

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 07 January 2019

Portfolio:	Planning and Development
Subject:	Council's Response to the Submission (Regulation 16) Titchfield Neighbourhood Plan
Report of:	Director of Planning and Regulation
Corporate Priorities:	Providing Housing Choices Protect and Enhance the Environment Strong, Safe, Inclusive and Healthy Communities Maintain and Extend Prosperity

Purpose:

To agree the Council's, as the Local Planning Authority, response to the Submission (Regulation 16) Titchfield Neighbourhood Plan.

Executive Summary:

In March 2017, the Titchfield Neighbourhood Forum and Titchfield Neighbourhood Area were designated by the Council for the purposes of the Forum preparing a Neighbourhood Plan. Under Regulation 15 of The Neighbourhood Planning (General) Regulations 2012 the Titchfield Neighbourhood Forum have submitted the Titchfield Neighbourhood Plan to the Local Planning Authority. The Local Planning Authority recognise the efforts made by the Titchfield Neighbourhood Forum in preparing and reaching the Submission stage of the Neighbourhood Plan process.

In accordance with Regulation 16 of The Neighbourhood Planning (General) Regulations (2012) the Council, as the Local Planning Authority, is required to publicise the Submission Titchfield Neighbourhood Plan, Consultation Statement and Basic Conditions Statement for a minimum of six weeks. The Council, as a statutory consultee, is also required to be notified on the proposals. The deadline for responses to the consultation is the 11th January 2019.

Recommendation(s):

It is recommended that:

- a) the Executive approves the Council's response to the Submission (Regulation 16) Titchfield Neighbourhood Plan; and
- b) the Director of Planning and Regulation be authorised to make any necessary minor amendments, following consultation with the Executive Member for Planning and Development, prior to the deadline of the Submission Neighbourhood Plan consultation (11th January 2019), provided these do not change their overall direction, shape or emphasis.

Reason:

It is recommended that the Local Planning Authority's comments on the Submission Titchfield Neighbourhood Plan be submitted as part of the Regulation 16 consultation. The Local Planning Authority's comments will then be made available to the independent examiner for his/her consideration when assessing the TNP against the 'basic conditions'. The Local Planning Authority has raised concerns at this stage of the plan preparation and at the Pre-submission (Regulation 14) stage which it believes need to be considered by the independent examiner.

Cost of proposals:

There are no direct financial implications arising from this report. However, it is important to highlight that Officers time has been subsumed into the existing operational budgets.

Appendices:

A: Submission (Regulation 16) Titchfield Neighbourhood Plan

B: Local Planning Authority comments on the Submission (Regulation 16) Titchfield Neighbourhood Plan

Reference papers:

[Executive Report 3 September 2018 – Local Planning Authority Comments on the Pre-Submission Titchfield Neighbourhood Plan](#)

[Executive Report 6 March 2017 – Applications for Titchfield Neighbourhood Forum and Titchfield Neighbourhood Area](#)

[The Neighbourhood Planning \(General\) Regulations 2012](#)

[Planning and Compulsory Purchase Act \(2004\)](#)

[Town and Country Planning Act 1990 \(as amended\)](#)

[National Planning Practice Guidance – Neighbourhood Planning](#)

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BOROUGH COUNCIL

Executive Briefing Paper

Date:	07 January 2019
Subject:	Council's Response to the Submission (Regulation 16) Titchfield Neighbourhood Plan
Briefing by:	Director of Planning and Regulation
Portfolio:	Planning and Development

