

WINDSOR NEIGHBOURHOOD PLAN 2019-2034

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

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Contents

1, Summary

2, Introduction

3, Basic Conditions and Development Plan Status

4, Background Documents and the Windsor Neighbourhood Area

5, Public Consultation

6, The Neighbourhood Plan: Introductory Section

7, The Neighbourhood Plan: Policies

8, The Neighbourhood Plan: Other Matters

9, Referendum

1. Summary

- 1 Subject to the recommendations within this Report, made in respect of enabling the Windsor Neighbourhood Plan to meet the basic conditions, 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.

- 2 Taking the above into account, I find that the Windsor Neighbourhood Plan meets the basic conditions¹ and I recommend to the Council of the Royal Borough of Windsor and Maidenhead that, subject to modifications, it should proceed to Referendum.

¹ It is confirmed in Chapter 3 of this Report that the Windsor Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

2. Introduction

The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the Windsor Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by the Windsor Neighbourhood Plan Forum.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by the Council of the Royal Borough of Windsor and Maidenhead. As part of the development plan, the Neighbourhood Plan would be used to determine planning applications and guide planning decisions in the Windsor Neighbourhood Area.

- 5 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 the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development...”

(Paragraph 29, National Planning Policy Framework)

- 6 As confirmed in Paragraph 1 of Section 3.0 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Windsor Neighbourhood Plan Forum is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 7 This first section of the Basic Conditions Statement also confirms that the Neighbourhood Plan relates only to the designated Windsor Neighbourhood Area and that there is no other neighbourhood plan in place in the Windsor Neighbourhood Area. In this regard, I note that the Old Windsor Neighbourhood Area and the Central Windsor Business Neighbourhood Area comprise separate Neighbourhood Areas.

- 8 The above meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2019²) and Planning Practice Guidance (2014).

Role of the Independent Examiner

- 9 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 Windsor Neighbourhood Plan and to provide this Report.
- 10 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.
- 11 I am a chartered town planner and have eight years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 12 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.

² A replacement National Planning Policy Framework was published in July 2018 and amended in 2019. Paragraph 214 of the replacement document establishes that the policies of the previous National Planning Policy Framework apply for the purpose of examining plans, where those plans are submitted on or before the 24th January 2019. The Windsor Neighbourhood Plan was submitted to the Council of the Royal Borough of Windsor and Maidenhead after this date and consequently, it is appropriate to examine the policies of the Neighbourhood Plan against the most recent version of the National Planning Policy Framework.

- 13 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Windsor Neighbourhood Area to which the Plan relates.
- 14 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

- 15 A neighbourhood plan must specify the period during which it is to have effect.
- 16 The title page of the Neighbourhood Plan and Paragraph 1.8.3 of the document provide clear references to the plan period, which is 2019-2034.
- 17 There is a mistake in Section 3.0 of the Basic Conditions Statement submitted alongside the Neighbourhood Plan, which refers to the plan period covering 2018-2033. There is also a confusing reference in the Neighbourhood Plan and for clarity, I recommend:
 - **Para 3.2 change to "In 2034...The WNP intends that by 2034..."**
- 18 Taking the above into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

Public Hearing

- 19 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 20 However, it is also the case that *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.
- 21 Further to consideration of the information submitted, I determined not hold a public hearing as part of the examination of the Windsor Neighbourhood Plan.
- 22 However, in order to clarify a number of points in respect of the examination, I wrote to the Qualifying Body and to the Council of the Royal Borough of Windsor and Maidenhead and this examination has taken the responses received into account.

3. Basic Conditions and Development Plan Status

Basic Conditions

- 23 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions*.” These were *set out in law*³ following the Localism Act 2011. Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. 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
 - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 24 Regulations 23 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28th December 2018, applies to neighbourhood plans:
- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations.⁴

³ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

⁴ *ibid* (same as above).

- 25 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a qualifying body;
 - has been prepared for an area that has been properly designated for such plan preparation (under Section 61G of the Town and Country Planning Act 1990 (as amended));
 - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that:
 - its 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.
- 26 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁵
- 27 I note that, 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.

⁵ The Convention rights has the same meaning as in the Human Rights Act 1998.

European Convention on Human Rights (ECHR) Obligations

- 28 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.
- 29 In the above regard, I also 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. Various comments have been received in response to active community engagement during the plan-making process. The Consultation Statement submitted alongside the Neighbourhood Plan provides a summary of responses to comments and to resulting changes to the Neighbourhood Plan.

European Union (EU) Obligations

- 30 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. 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 Guidance⁶)
- 31 This process is often referred to as “*screening*”⁷. If likely environmental effects are identified, an environmental report must be prepared.

⁶ Planning Practice Guidance, Paragraph 027, Ref: 11-027-20150209.

⁷ The requirements for a screening assessment are set out in in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004.

32 The Council of the Royal Borough of Windsor and Maidenhead carried out a screening assessment of the Neighbourhood Plan and concluded that a Strategic Environmental Assessment was required.

33 A Strategic Environmental Assessment was subsequently undertaken and was submitted alongside the Neighbourhood Plan. This concluded that:

"...the WNP will lead to positive effects in terms of a wide range of sustainability objectives..."

34 The statutory bodies, Historic England, Natural England and the Environment Agency have all been consulted and none dissented from this conclusion.

35 In addition to SEA, a Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This Assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information⁸. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.

36 In this regard, the Basic Conditions Statement submitted alongside the Neighbourhood Plan states that:

"The Plan is considered to be compatible with the E.U. Habitats directive. It is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010), either alone or in combination with other plans or projects."

37 Again, the statutory bodies have been consulted and none has provided a conflicting opinion nor evidence to the contrary.

38 I also note that, in April 2018, in the case *People Over Wind & Sweetman v Coillte Teoranta ("People over Wind")*, the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means if a likely significant effect is identified at the screening stage of a habitats assessment, an *Appropriate Assessment* of those effects must be undertaken.

⁸ Planning Practice Guidance Paragraph 047 Reference ID: 11-047-20150209.

- 39 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.
- 40 The changes to regulations allow neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or planning application. These changes came into force on 28th December 2018.
- 41 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 (including obligations under the Strategic Environmental Assessment Directive)”* (Planning Practice Guidance⁹).
- 42 The Council of the Royal Borough of Windsor and Maidenhead has taken all of the above into account. It has expressed the concern that, unmodified, the Neighbourhood Plan Policy LEGO.01 may encourage development proposals which, taking a precautionary approach, are likely to require an appropriate assessment and as a consequence, it cannot be concluded that the unmodified plan will not create likely significant effects on European sites.
- 43 This is a factor that I have taken into account during the course of the examination of the Neighbourhood Plan. The recommendations within this Report include the deletion of Policy LEGO.01.

