposals that can demonstrate net gains in biodiversity (in accordance with the DEFRA biodiversity impact calculator) and enhancements to ecological networks and connectivity will be supported.”	The revised wording brings the policy more in line with national and local policy as well as making it more positively worded.	Accept the change
Policy EN1	43	Change title of Policy to “EN1 – Biodiversity”	This is a consequential amendment following changes to the wording of Policy EN1	Accept the change
Policy EN1 Introduction	43	Delete last sentence of first para and delete last part of last sentence (“..., and all new development should...community.”)	These revisions seek to clarify the policy and make it more in compliance with national policy.	Accept the change

Policy EN1 Justification	44	Change last sentence to "...orders, but the Town Council is keen for ways to be found to maintain..."	To ensure the wording does not appear to be part of the policy.	Accept the change
Policy EN 2	45	Change opening sentence to "The areas listed below and shown on the accompanying plans are designated as areas of Local Green Space where new development is ruled out other than in very special circumstances: (List the four areas here)"	The proposed changes are aimed at making the policy more compliant with national policy.	Accept the change
Policy EN 2	45	Provide a new set of plans below the Policy. These should clearly identify the precise boundary of each Local Green Space against an Ordnance Survey base.	To ensure that the boundaries are clearly defined.	Accept the change
Policy EN 2	45	Delete sections ii. and iii. of Policy EN2	To ensure that the policy complies with national policy.	Accept the change
Policy EN 2 Introduction	45	Final para, first line, delete "...equally..."	The proposed changes are aimed at making the policy more compliant with national policy.	Accept the change
Policy EN3	48	Delete paras i., ii., iii., iv., v. and vii.	The policy changes are needed to ensure that they comply with national guidance and practice.	Accept the changes
Policy EN3	49	Para viii., change to "The recreation of river corridors and wetland habitats in urban areas will be supported. This might comprise: - the design...of the river(s)."	The policy changes are needed to ensure that they comply with national guidance and practice.	Accept the change
Policy EN3 Introduction	48	First para, second sentence change to "The Town Council is concerned to ensure that developers consider	To ensure it is correctly worded after changes to the policy.	Accept the change

		the net...avoided. It will be important for Thames Water to be consulted as appropriate and developers are recommended to engage with Thames Water at the earliest opportunity."		
Policy EN3 Justification	49	Delete final two paras ("Development...proposed.")	This is to ensure that the supporting text does not read as part of the policy.	Accept the change
Other Matters		Update the Contents and page numbering, taking into account the recommendations contained in the Report.		

New Project to be included at the back of the Neighbourhood Plan

'Communications Infrastructure

Advanced, high quality and reliable communications infrastructure is essential for economic growth and social wellbeing. The Town Council support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. High quality digital infrastructure is important to local residents, businesses and the community as a whole, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution).

The number of radio and telecommunications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers and the efficient operation of the network. Use of existing masts, buildings and other structures for new telecommunications capability (including wireless) will be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.

Because of the high quality and sensitive environment in the Neighbourhood Plan area new communications infrastructure will be expected to take full account of the design policies in this plan where they are appropriate.'