



DEMOCRATIC AND ELECTORAL SERVICES

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Date: 16 May 2016 Direct Line: 01895 837225/837227

Dear Councillor

CABINET

The next meeting of the Cabinet will be held as follows:

DATE: TUESDAY, 24TH MAY, 2016
TIME: 6.00 PM
VENUE: ROOM 6, CAPSWOOD, OXFORD ROAD, DENHAM

Only apologies for absence received prior to the meeting will be recorded.

Yours faithfully

Jim Burness

Director of Resources

To: The Cabinet

Mr Bagge (Leader)	Mr Naylor (Deputy Leader)
Mr Egleton	
Mrs Sullivan	
Mr Kelly	

Audio/Visual Recording of Meetings

Please note: This meeting might be filmed, photographed, audio-recorded or reported by a party other than South Bucks District Council for subsequent broadcast or publication.

If you intend to film, photograph or audio record the proceedings or if you have any questions please contact the Democratic Services Officer (members of the press please contact the Communications Officer).



Declarations of Interest

Any Member attending the meeting is reminded of the requirement to declare if he/she has a personal interest in any item of business, as defined in the Code of Conduct. If that interest is a prejudicial interest as defined in the Code the Member should also withdraw from the meeting.

A G E N D A

- | | (Pages) |
|--|--------------------|
| 1. Apologies for Absence | |
| 2. Minutes | |
| To confirm the minutes of the meeting held on 20 April 2016. | (5 - 10) |
| 3. Iver Neighbourhood Area Application | |
| To consider report of Cabinet Portfolio Holder for Sustainable Development. | (11 - 36) |
| <i>Appendix</i> | (37 - 112) |
| 4. Any other business which the Leader decides is urgent | |
| 5. Exclusion of Public | |
| The Leader to move the following resolution:- | |
| “that under Section 100A(4) of the Local Government Act 1974 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act
“ | |
| 6. Re - development of the Academy Site | |
| Report of Director of Resources | (113 - 120) |

The next meeting is due to take place on Monday 4 July 2016

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CABINET**Meeting - 20 April 2016**

Present: Mr Bagge, Mr Naylor, Mr Egleton, Mrs Sullivan and Mr Kelly

63. MINUTES

The minutes of the meetings of the Cabinet held on 9 February and 22 March 2016 were confirmed and signed by the Leader.

64. FORWARD PLAN OF EXECUTIVE DECISIONS

The Cabinet received a copy of the 28 day Notice prepared in accordance with Regulation 9 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 setting out the key (and non-key) decisions the Cabinet was intending to make at public and private meetings.

RESOLVED that the 28 day Notice be noted.

65. REFRESHED JOINT BUSINESS PLAN 2016-2020

The Cabinet was invited to comment on a refresh of the Joint Business Plan 2016-2020 which is reviewed annually to reflect the changing needs of the locality and the communities that live and work within Chiltern and South Bucks and the service planning process.

Following a proposal from the Health Communities Portfolio Holder the wording under "We will work towards safer and healthier local Communities" paragraph 4, bullet point 3 was amended as follows:"

'Work with the local MP, voluntary and community groups through the Cohesion and inequalities Forum to help inform the South Bucks Community and Wellbeing Plan'.

After noting and endorsing the proposed changes the Cabinet

RECOMMENDED to Council that the refreshed Joint Business Plan 2016-2020, as amended above, be adopted.

66. PERFORMANCE INDICATOR REVIEW

The Cabinet considered a report providing an update on the outcomes of the Performance for 2016/2017 and seeking approval to make changes to the reporting arrangements as set out in the following appendices:

Appendix A PI Review - Priority PIs 2016-17 - SBDC - provides proposals for reporting priority indicators during 2016/17 with future targets.

Appendix B PI Review – Corporate Indicators 2016-17 - SBDC- provides proposals for reporting Corporate PIs during 2016/17 with future targets.

After noting that the proposed changes would result in 12 priority PI's and 29 additional PI's (a total of 41 a reduction of 3 from those currently reported) the Cabinet

RESOLVED that the changes to the reporting arrangements for Performance Indicators be agreed.

67. **ENVIRONMENT**

The Cabinet received the Part I minutes of the Environment Policy Advisory Group held on 1 March 2016

RESOLVED that the minutes of the Environment Policy Advisory Group held on 1 March 2016 be noted.

68. **HEALTHY COMMUNITIES**

The Cabinet received the Part 1 minutes of the Health and Housing Policy Advisory Group held on 25 February 2016

RESOLVED that the Part 1 minutes of the Health and Housing Policy Advisory Group held on 25 February 2016 be noted.