⁹ ibid, Paragraph 031 Reference ID: 11-031-20150209.

4. Background Documents and the Windsor Neighbourhood Area

Background Documents

- 44 In undertaking this examination, I have considered various information in addition to the Windsor Neighbourhood Plan.
- 45 Information considered as part of this examination has included (but has not been limited to) the following main documents and information:
- National Planning Policy Framework (referred to in this Report as "*the Framework*") (2019)
 - Planning Practice Guidance (2014, as updated)
 - 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
 - Representations received
 - Strategic Environmental Assessment Report
- 46 In addition, I spent an unaccompanied day visiting the Windsor Neighbourhood Area.

Windsor Neighbourhood Area

- 47 The boundary of the Windsor Neighbourhood Area is identified on a plan provided on page 8 of the Neighbourhood Plan.
- 48 The Council of the Royal Borough of Windsor and Maidenhead designated the Windsor Neighbourhood Area on 21st August 2014.
- 49 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).

5. Public Consultation

Introduction

- 50 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.
- 51 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.

Windsor Neighbourhood Plan Consultation

- 52 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*¹⁰.
- 53 Taking the information provided into account, there is evidence to demonstrate that the Neighbourhood Plan comprises a "*shared vision*" for the Windsor Neighbourhood Area, having regard to Paragraph 29 of the National Planning Policy Framework ("*the Framework*").
- 54 Whilst the Neighbourhood Plan has made use of previous consultation associated with a different approach to neighbourhood planning in the wider area, the Neighbourhood Plan Forum was formed in May 2014 and consultation specific to the Neighbourhood Plan began from that date.
- 55 A Survey was undertaken during 2014, along with the creation of a dedicated website, press releases, Topic Group meetings and the publication of a newsletter. A Vision Survey Brochure was widely distributed and 330 responses were received.

¹⁰ Neighbourhood Planning (General) Regulations 2012.

- 56 Attendance at an event in March 2015 to raise general awareness of the emerging plan was followed by a presentation and attendance at consultations around the Neighbourhood Area. A Design and Views and Vistas Options consultation event was held at the beginning of 2016.
- 57 The draft Neighbourhood Plan was produced and underwent consultation between September and November 2016. A second draft plan was published and consulted upon between November and January 2019. Responses to this informed the submission version of the Neighbourhood Plan.
- 58 In addition to the dedicated website, public consultation was supported via press releases, leaflet distribution and Drop-In events. The Consultation Statement provides evidence to demonstrate that public consultation formed an important part of the plan-making process, that it was publicised and that matters raised were duly considered.
- 59 Taking all of the above into account, I am satisfied that the consultation process complied with the neighbourhood planning regulations referred to above.

6. The Neighbourhood Plan – Introductory Section

- 60 Paragraph 1.5 appears unnecessary, confusing and detracts from the clarity and concise nature of the Neighbourhood Plan. There is no need to set out the history of various Neighbourhood Plans that have and have not progressed and the information provided adds nothing of value to the Neighbourhood Plan itself and is, in any case, general information that is available elsewhere.
- 61 In addition to the contextual information provided, Policies in the Neighbourhood Plan are also preceded by bullet points under the heading "*Intent.*" Many of the bullet points appear vague and do not necessarily relate directly to the Policy that follows. The bullet points hold no Policy status and taking this and the above into account, they appear as a distraction from the Policy that follows and detract from the precise and concise nature of the Neighbourhood Plan.
- 62 Various words in the supporting text to the Policies are annotated in bold print. The approach in this respect appears random and detracts from the clarity of the Neighbourhood Plan. It is a matter addressed in this Report within the recommendations for each Policy.
- 63 I recommend:
- **Page 9, delete content of page including Figure 1**
 - **Page 11, delete reference to Figure 1 in Para 1.7**
 - **Delete Para 1.8.2, which has been overtaken by events and repeats information in Para 1.8.1**
 - **Para 2.4.6, delete the unnecessary text "This will continue to be the case."**
 - **Delete all "Intent" headings and related bullet points**

7. The Neighbourhood Plan – Neighbourhood Plan Policies

Natural Environment and Open Space

Policy OS.01 and OS.02: Open Space and Public Open Space

- 64 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 99 of the Framework states that:

“The designation of land as a Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them.”

- 65 The Framework requires policies for the managing of development within a Local Green Space to be consistent with those for Green Belts (Paragraph 101, the Framework). A Local Green Space designation therefore provides for development management in a manner that is comparable to that for Green Belt land. Consequently, Local Green Space comprises a restrictive and significant policy designation.
- 66 Given the importance of the designation, it is appropriate that areas of Local Green Space are clearly identified in the Neighbourhood Plan itself. The Figures identifying each Local Green Space are small and provided on a poor quality map base. This makes the detailed identification of boundaries difficult and I make a recommendation in this regard, below.
- 67 The designation of land for Local Green Space must meet the tests set out in Paragraph 100 of the Framework.
- 68 These are that the green space is in reasonably close proximity to the community it serves; that it is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and that it is local in character and is not an extensive tract of land.

- 69 Part of Policy OS.01 designates twenty one areas of land as Local Green Space. Supporting evidence is provided (in the document "*Local Urban Open Spaces*") to demonstrate that each proposed Local Green Space meets the relevant national policy tests and is therefore appropriate for designation. I also note earlier in this Report that the Neighbourhood Plan has emerged through robust public consultation.
- 70 However, as presented in the Neighbourhood Plan, there is a lack of appropriate clarity in respect of the presentation of each designation. Local Green Space is an important and significant designation – on a par with Green Belt. It is therefore essential that each area of Local Green Space designated in the Neighbourhood Plan is clearly identifiable. The numbering and presentation of the areas of Local Green Space on the Figures provided is inappropriate and this is a matter addressed in the recommendations below.
- 71 With respect to the management of development in areas of Local Green Space, national policy is clear in stating that this should be consistent with that for Green Belts. Green Belt policy does not simply protect the Green Belt from development, but provides for appropriate forms of development, whilst preventing inappropriate development. This important nuance is not reflected in the Policy as set out and is also addressed in the recommendations below.
- 72 Away from Local Green Space, Policy OS.01 seeks to prevent any development whatsoever within a variety of areas referred to as "*existing areas of open space.*" In the absence of any substantive evidence, it is not clear upon what planning policy basis the Policy seeks to rule out any form of development. Consequently, this part of the Policy, which does not provide for the balanced consideration of a planning proposal and conflicts with the requirement for the Neighbourhood Plan to contribute towards the achievement of sustainable development, is unjustified and does not meet the basic conditions.
- 73 In the above regard, I note that there is no substantive evidence to demonstrate that the areas of public open space identified are under threat of disappearing, or that they are currently afforded no protection. I am mindful that, amongst other policies, the RBWM Local Plan Policy R1 "*Protection of Urban Open Spaces,*" affords protection to areas of open space and that Paragraph 97 of the Framework presents national policy to prevent existing open space from being built on.