INTRODUCTION

1. The Localism Act (2011) introduced a mechanism for local communities to produce Neighbourhood Plans for their area. Once a Neighbourhood Plan is 'made', i.e. adopted, it becomes part of the statutory Development Plan for that area, and will be used, alongside local and national planning policy and guidance to determine planning applications within the Neighbourhood Plan area.
2. On 5th December 2016, the Council received an application for the designation of a Neighbourhood Forum and Neighbourhood Area for Titchfield for the purposes of producing a Neighbourhood Plan. This was followed by a consultation period on the proposal from December 2016 to February 2017. On 20th March 2017, the Council designated the Titchfield Neighbourhood Forum and Neighbourhood Area for the purposes of Neighbourhood Planning.
3. In line with Regulation 14 of the Neighbourhood Planning (General) Regulations 2012, the Pre-submission version of the Titchfield Neighbourhood Plan (TNP) was publicised for formal public consultation by the Titchfield Neighbourhood Forum which ran from 20th July and 10th September 2018.
4. The Titchfield Neighbourhood Forum are at the second formal stage of plan making, which is consultation on the Submission (Regulation 16) Titchfield Neighbourhood Plan. The Local Planning Authority is responsible for facilitating this consultation on behalf of the Titchfield Neighbourhood Forum. The Local Planning Authority recognises the efforts made by the Titchfield Neighbourhood Forum in preparing and reaching the Submission stage of the Neighbourhood Plan process.
5. Prior to the Submission of the Titchfield Neighbourhood Plan the Local Planning Authority provided helpful guidance and advice over several meetings with the Titchfield Neighbourhood Forum. In addition, the Local Planning Authority provided formal comments on the Pre-Submission (Regulation 14) Titchfield Neighbourhood Plan (see background papers). As the following paragraph explains, the responsibility for producing the Neighbourhood Plan and submitting it to the Local Planning Authority rests with the Titchfield Neighbourhood Forum.

NATIONAL REQUIREMENTS FOR SUBMISSION NEIGHBOURHOOD PLANS (REGULATION 16)

6. Relevant national legislation, policy, and guidance require a Neighbourhood Forum to submit a Neighbourhood Plan to the Local Planning Authority under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. The documents that should be submitted include the Submission Neighbourhood Plan, a Consultation Statement and a Basic Conditions Statement.
7. Following submission of the Neighbourhood Plan, the Local Planning Authority must be satisfied that statutory requirements have been met and that a Basic Conditions Statement has been submitted. The Local Planning Authority has to carry out a compliance check¹ to ensure the Neighbourhood Plan complies with all the relevant statutory requirements as set out in paragraph 6 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).
8. Following a successful compliance check the LPA has to consult people who live, work or carry on business in the Neighbourhood Plan Area and notify any relevant consultation body. The LPA, at the start of the consultation, must make the Submission Neighbourhood Plan and supporting documents, details of where and when these documents may be inspected and details of how to make representations on the documents, including the deadline for representations. A statement must also be included on the representations form to provide the option for consultees to be notified of the Local Planning Authority's decision to make the Neighbourhood Plan. It is important to highlight that the Submission (Regulation 16) consultation is the responsibility of a Local Planning Authority to organise and facilitate.
9. The LPA is a statutory consultee during the Submission consultation and therefore, formal comments on a Submission Neighbourhood Plan need to be provided by the closing date.
10. During the consultation period, it is the responsibility of the LPA to arrange for an independent examiner to undertake examination on the neighbourhood plan. The choice of independent examiner must be formally agreed (in writing) with the Neighbourhood Forum.

SUBMISSION OF THE TITCHFIELD NEIGHBOURHOOD PLAN

11. The Titchfield Neighbourhood Plan (see Appendix A) was submitted to the Local Planning Authority on 22nd October 2018. The first compliance check undertaken by the Local Planning Authority confirmed that the submission Titchfield Neighbourhood Plan did not meet the relevant statutory requirements on three grounds. These grounds are as follows:
 - The Submission Neighbourhood Plan did not set out the dates between which the Pre-submission publicity was carried out.
 - The Submission Neighbourhood Plan did not include a statement to set out why the plan should be 'made' in the proposed terms.
 - The Consultation Statement did not include details of the main issues and concerns raised by the persons consulted during the Pre-submission

¹ A checklist of statutory requirements that the Local Planning Authority must ensure are met by assessing the Submission Neighbourhood Plan documents produced and procedures followed by the Neighbourhood Forum.

consultation or describe how the issues and concerns have been considered and where relevant addressed these concerns in the Submission Neighbourhood Plan.