69. **RESOURCES**

The Cabinet received the Part 1 minutes of the Resources Advisory Group held on 3 March 2016 and the following were the subject of a recommendation from the Portfolio Holder:

1. Station Road Car-Park, Gerrard Cross (Minute 33)

Whilst the PAG had not been convinced by the business case they had accepted that there was a need to increase the capacity at the car park. The Portfolio Holder explained that since the meeting it had been established that it was not necessary to progress with the submission of a planning application at this stage and therefore recommendation 1 in minute 33 was not required. However, recommendation 2 was required to enable the project to progress expeditiously.

After considering the advice of the Portfolio Holder the Cabinet:

RESOLVED that the expenditure incurred to date of £50k be noted and agreement be given to incur further expenditure of £65k to support project management for the duration of the project.

2. Beaconsfield Car Parking

The Cabinet considered the report upon which the PAG had commented and provided advice to the Portfolio Holder to progress the options for the Beaconsfield Car Park.

The Leader, whilst understanding the wish to progress, stated that the development should be seen in the context of wider Government policies and the need to optimise revenue income from the Council's assets. With this in mind the Leader proposed that a strategic review be undertaken of the Council's property and land assets to identify those that could be developed, possibly in partnership, in order to generate income for the Council whilst providing benefits for businesses and residents. Accordingly, he proposed that further consideration of the options for Beaconsfield Car Park be deferred pending this strategic review and that the £80k requested in the recommendation from the Portfolio Holder be used to fund this review

Cabinet unanimously supported this proposals and following a discussion on how the strategic asset review could be progressed as a matter of urgency it was

RESOLVED that

- 1 A strategic review be undertaken of the Council's assets to identify those with the potential for further development to generate income for the Council and provide benefits for businesses and residents and £80k be agreed to fund this strategic review.
- 2 The Director of Resources, in consultation with the Resources Portfolio Holder, be authorised to agree a specification for the strategic review and undertake the procurement process.

And further

RESOLVED that the minutes of the meeting of the PAG held on 3 March 2016 be noted.

70. **SUSTAINABLE DEVELOPMENT**

The Cabinet received the Part II minutes of the Sustainable Development Policy Advisory Group held on 10 March 2016.

RESOLVED that the minutes of the Sustainable Policy Advisory Group held on 10 March 2016 be noted.

71. **CHILTERN AND SOUTH BUCKS JOINT COMMITTEE**

The Cabinet received for information the minutes of the meeting of the Chiltern and South Bucks Joint Committee held on 29 February 2016.

RESOLVED the minutes be noted.

72. **PERFORMANCE MANAGEMENT QUARTERLY REPORT QUARTER 3**

The Cabinet considered a report outlining the performance of Council services against Performance Indicators and service objectives during September to December 2015 as set out in appendices A and B.

The Cabinet noted that all four of the off target PIs related to housing.

RESOLVED that the report be noted,

73. **EXCLUSION OF PUBLIC**

“that under Section 100A(4) of the Local Government Act 1974 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act “

The paragraph number is given under each heading,

74. **RESOURCES**

(Paragraphs 1 and 3)

The report on Beaconsfield Car Park was considered as part of the discussion in minute 69 above

75. **HS2**

The Cabinet considered a report providing an update on HS2 and in particular on

- Progress made with regard to the Cone Valley Regional Park Panel
- Assurances received from HS 2 on the Colne Valley and the HEX Langley Depot
- Negotiations to secure a Service Level Agreement to cover future resources
- The latest budgetary position
- The decision of BCC to petition the House of Lords on HGV Issues
- Becoming a Qualifying Authority” for the determination of planning matters.

Following consideration of the report it was

RESOLVED that

1. The progress made with regard to the Colne Valley Regional Park Panel be noted
2. The position on assurances received from HS2 on the Colne Valley and the HEX Langley Depot be noted.
3. (a) the ongoing negotiations with HS2 to agree a Service Level Agreement to cover future resources in dealing with Schedule 17 (of the HS2 Hybrid Bill) applications (and Section 61 applications of the Control of Pollution Act) be noted (b) the Acting Chief Executive, in consultation with the Leader and Head of Legal and Democratic Services, be authorised to approve the terms of any future settlement (c) funding of £65K on a contingency basis be agreed from the General Reserve until the end of the year to cover additional staff costs which are not reimbursable by HS2.
4. The latest position on expenditure is noted and a budget increase of £15K be agreed in line with proposals within the report.
5. As Bucks CC will petition the House of Lords on HGV issues in Iver it is confirmed that it is not necessary for South Bucks DC to do so.
6. The Head of Sustainable Development, in consultation with the Chairman of the Planning Committee, be authorised to sign the Planning Memorandum and enable South Bucks to become a “Qualifying Authority” for the determination of planning matters under the Bill

76. THE SOUTH BUCKINGHAMSHIRE GOLF COURSE

The Cabinet received the following reports that were considered at the meeting of the South Buckinghamshire Members Advisory Panel held on 22 February 2015, the minutes of which were also received.