- 74 Further to the above, the presentation of the various sites in Policy OS.01 is unclear. The sites listed in the Policy do not correspond directly to Map 5 (for example, no site 58 is listed, yet there are three sites labelled "58" on Map 5). The Maps referred to are unclear to the extent that it is not possible to identify the precise boundaries of specific sites. But, in any case, notwithstanding this, the first part of the Policy does not meet the basic conditions.
- 75 Policy OS.02 requires all residential development to provide "*adequate levels*" of Amenity Green Space on site. In the absence of clarity in respect of what is adequate, this is a vague requirement. Furthermore, there is no substantive evidence to demonstrate that this obligation has regard to Paragraph 56 of the Framework, which requires planning obligations to be necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development. There is nothing to show that the requirement would, for example, meet these tests in say, the case of a single dwelling.
- 76 The third part of Policy OS.02 does not provide information to demonstrate what "*encouragement*" would comprise. Further, it is not clear why this part of the Policy only requires major brownfield development to provide new public open space, as opposed to major development in general. There is no substantive evidence to demonstrate that such an approach is deliverable, or even desirable in respect of every major brownfield site, nor why brownfield land should be burdened in this way. Consequently, the Policy appears in conflict with Paragraph 117 of the Framework, which requires as much use as possible to be made of brownfield land. In the absence of evidence, Policy OS.02 as set out, could prevent brownfield land from coming forward for development.
- 77 No indication is provided in respect of how a decision maker might interpret the phrase "*in particular,*" in part iv. of the Policy. The Policy is ambiguous in this regard, contrary to national planning guidance, which requires planning policies to be clear and unambiguous¹¹:

"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."

¹¹ Planning Practice Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

78 Much of the supporting text refers to elements of Policies OS.01 and OS.02 that are recommended for deletion and the recommendations below take this into account. Other parts of the supporting text effectively repeat earlier text and other parts, for example, reference to various Maps, are simply incorrect. This results in a Reasoned Justification that does not relate to the Policies as recommended, and which also appears long-winded and confusing.

79 I recommend:

- **Policy OS.01, delete first paragraph**
- **Change second paragraph to *“The areas listed below and identified on Map 7 and supporting plans are designated as Local Green Space, which will be protected in a manner consistent with the protection of land within the Green Belt.”***
- **Revise numbering of areas of Local Green Space from 1 to 21 (also removing the “A, B, C and D” references)**
- **Provide a new Map 7 (this will have a knock-on effect on the numbering of later Maps) entitled *“Local Green Space.”* This should show the 21 areas of Local Green Space. Provide additional plans as necessary – it is essential that the precise boundary of each individual area of Local Green Space is clearly identifiable.**
- **NB, the Local Green Space plan(s) should be provided within the Neighbourhood Plan. The Neighbourhood Plan is a long document and the provision of these important plans in an Appendix is not user-friendly.**
- **NB, there is no need for the inclusion of a Map showing “other areas of local space”**
- **Policy OS.02, delete part i. (“Given...required”)**
- **Change part ii. to *“...loss of on-site open space, proposals should be supported by...needed; and the provision of an equivalent...”***

- Change part iii. to “Allocation of new areas of open space will be *supported*. Should...” (Also, remove bold from text)
- Change part iv. to “...will also be supported, *including the following...*”
- Para 5.2.15, change to “*It is recognised that national and local policy supports the creation of and affords protection to, public open space. Policy OS.01 designates areas of Local Green Space that are demonstrably special to the community, where development will be managed as per in Green Belts and Policy OS.02 supports the protection of existing and the creation of new public open space.*”
- Delete Paras 5.2.16 to 5.2.19
- Change Para 5.2.20 to “...*certain criteria*). *This designation...policy designates Local Green Space. Appendix 3 explains...*”
- Para 5.2.21, change the last part of the sentence after the comma to “*and the WNP is supportive of this level of provision.*”
- Para 5.2.22, delete second and third sentences (“*See...areas.*”)
- Para 5.2.24, delete second sentence (which is not a Policy requirement)

Green and Blue Infrastructure and Biodiversity

Policy BIO.01 and BIO.02: Green and Blue Infrastructure Network

- 80 In general terms, Policy BIO.01 seeks to protect valued areas of biodiversity and provide for the enhancement of biodiversity, having regard to Paragraph 170 of the Framework, which requires planning policies to contribute to and enhance the natural and local environment by:

"...minimising impacts on and providing net gains for biodiversity."

- 81 As set out, the Policy seeks to impose obligations on all forms of development, without reference to need or the relationship to the development proposed. Such an approach does not have regard to Paragraph 56 of the Framework, referred to earlier in this Report.
- 82 It is not clear, in the absence of information, what *"acceptable design considerations"* or *"appropriate trees"* comprise, who would judge this and on what basis, and this part of the Policy appears vague. Similarly, there is nothing to indicate when it would be appropriate for *"additional opportunities to access green spaces"* to be provided.
- 83 Policy BIO.02 encourages the creation and protection of a green route network and in general terms, this has regard to Paragraph 170 of the Framework, referred to above.
- 84 However, no substantive evidence has been provided in respect of how the green routes identified will be maintained or enhanced. Further, there is no detailed evidence to demonstrate that it will in all cases, as per the requirements of Policy BIO.02, be deliverable for any development facing a green route to provide green boundary treatments, established trees and green verges and habitats to facilitate the movement of wildlife. In addition, there is no substantive evidence to demonstrate that this requirement meets the tests set out in Paragraph 56 of the Framework, referred to earlier in this Report.
- 85 Similarly, there is no substantive evidence to demonstrate that all new development can enable the linkage of green areas together and it is not clear how it is possible, or deliverable, for an existing link to *"be designed to"* achieve all of the things described in part b) of the Policy.