12. The Local Planning Authority, therefore requested that the Forum re-submit the Neighbourhood Plan to provide additional information for all statutory requirements to be met². The Forum provided a revised submission to the LPA on the 5th November. A further compliance check was undertaken, and the revised submission now complies with the relevant statutory requirements. The Forum met these requirements by providing an addendum to the Neighbourhood Plan and additional details in a re-submitted Consultation statement to meet the three grounds above where they had previously fallen short.
13. A letter and completed compliance checklist was sent to the Titchfield Neighbourhood Forum on the 16th November 2018 to confirm that the statutory requirements have been met. Following a successful compliance check, the Submission Titchfield Neighbourhood Plan has been publicised by the Local Planning Authority for a formal period of public consultation which runs from Friday 23rd November 2018 to Friday 11th January 2019.
14. Consultation on the Submission Titchfield Neighbourhood Plan includes sending out letters to those who live, work or carry out business in the Titchfield Neighbourhood Plan area, promotion of the consultation on the Council's website, consultation documents being made available at the Council Offices, all libraries in the Borough and the Jubilee Doctor's Surgery in Titchfield. A public notice has also been placed in the Hampshire Independent and The Daily Echo.
15. All representations made during the consultation period will be forwarded to the Independent Examiner, appointed by the Local Planning Authority (with the agreement of the Neighbourhood Forum) to examine the TNP.
16. On receipt of the Independent Examiner's report, providing the Titchfield Neighbourhood Plan meets the 'basic conditions', the Local Planning Authority will organise a local Referendum.

KEY ISSUES FOR CONSIDERATION

17. The Submission Neighbourhood Plan includes policies relating to a number of key planning issues including:
 - New housing
 - Design of new housing development
 - Housing mix/Affordable housing
 - Footpath and cycle network
 - Supporting new and existing retail units
 - Preserving the historic environment
18. The Local Planning Authority provided comments on the Titchfield Neighbourhood Plan at the Pre-submission stage in September 2018. The key concerns identified were:
 - Lack of sufficient clarity to allow a decision maker to apply them consistently

² The relevant legal requirements in relation to neighbourhood planning for the purposes of the compliance check are set out in the TCPA, relevant sections of the Planning and Compulsory Purchase Act (PCPA) (2004) and the Neighbourhood Planning (General) Regulations 2012.

and with confidence when determining planning applications in the neighbourhood plan area.

- Lack of sufficient flexibility to ensure they plan positively to support local development.
- The Neighbourhood Plan did not set out the justification and evidence to clearly support policy requirements.
- Policy requirements potentially having a negative impact on viability, therefore preventing the deliverability of housing.

19. Appendix B to this report sets out the Council's (as the Local Planning Authority) comments and suggested amendments on the Submission (Regulation 16) version of the Titchfield Neighbourhood Plan. To reiterate the Local Planning Authority has provided support and guidance as the Neighbourhood Plan has developed, including providing formal comments at the Pre-submission (Regulation 14) stage.

SUMMARY OF THE LOCAL PLANNING AUTHORITY'S RESPONSE TO THE SUBMISSION TITCHFIELD NEIGHBOURHOOD PLAN

20. There is no requirement for the LPA to consider whether the Submission Titchfield Neighbourhood Plan meets the basic conditions at this time. However, the LPA has been mindful of the 'basic conditions', when commenting on the Titchfield Neighbourhood Plan. These are set out below:

- Must have regard to national policy and advice.
- Must contribute to the achievement of sustainable development.
- Must be in general conformity with the strategic policies in the development plan, which includes the Adopted Local Plan.
- Must not breach and be otherwise compatible with EU and Human Rights Obligations.