A Development of the Academy Site

Having considered the report and noted the recommendations of the Advisory Panel as set out in minute 18 it was

RESOLVED that

1. Agreement be given to commence a procurement for the redevelopment of the Academy site to provide open parkland for non-golfing recreation which could include activity areas, fitness trails, cycling facilities, playground and seating areas.

Cabinet - 20 April 2016

2. The Director of Resources, in consultation with the Resources Portfolio Holder, be authorised to agree the specification for invitation of tenders.
3. The evaluation of tenders be reported to a future meeting of the Cabinet for decision on award.
4. Agreement be given to expenditure of up to £20,000 for procurement support.

B. Farnham Park Playing Fields

Having considered the report and the recommendations of the Advisory Panel as set out in minute 19 it was

RESOLVED that

1. A new 3 year lease be granted to Slough Town Youth Academy at annual rent indicated in the report.
2. Tenders be invited to install a new Access Track with a report back on the results to a future meeting of the Advisory Panel.

And further

RESOLVED that the minutes of the meeting of the Advisory Panel held on 22 February 2016 be noted.

The meeting terminated at 6.35 pm

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SUBJECT:	<i>Iver Neighbourhood Area Application</i>
REPORT OF:	<i>Cabinet Member for Sustainable Development – Councillor Nick Naylor</i>
RESPONSIBLE OFFICER	<i>Peter Beckford, Head of Sustainable Development</i>
REPORT AUTHOR	<i>Graham Winwright, 01895 837298, gwinwright@chiltern.gov.uk</i>
WARD/S AFFECTED	<i>Wards within Iver Parish, but also potentially other wards within the influence from Pinewood Studios activities/future activities.</i>

1. Purpose of Report

To consider Iver Parish Council's application for the entire Parish of Iver to be a Neighbourhood Area following public consultation and to determine whether the proposed area is appropriate and should be designated and if not to decide the area to be designated as a Neighbourhood Area. The Leader and Portfolio Holder for Sustainable Development consider that this decision is urgent in accordance with Rule 4.2 of the Council's Overview and Scrutiny Procedure Rules. This is because the Council is subject to a statutory deadline of 6 June 2016 to make the decision and failure to meet this deadline would seriously prejudice the Council's interests. Accordingly the agreement of the Chairman of Overview & Scrutiny Committee is being sought that the call-in procedure does not apply to this decision.

RECOMMENDATION

1. The Iver Parish Neighbourhood Area application submitted on 24th March 2016 be refused by South Bucks District Council because the proposed Neighbourhood Area (or specific area) namely the area comprising the whole of Iver Parish is not an appropriate area to be designated as a neighbourhood area for the following reasons:
 - a) The application proposes the inclusion within the specified area of the area of land comprising Pinewood Studios (as identified on the South Bucks Development Plan Proposal Map) and its extension/extended area identified by planning appeal approval. This land is considered to be of strategic importance in planning policy terms taking into account the saved South Bucks Local Plan (1999), South Bucks Core Strategy (2011), together with the reasons given by the Secretary of State justifying the planning appeal decision to extend Pinewood Studios into the Green Belt and the emerging Chiltern and South Bucks Local Plan (albeit the emerging Plan is at a very early stage).
 - b) Pinewood Studios is the only specific existing land use allocation in the current Development Plan on the Proposals Map and the only existing land use with a specific policy protecting and supporting its activities. The Development Plan

position reflects Pinewood Studios' national and international importance.

This national and international importance was recognised by the Secretary of State for Communities and Local Government in granting the extension to the Studios in the Green Belt in the national interest.

- c) The national and international importance of Pinewood Studios recognised originally in the Development Plan is therefore still relevant and due to the approved extension of the Studios its status and importance of its role may be treated as having increased since the time the Plan was adopted. Given the current Development Plan position, the appeal decision to extend the Studios and the emerging Chiltern and South Bucks Local Plan it is clear that Pinewood Studios will continue to be recognised for its strategic importance within the emerging Development Plan as well as its national and international importance.