- 86 In the absence of clarity around the phrase “*in close proximity*” or relevant deliverability-related information, part c) of the Policy appears vague and imprecise and does not have regard to Paragraph 16 of the Framework, which requires plans to be deliverable.
- 87 Similarly, the final part of the Policy appears vague and aspirational and it fails to have regard to matters in respect of deliverability and the national policy tests in relation to planning obligations.
- 88 Part of the supporting text does not relate directly to the Policies. Some of the text reads as though it comprises a Policy requirement, which it does not.
- 89 I recommend:

- **Change Policy BIO.01 to “*Development should minimise impacts on biodiversity and provide net gains in biodiversity where possible. The following will be supported: i) Provision of...gardens (NB remove bold text); ii) Planting areas for...walls; and iii) The retention, introduction and replacement of trees with species suited to the local area.*” (delete rest of Policy)**

- **Change Policy BIO.02 to “a) *The routes listed below and shown on the accompanying Map comprise Green Routes. Where development fronts these routes the provision of green boundary treatments with trees, vegetation and soft landscaping to sustain or improve air quality and visual amenity, and the safeguarding, provision and/or enhancement of habitats to facilitate the movement of wildlife, will be supported.*” LIST 1-21 here**

“b) The provision of new and the linking of existing green routes will be supported, as will improvements in access to the Neighbourhood Area’s blue infrastructure network. The recreation of river corridors and wetland habitats, and the reinstating of open waterways from river culverts will be supported.”

- **Remove bold annotation from supporting text**
- **Correct mis-labelling of Photos 1 and 2 on page 35**
- **Delete Paras 5.3.12 and 5.3.24**

- Para 5.3.13, delete “consideration” and “replacing greenery where it has been lost;”
- Para 5.3.14, delete “as a condition of planning permission,”
- Para 5.3.15, change last sentence to “*We wish to encourage alternatives to this.*”
- Para 5.3.17, delete last two sentences (“Proposals...maintained.”)
- Para 5.3.18, delete “as existing trees have...planting of trees.”
- Para 5.3.20, delete (as covered by our...02)” and change last sentence to “...period *is encouraged to capitalise on...*”
- Para 5.3.22, change last line to “...design solutions *which maximise green aspects are encouraged.*”
- Para 5.3.25, delete “BIO.02 d.”

Flooding and Drainage

Policy WAT.01 and WAT.02: Flooding and Water Supply

- 90 National planning policy seeks to prevent inappropriate development in areas at risk from flooding by directing development away from those areas at highest risk and where development is necessary in such areas:

"...the development should be made safe for its lifetime without increasing flood risk elsewhere."

- 91 Policy WAT.01 seeks to prevent flooding and in this way, has regard to national policy.
- 92 The Policy refers to capacity matters that are the responsibility of utility providers and no substantive evidence has been provided to demonstrate that, in all instances, having regard to deliverability and the national planning obligation tests, all refurbishment in the Neighbourhood Area can (or should) include flood resilience and resistance works.
- 93 Part d) of the Policy includes ambiguous requirements and seeks to impose onerous SUDs requirements upon all forms of development without regard to Paragraphs 16 and 56 of the Framework.
- 94 Policy WAT.02, as set out, supports the contamination of controlled waters so long as there is some form of mitigation. The Policy goes on to set a target water consumption regardless of the nature of the development proposed. The approach set out in WAT.02 fails to contribute to the achievement of sustainable development.
- 95 I recommend:
- **Change Policy WAT.01 to *"Development should be made safe from flooding and not increase the risk of flooding elsewhere. Drainage on site should separate foul and surface water flows. The use of Sustainable Urban Drainage Systems will be supported."* (Delete rest of Policy)**
 - **Delete Policy WAT.02**
 - **Remove bold annotation from supporting text**

- Para 5.4.8, delete second sentence (which is not the case)
- Change Para 5.4.10 to *"...Guidance establishes a sequential test to be applied in respect of flood risk. Development should be located..."*
- Change Para 5.4.11 to *"Sustainable Urban Drainage Systems (SUDS) help to provide flood resilience in a locally relevant, sustainable manner."*
- Change Para 5.4.12 to *"We strongly encourage the use of SUDS. Within the..."*
- Delete Para 5.4.13, which repeats information and is not a Policy
- Delete Paras 5.4.14 to 5.4.18

Heritage

Policy HER.01 and HER.02: Heritage Buildings and Features, and Local Heritage List

- 96 Chapter 16 of the Framework, “*Conserving and enhancing the historic environment,*” recognises that the nation’s heritage assets comprise an irreplaceable resource. Paragraph 184 of the Framework requires all heritage assets to:
- “...*be conserved in a manner appropriate to their significance...*”
- 97 Chapter 16 goes on to set out a detailed and carefully nuanced approach to the conservation of heritage assets.
- 98 Policy HER.01 seeks to protect heritage assets and to some extent, has regard to national policy. However, as set out, the Policy shortens and paraphrases national policy in such a manner that it results in a confusing and incorrect approach in respect of how public benefits should be considered, as well as introducing a vague “*where practicable*” approach to enhancement. It results in a Policy approach that is in direct conflict with national policy and fails to have regard to the Framework.
- 99 Part b of the Policy requires development to be in “*conformity*” with design guidance. Design guidance, by its very nature, provides guidance, not policy requirements. Also, whilst informative and helpful, the Windsor Neighbourhood Plan Design Guide appended to the Neighbourhood Plan does not comprise an adopted Supplementary Planning Document (SPD) and has not emerged through the same robust processes as an adopted SPD.
- 100 The third part of Policy HER.01 limits development to materials and features identified in the Neighbourhood Plan Design Guide and other documents. There is no substantive evidence to demonstrate that only materials and features within these documents would provide for sustainable development and as above, I note that the Design Guide provides guidance and not policy requirements.
- 101 Policy HER.02 goes well beyond national policy requirements in respect of non-designated heritage assets, but no substantive evidence is provided in justification of such an approach, which does not have regard to the Framework.

102 Whereas the Policy requires development to conserve the significance of any non-designated heritage asset, including *“the contribution made”* by its setting, and to justify harm on the basis of public benefits, national policy states that:

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application...a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”
(Paragraph 197, the Framework)

103 In addition to the above, part of the supporting text includes unnecessary information relating to an emerging plan, is worded as though it comprises policy requirements and contains incorrect assertions.