21. Officers have reviewed the Submission Titchfield Neighbourhood Plan in the context of the previous comments made on the Pre-submission (Regulation 14) Neighbourhood Plan, relevant legislation, national policy and guidance on neighbourhood planning.

22. Officers consider that many of the Local Planning Authority's concerns on the Pre-Submission Titchfield Neighbourhood Plan have not been overcome as a result of amendments incorporated into the Submission Titchfield Neighbourhood Plan and supporting documents. Some of the Local Planning Authority's comments have been partially met and only a limited number of concerns have been overcome. The remaining concerns are summarised below and explained in full in Appendix B, (which sets out the Local Planning Authority's formal response to the Submission Titchfield Neighbourhood Plan in full):

- i. Having regard to national policies and advice (particularly the requirements of the PPG).
- ii. Ensuring the Titchfield Neighbourhood Plan is in general conformity with the development plan, i.e. the Adopted Local Plan (ALP), which includes the Local Plan Part 1: Core Strategy and the Local Plan Part 2: Development Sites and Policies.

23. Please note, in addition to the above (under category i), it is important to highlight that the Submission Titchfield Neighbourhood Plan does not:
- Provide sufficient clarity to allow a decision maker to apply them consistently and with confidence when determining planning applications in the neighbourhood plan area.
 - Provide sufficient flexibility to ensure they plan positively to support local development.
 - Set out the justification and evidence to clearly support policy requirements.
24. The LPA is also concerned that some of the policy requirements could potentially have a negative impact on viability, therefore preventing the deliverability of housing.
25. The LPA have remaining concerns on a number of policies in the submission Titchfield Neighbourhood Plan. Policy H1 (windfall development) relating to the use of land is not in general conformity with a number of strategic policies in the Adopted Local Plan. The Forum's intention to include residential gardens within the settlement boundary, extending the settlement boundary and applying windfall development to meet the housing need identified in the Housing Need Assessment is not clear, and therefore, further justification and supporting evidence is required.
26. Furthermore, the submission Titchfield Neighbourhood Plan still refers to a number of 'community aspirations'. These 'community aspirations' are not related to land use matters and as highlighted in the National Planning Practice Guidance (PPG) these aspirations should be set out in a companion document or annex to the Neighbourhood Plan.
27. At this stage of the plan preparation is it necessary for the Local Planning Authority to make comments on the Submission Titchfield Neighbourhood Plan to assist the examination of the plan. The intention of the Local Planning Authority ultimately is to ensure that the policies are written with sufficient clarity to enable them to be applied consistently and with confidence with determining planning applications in the Neighbourhood Plan Area. It is important to highlight that the decision now rests with the Independent Examiner as to whether the Titchfield Neighbourhood Plan meets the 'basic conditions'.

POTENTIAL NEXT STAGES

28. As previously highlighted, following the close of consultation all representations made will be submitted to the Independent Examiner. The Examiner will then assess the Neighbourhood Plan to come to a conclusion as to whether the plan meets all of the 'basic conditions'. The Examiner's Report is binding and if the examiner recommends that the neighbourhood plan can proceed to referendum subject to modifications, these modifications must be made.
29. Furthermore, if the Examiner's report is positive the plan will then be subject to a local referendum. If a Neighbourhood Plan is supported through a local referendum it becomes part of the statutory development plan for that area and will be used, alongside local and national planning policy and guidance, to determine planning applications in the Neighbourhood Plan Area.

CONCLUSION

30. In conclusion, the Local Planning Authority recognise the efforts made by the Titchfield Neighbourhood Forum in reaching the Submission stage of the Neighbourhood Plan process. It is recommended that the Local Planning Authority's comments on the Submission Titchfield Neighbourhood Plan be submitted to the independent examiner for their consideration when assessing the Titchfield Neighbourhood Plan against the 'basic conditions. The Local Planning Authority has raised concerns which it believes need to be considered by the Independent Examiner.

Enquiries:

For further information on this report please contact Claire Burnett, Head of Planning Strategy and Regeneration. (Ext. 4330).