104 I recommend:

- **Change Policy HER.01 to *“Development within Conservation Areas and their settings should conserve and/or enhance local character. Development should incorporate high quality materials and have regard to the relevant Conservation Area Appraisal and Townscape Assessment, as well as to the WNP Design Guide (Appendix 4).”*** (Delete rest of Policy)
- **Change Policy HER.02 to *“The effect of a development proposal on the significance of a non-designated heritage asset should be taken into account, having regard to the scale of any harm or loss and the significance of the heritage asset. A Local List of non-designated heritage assets is set out in Appendix 6.”***
- **Remove bold annotation from supporting text**
- **Change Para 6.2.2 to *“National policy requires the conservation of heritage assets in accordance with their significance. Many buildings....Crescent) and national policy provides for the conservation and/or enhancement of Conservation Areas.”***
- **Delete Para 6.2.3**
- **Delete Para 6.2.4**

- Change Para 6.2.5 to “*National policy requires applicants to...setting. To help achieve this, the Neighbourhood Forum is keen to encourage the use of the Windsor Design Guide. We wish...circumstances.*”
- Change Para 6.2.6 to “*National policy and guidance encourages the...place.*”
- Para 6.2.7, change line 6 to “...with a view to *their inclusion on a Local List of...*”
- Para 6.2.7, line 8, delete “While it is...Eton Society.”
- Para 6.2.7, delete last sentence (“Developments...supported.”)
- Para 6.2.8, delete all after second sentence (“The judgement...setting.”)

Character and Design

Policy DES.01 Appearance

105 National planning policy recognises that:

“Good design is a key aspect of sustainable development, creating better places in which to live and work and helps make development acceptable to communities.”

(Paragraph 124, the Framework)

106 Subject to the recommendations below, Policy DES.01 seeks to ensure that development provides for good design by taking important aspects of local character into account. This has regard to aspects of Paragraph 127 of the Framework, which requires planning policies to ensure that developments are:

“...sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)...”

107 However, as set out, Policy DES.01 requires all development to reflect everything contained in the guidance referred to. As well as being an onerous requirement, such an approach appears rigid and less flexible than that set out in national policy. Furthermore, guidance is precisely that – it provides helpful background information rather than a land use planning policy requirement. Requiring development to “*reflect all relevant evidence*” from guidance effectively raises the “power” of guidance to a level not commensurate with its status.

108 Also, the Windsor Neighbourhood Plan (NP) Design Guide and “*any relevant NP Area Design Guide*” do not form part of the Neighbourhood Plan but are appended to it. The guidance provides important local information to inform planning proposals, but it does not set out planning policy requirements.

109 The Windsor NP Design Guide refers to guidance produced by the Royal Borough of Windsor and Maidenhead and there is no need for the Policy to include direct reference to documents produced by the Royal Borough.

110 I recommend:

- **Change Policy DES.01 to “Proposals for development should demonstrate how they have taken account of design guidance, including the Windsor NP Design Guide. Development affecting any of the seven areas identified on Map 9 should also demonstrate how they have taken into account the relevant NP Area Design Guide.”**
- **Clarify Map 9 by providing a Key (the names of the Areas are difficult to identify)**
- **Para 6.3.10, line six, change to “...welcomed. *Our aim is to provide guidance to developers in respect of the kinds of development appropriate to different parts of the town, with the intention of helping them to “get it right...”* (retain final sentence of Para)**
- **Remove bold annotation from supporting text**

Key Views

Policy VIE.01: Key Views

- 111 As highlighted earlier in this Report, the Framework requires planning policies to ensure that developments are sympathetic to local character and history.
- 112 Generally, in identifying and seeking to afford some protection to key views, Policy VIE.01 aims to ensure that development is sympathetic to and does not detract from its surroundings. In this way, the Policy has regard to national policy.
- 113 As set out, the Policy appears vague. The phrase "*likely to compromise*" is subjective and further, the "*Viewing Corridors*" and "*Designated Views*" identified in the Policy stretch across large areas of Windsor and cover such a broad variety of land uses that they are difficult to understand in fine detail, such that it is not clear as to when a view "*could*" be affected and whether or not the Policy will apply.
- 114 Given that, as worded, the Policy requires all development that "*could*" (and which therefore, may not) have an impact to provide visualisations relating to the foreground, middle ground and background of designated views, the Policy is extremely onerous. Notwithstanding the above, no substantive evidence has been provided to demonstrate that the requirements of the Policy comprise "*the minimum needed to make decisions,*" in accordance with Paragraph 44 of the Framework. Further, there is no evidence to demonstrate that in every case, the requirements of Policy VIE.01 are:
- "...relevant, necessary and material to the application in question."*
(Paragraph 44, the Framework)
- 115 The Policy only supports development that makes a positive contribution to views. This goes well beyond any national or local policy and is considerably more onerous than for example, policy applying to Conservation Areas. This departure from national and local policy is not justified by substantive evidence.

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

- **Change Policy VIE.01 to “*Development proposals must respect the Designated Views and Viewing Corridors listed below and identified on Map 10 (further information is also included in Appendix 5): NB, LIST OF 11 VIEWS HERE.*” Delete rest of Policy**
- **Remove bold annotation from supporting text**
- **Para 6.4.2, change to “...taken into account *by* development. These...”**
- **Delete Paras 6.4.6 and 6.4.7**
- **Para 6.4.12, delete end of last sentence “..., and any development...appearance.”**
- **Para 6.4.14, change to “...policy *can be informed by* guidance in...This *provides guidance in respect of how a view can be treated and* managed. We...we will *seek to manage...forward.*”**

Getting Around

Policy CW.01: Cycling and Walking

117 Paragraph 98 of the Framework states that planning:

"...policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks..."

118 Policy CW.01 seeks to protect and enhance Windsor's cycling and walking network and in this way, it has regard to national policy and contributes to the achievement of sustainable development.

119 As set out, the first part of the Policy appears to afford protection to routes that are not necessarily public rights of way and in so doing, goes beyond the capabilities of the Neighbourhood Plan. A recommendation is made in this regard, in the interests of the precision of the Policy.

120 No substantive evidence has been provided in support of the requirement for all development to link to existing pedestrian and cycle networks. In the absence of evidence, it cannot be concluded that in respect of every development proposal in the Neighbourhood Area this obligation would be necessary to make the development acceptable in planning terms, be directly related to the development, or be fairly and reasonably related in scale and kind to the development. Consequently, this part of the Policy does not have regard to Paragraph 56 of the Framework, which sets out the tests that planning obligations must meet.

121 Whilst it sets out important local community aspirations, part b) of the Policy sets out a statement of support for various works. There is no substantive evidence to demonstrate that it comprises a deliverable land use planning policy, having regard to Paragraph 16 of the Framework:

"Plans should...be prepared positively, in a way that is aspirational but deliverable."

122 I recommend:

- Change Policy CW.01 a) to *“All public rights of way within the WNP area must be retained, or alternatives provided that offer equivalent or better functionality. Improvements to the pedestrian and cycle network, including the creation of more safe linkages, will be supported.”*
- Remove bold annotation from supporting text
- Delete part b) from the Policy, but move text to a new Para above Para 7.1.19, stating *“The Windsor Neighbourhood Forum strongly supports all practical opportunities...its tributaries.”*
- Change Para 7.1.19 to *“The Windsor Neighbourhood Forum supports improvements...”*
- Other than at Para 7.1.14, delete references to CW.01 in bold print at the beginning of Paras on pages 62 and 63
- Para 7.1.5, change to *“...cycle provision. The WNP seeks to improve conditions for walking, enhance the pedestrian experience and boost the provision...”*
- Para 7.1.6, change to *“In respect of traffic congestion, Section 11 of the WNP also highlights a number of projects that will be pursued.”*
- Change Para 7.1.7 to *“...Borough’s...”*
- Delete last sentence of Para 7.1.12 (*“(However...night)”*)
- Para 7.1.16, change last sentence to *“The Windsor Neighbourhood Forum hopes to see..”*
- 7.1.18, change second sentence to *“We wish to see new pedestrian and cycle routes incorporated...”*
- 7.1.20, change last sentence to *“Windsor Neighbourhood Forum would like to see developers ensure that it is...”*

Parking

Policy PAR.01 and PAR.02: Parking

123 Appendix 4 of the Neighbourhood Plan does not form part of the Neighbourhood Plan, but is appended to it. Whilst it includes guidance, this is informative and does not comprise land use planning policy. The content of Appendix 4 is not an adopted statutory document that has emerged through robust consultation.

124 Taking the above into account, it is inappropriate for Policy PAR.01 to require all residential development to “*comply with*” the parking design guide standards and “*any relevant*” design guides in Appendix 4.

125 However, I note that Appendix 4 provides helpful background information and this is a factor that is taken into account in the recommendations below.

126 In general terms, subject to addressing the ambiguous reference to supporting “*opportunities*,” Policy PAR.02 is supportive of increasing car parking capacity. In this way, together with the aims of PAR.01, the Policy contributes to the achievement of sustainable development by providing a framework to provide for safe and convenient parking, having regard to Paragraph 110 of the Framework, which requires development to:

“...create places that are safe, secure and attractive...”

127 I recommend:

- **Change Policy PAR.01 to “*New residential development should respect local character and provide for safe parking, having regard to the WNP parking design guide standards and where relevant, Area Design Guides (as set out in Appendix 4).*”**
- **Change Policy PAR.02 to “*The provision of increased car parking capacity at existing car parks will be supported, subject to development respecting local character, residential amenity and highway safety.*”**
- **Delete Para 7.2.7**

- **Remove bold annotation from supporting text**
- **Para 7.2.11, change to “...In the *Windsor Neighbourhood Forum’s* view that this...”**
- ***Para 7.2.12, change to “...nearby and this is something the Windsor Neighbourhood Forum wishes to discourage, unless it...”***
- **Delete 7.2.13 (once adopted, the standards will be a material consideration regardless of “WNP support”)**
- **Change Para 7.2.14 to “*Windsor Neighbourhood Forum will seek to discourage the use of dropped kerbs where they result...front garden parking and the Windsor Neighbourhood Forum will encourage applicants to use this.*”**
- **Footnote 49, delete “is the industry...developments.” (Building for Life 12 is not the “industry standard” for new housing developments, but provides guidance)**

Recreation, Open Spaces and Community Facilities

Housing

Policy HOUS.01: Housing

- 128 There is no requirement for the Neighbourhood Plan to allocate land for development and it does not do so. However, the supporting text to Policy HOUS.01 considers opportunities for windfall development in the Neighbourhood Area. Taking this into account, the Policy seeks to support residential development above "*retail/commercial premises.*"
- 129 In many cases, the conversion, for example, of existing space above town centre shops to residential use comprises permitted development and does not require planning permission. Similarly, bringing an unused flat back into use is not something that requires planning permission.
- 130 However, Part b) of the Policy simply supports any form of conversion to residential use above retail and commercial space – regardless of location. Such uses can take very different forms across different locations and there is no information to demonstrate that the development supported by Policy HOUS.01 in this regard would contribute to the achievement of sustainable development.
- 131 Further, the first part of the Policy appears ambiguous, in that it not only supports, but seeks to grant permission for residential development over any form of low-rise retail or commercial premises. It is not clear, in the absence of substantive evidence, how such an approach would provide for the balanced consideration of development proposals and thus contribute to the achievement of sustainable development.
- 132 The phrase "*will be permitted*" runs the risk of pre-determining the application process and further, "*low-rise*" is not defined, thus adding to the ambiguous nature of the Policy.
- 133 The supporting text refers to residential development in gardens and the creation of offices/business uses on upper floors, contrary to the Policy.

134 I recommend:

- **Change Policy HOUS.01 to “*Proposals requiring planning permission for the conversion of premises above shops to residential use will be supported, subject to respecting local character, residential amenity and highway safety.*”**
- **Change Para 8.2.1 to “...includes above shops, which could support additional housing.”**
- **Delete Para 8.2.2 and 8.2.3**
- **Change Para 8.2.4 to “HOU.01 Areas where this policy may apply could include Deworth Road.” (delete rest of Para)**
- **Delete Para 8.2.5**

Residential Amenity

Policy RES.01: Residential Amenity

- 135 Providing for residential amenity has regard to Chapter 12 of the Framework, *“Achieving well-designed places.”*
- 136 As set out, Policy RES.01 requires the provision of *“appropriate and sufficient amenity space”* without stating what this comprises. This part of the Policy is imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.
- 137 Similarly, it is not apparent for example, how much internal storage space for the separation of recyclable materials would be *“sufficient”* – or how this might be calculated and who by.
- 138 For clarity, I recommend:
- **Change Policy RES.01 to *“Residential development should provide external amenity space that appears in keeping with local character and which respects privacy. Residential development should provide for recycling, including space for screening and storage.”***
 - **Remove bold annotation from supporting text**
 - **Para 8.3.4, change last sentence to *“We recommend that development proposals consider good practice, as set out in Building...”***
 - **Change Para 8.3.5 to *“We would like to encourage developers to ensure that development does not result in unsightly and inappropriately placed bin and bike stores. Unsightly storage can harm both the amenity of neighbours and the street scene and we will seek to encourage appropriate bin and bike storage for all dwellings.”***
 - **Delete Para 8.3.6, which repeats 8.3.4**

Working and Shopping

Policy PUB.01: Public Houses

139 Chapter 8 of the Framework, "*Promoting healthy and safe communities,*" recognises the importance of social, recreational and cultural facilities. It states that:

"...planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as...public houses..."
(Paragraph 92, the Framework)

140 Policy PUB.01 seeks to protect pubs and has regard to the Framework.

141 As worded, the Policy is imprecise – for example, it requires a developer to "*prove that there is no viable use,*" which makes little sense. Further, in the absence of Policy direction or supporting information, it is not clear how various uses "*will be encouraged*" or how the Policy will prioritise community uses.

142 I recommend:

- **Change Policy PUB.01 to "*The loss of pubs to non-community uses will not be supported unless it can be demonstrated, further to 12 months open and active marketing, that it would not be economically viable or feasible to retain the pub in its existing use and that there is no reasonable economically viable prospect of securing an alternative community use of the land or premises.*"**
- **Delete last sentence of Para 9.1.6 ("It...P policies.")**
- **Para 9.2.3, end of line 4, delete "business"**

Policy RET.01: Retail and Small Business

- 143 Saved Policy S1 of the RBWM Local Plan, "*Location of shopping development*," seeks to ensure that new retail development does not harm the viability of existing centres.
- 144 National policy recognises the importance of local shops to the community and requires planning policies to:
- "...ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community..."*
(Paragraph 92, the Framework)
- 145 In general terms, Policy RET.01 seeks to resist the loss of shops to the community and in this way, it meets the basic conditions.
- 146 However, the first part of the Policy simply gives carte blanche support to any kind of retail development in vaguely described locations. There is no supporting evidence to demonstrate that such an approach would serve to protect the viability of existing centres, or would necessarily, in all circumstances, be appropriate to and contribute to the achievement of sustainable development within the general locations described.
- 147 Part b) of the Policy requires the number of A1 retail units to remain at 40%. There is no substantive evidence to demonstrate that the number of retail units in Local Centres (which it has to be assumed that the Policy is referring to) is 40%, or why any future figure must be 40%. As such, this requirement is not supported by appropriate evidence, having regard to national planning guidance, referred to earlier in this Report.
- 148 The Policy requires new shop fronts to "*conform*" to guidance. "*Conformity*" with guidance is considered elsewhere in this Report and is a matter addressed in the recommendations below.
- 149 The final part of the Policy refers to "*clustering*" and harm to "*retail vitality*" but the Neighbourhood Plan provides no detail in respect how these matters might be judged, who by, or on what basis. Consequently, this part of the Policy appears imprecise and ambiguous.

150 For clarity, I recommend:

- **Change Policy RET.01 to “*Local shops provide an important community function and proposals that will support the vibrancy and vitality of Local Centres and retail parades whilst respecting local character, residential amenity and highway safety will be supported. The loss of shops and small-scale commercial units will be resisted unless it can be demonstrated, further to twelve months open and active marketing, that retention in their current use is not economically viable. Proposals for new shop fronts should have regard to guidance set out in the Windsor Design Guide shop front section (see Appendix 4c).*”**
- **Remove bold annotation from supporting text**
- **Para 9.3.6, change to “*In some circumstances, national policy...situation where businesses struggle to find premises...*”**
- **Para 9.3.8, second line, change to “*...demand for the...*”**
- **Delete Para 9.3.10 along with references to RET.01d) and RET.01e) in Paras 9.3.11 and 9.3.14**
- **Para 9.3.12, delete from fourth line to end of Para (“The general...access”) which reads as a Policy, but which is not**
- **Delete Paras 9.3.14 to 9.3.16. The Policy does not set out an approach to such uses that has regard to national policy or guidance**

Place Policies

Policy DR.01: Dedworth Road

151 National policy requires Plans to:

"...be prepared positively, in a way that is aspirational but deliverable..."
and "...contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals."

Paragraph 16, the Framework

152 In addition, as noted earlier in this Report, it is a requirement of national policy, as set out in Paragraph 56 of the Framework, that planning obligations must be necessary to make development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development.

153 Policy DR.01 fails to have regard to national policy. It reads as a general wish-list, regardless of the need for deliverability, clarity, precision and the tests for planning obligations. It sets out vague requirements for development *"to utilise opportunities, where relevant"* without providing necessary information in respect of what these are and why and when and/or why they will be *"relevant."*

154 Further references to *"where appropriate...where possible...where it is possible to do so...where relevant"* add to the ambiguous nature of the Policy.

155 The Policy sets out requirements for enhancement and the provision of various facilities without any indication of how these will be paid for and delivered in a manner that has regard to Paragraph 56 of the Framework. The Policy also sets out a requirement for various works relating to the public highway without evidence that these are deliverable. I am mindful in this respect that, generally, highways works tend to fall under the responsibility of the highways authority and outside the scope of a Neighbourhood Plan.

156 Whilst I note that there is some local concern over how future development might impact on the Dedworth Road area, the Neighbourhood Plan does not tackle this in a manner which has regard to the basic conditions, resulting in the recommendation below.

157 I recommend:

- **Delete Policy DR.01**
- **Para 10.1.1, change to *“The following place-based policy provides for a key place within the WNP area.”***
- **Delete Paras 10..1.1 to 10.2.8 inclusive**
- **Delete “10.1 Introduction”**
- **Delete Map 11**

Policy IH.01: Former Imperial House and Police Station Quarter

- 158 Policy IH.01 has, to some significant degree, been overtaken by events. Part of the site referred to by the Policy was granted planning permission in May 2019¹², further to an appeal.
- 159 Policy IH.01 does not allocate a site but seeks to provide some policy direction for development relating to land identified on Map 12. In this respect, I am mindful that no substantive evidence has been provided to demonstrate the deliverability of a comprehensive redevelopment proposal for all of the land identified on Map 12 and that planning permissions exist for development that does not require a comprehensive approach.
- 160 Whilst I note that the Qualifying Body would be prepared to withdraw Policy IH.01, I am mindful of representations suggesting changes that would enable Policy IH.01 to provide for a positive planning framework at the neighbourhood level.
- 161 Given the above, I recommend:
- **Change Policy IH.01 to “a) *Future development proposals featuring both the site of the former Imperial House and Police Station site should include a masterplan to show how...appearance criteria.* b) Any revised proposals for redevelopment should have regard to: *safe and secure pedestrian and cycle connectivity; local character, including the green character of Alma Road and the scale and massing of neighbouring buildings; and the scope for “feature” buildings to create articulated views from St Mark’s Road to Alma Road.*”**
 - **Para 10.3.2, change to “brownfield site in”**
 - **Para 10.3.4, change to “...site is in employment use and RBWM has identified the site...”**
 - **Delete Para 10.3.5**

¹² Appeal Reference: APP/T0355/W/18/3203764.

- **Para 10.3.6, delete text and replace with “*A mixed use development at part of the site was recently approved on appeal.*” (And provide footnote to this sentence, referencing APP/T0355/W/18/3203764)**
- **Delete Para 10.3.7 and 10.3.8**
- **Para 10.3.10, change to “*a Business Area*”**
- **Delete Paras 10.3.12 to 10.3.19, inclusive**

Policy LEGO.01: Legoland

- 162 Rather than present a clear land use planning policy, Policy LEGO.01 sets out a list of statements. As set out, these appear vague and are unsupported by up to date, detailed information.
- 163 Notwithstanding this, the Council of the Royal Borough of Windsor and Maidenhead has commented that the Policy supports development whilst failing to make appropriate reference to statutory designations. For example, it is not clear how the Policy has regard to the requirement to meet Green Belt requirements.
- 164 Also, the area referred to is located in close proximity to the Windsor Park Special Area of Conservation (SAC). The Policy does not refer to this and consequently, it is not clear how unfettered support for "*continued investment at the resort within the current development boundary*" (wherever that may be) will, in all circumstances, contribute to the achievement of sustainable development. As referred to earlier in this Report, the Council of the Royal Borough of Windsor and Maidenhead is concerned that the inclusion of this Policy would result in the Neighbourhood Plan being incompatible with European obligations, contrary to the basic conditions.
- 165 Further to all of the above, in the absence of any substantive evidence, it is not clear how the various statements in the Policy will (or can) be delivered, or whether this can be achieved in a manner that contributes to the achievement of sustainable development.
- 166 As an aside, I note that, in respect of this and the following Policy, the Qualifying Body has, in response to my letter of clarification, suggested that I make revisions in order to enable the Policies to meet the basic conditions. However, in the case of Policies LEGO.01 and RAC.01, this would go well beyond the scope of my role as Independent Examiner.
- 167 For the reasons set out above, Policy LEGO.01 does not meet the basic conditions and I recommend:
- **Delete Policy LEGO.01**
 - **Delete pages 92 to 95, inclusive**

Policy RAC.01: Royal Windsor Racecourse

168 Similarly to the preceding Policy, Policy RAC.01 comprises a list of statements. It sets out a series of works that are “*supported*,” but provides no substantive evidence to demonstrate that all of the matters supported by the Policy can be delivered within the requirements of the Green Belt designation covering the whole of the area.

169 Also, in the absence of any substantive evidence, there is no clarity in respect of how the various statements in the Policy will (or can) be delivered, or in what way the Policy contributes to the achievement of sustainable development.

170 Policy RAC.01 does not meet the basic conditions. I recommend:

- **Delete Policy RAC.01**
- **Delete Pages 96-98 inclusive**

Policy CIL.01: CIL and S106 funding

171 Policy CIL.01 states that CIL or Section 106 Agreement funding will be used to deliver policies and projects according to the community's wishes and priorities, as set out in Table 1.

172 However, no information is provided in this section of the Neighbourhood Plan (or anywhere in the Neighbourhood Plan), to demonstrate how Policy CIL.01 has regard to Paragraph 56 of the Framework, referred to earlier in this Report.

173 Consequently, in the absence of, for example, any idea of what development might provide CIL or S106 funding, it is simply not possible to understand how planning obligations that meet the appropriate tests will (or can) be used to deliver the priorities set out in Table 1. Policy CIL.01 is imprecise and is not supported by appropriate evidence. It does not meet the basic conditions.

174 Notwithstanding the above, I am mindful that the provision of relevant information in the Neighbourhood Plan in respect of CIL is helpful and I recommend:

- **Delete Policy CIL.01**
- **Create a new Para below Para 11.1.1 "*Windsor Neighbourhood Forum will seek to use Community Infrastructure Levies and/or, if applicable, Section 106 funding, to deliver policies and projects in accordance with the community's wishes and priorities, as set out in Table 1 below.*"**
- **Delete Para 11.1.2 and title**
- **The Neighbourhood Plan cannot impose requirements on the Local Planning Authority. Para 11.1.5, delete from second line to end of Para (" , liaising...herein")**
- **Change last line of Para 11.1.6 to "...policies are *deliverable.*"**
- **Para 11.1.7, change last sentence to "*They will also monitor the success of the policies.*"**
- **Table 1 will require updating, to take into account the recommendations in this Report**

8. The Neighbourhood Plan: Other Matters

175 The recommendations made in this Report will also have a subsequent impact on Contents, including Policy, paragraph and page numbering.

176 I recommend:

- **Update the Contents and where necessary, Policy, paragraph and page numbering, to take into account the recommendations contained in this Report**

9. Referendum

177 I recommend to the Council of the Royal Borough of Windsor and Maidenhead that, subject to the recommended modifications, **the Windsor Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

178 I am required to consider whether the Referendum Area should be extended beyond the Windsor Neighbourhood Area.

179 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

180 Consequently, I recommend that the Plan should proceed to a Referendum based on the Windsor Neighbourhood Area approved by the Council of the Royal Borough of Windsor and Maidenhead on the 21st August 2014.

Nigel McGurk, February 2020
Erimax – Land, Planning and Communities



EST. 2011