- d) If Pinewood Studios (and associated land) were to be included in the Iver Neighbourhood Area any future Neighbourhood Plan policies proposed will need to be in general conformity with the Development Plan at that time. Although the Council is not seeking to pre-empt what may follow the neighbourhood area designation, it is considered that the basic condition requiring general conformity to the Development Plan means it is extremely unlikely to be able to offer those involved in the neighbourhood plan lawful scope to change or materially add to the Development Plan. The opportunity to change or add to the planning context for Pinewood Studios (if this is what is intended) is provided through engagement on the emerging Chiltern and South Bucks Local Plan and is considered to be the appropriate development plan route to do so.

- e) The Parish Council Supporting Statement to the neighbourhood area application is considered to collectively comprise the comments set out in the Parish Council letter of 24th March 2016 together with a separate Supporting Statement dated February 2016 from Planning Progress Limited containing a series of legal submissions submitted with the application by the Parish Council. The reasons put forward for the whole of the Parish Council area being the appropriate area (including Pinewood Studios) are in effect that there is a presumption that if an application for a neighbourhood area is made by a Parish Council and that as the area is the whole Parish Council area it should somehow be treated as appropriate in any event. In addition the Parish Council does not accept that Pinewood Studios should be treated as a strategic site. With regard to the latter the Council has concluded it clearly is a strategic site and that this is material in this case. With regard to the former issue, the council has taken legal advice and (as set out in its Cabinet report of 24th May 2016) it is not accepted that such a presumption applies or can be read into the legislation or guidance. The discretion the Council as Local

Planning Authority has in making its decision is a broad one and the test to be applied in each case is whether the area is appropriate. In reaching that decision regard must be had to the desirability of designating the whole of the area of a parish council as a neighbourhood area. That statutory requirement to have regard to the desirability of designating the whole area is not limited and therefore is required whether the application is for an area that is less than or the same as or is greater than the parish council area.

- f) In addition, whilst South Bucks District Council is not seeking to anticipate the content or nature of any subsequent Iver Neighbourhood Plan it is clear that the Parish Council in making this application has considered the question of whether to include Pinewood Studios in its Neighbourhood Area. Given that it does seek its inclusion it must therefore be reasonable to conclude that the Parish Council consider it is appropriate for the future neighbourhood plan to be able to contain planning controls in respect of the use and future development of Pinewood Studios. This raises the following issues of concern for South Bucks District Council:
- i) including Pinewood Studios in the Neighbourhood Area is considered likely to raise false expectations with some local residents that subsequent neighbourhood planning controls could seek to limit or alter the current Development Plan provision or emerging Development Plan consideration for the potential future use/development or redevelopment of Pinewood Studios
 - ii) to whatever degree Pinewood Studios is to be represented in a future neighbourhood plan, its presence regardless of the content of the plan could have a significant influence on the referendum area for the neighbourhood plan given its influence is likely to cover a much wider area than Iver Parish. The concern is that a wider referendum area is likely to include voters who are less likely to have been directly involved in the neighbourhood plan process as a whole or in significant part and who are more likely to approach the referendum with less local knowledge and appreciation of the overall neighbourhood plan objectives. As such, the risk increases for the neighbourhood plan referendum to be influenced by people outside of the parish and with a narrower range of interest and which could affect the referendum outcome. If this occurred then this would not be desirable, would undermine the reasons for the Parish Council seeking a neighbourhood area and considered would be counter to government objectives for neighbourhood planning. In addition a larger referendum area would increase the public cost of the referendum. Therefore there is a risk to the referendum outcome being influenced by people outside of the plan area and at increased public cost both of which is not considered to be within the public interest.
- g) In addition based upon the Parish Council's letter of 24 March 2016 the key objectives for the Parish Council appear to be able to respond to residents'

wishes and to develop a neighbourhood plan that satisfies local needs and not to disenfranchise any Parish residents who live in any excluded area or who may be otherwise affected by any such exclusion. It is considered that these objectives are not relevant to Pinewood Studios and exclusion of Pinewood Studios would not undermine these Parish Council objectives as:

- i) there are no residents residing in the Pinewood Studios area and related development land therefore the reference to disenfranchisement can only be directed to residents living outside Pinewood Studios and it is not clear how these residents would be so disenfranchised or indeed lose any rights if the area was excluded from the neighbourhood area;
 - ii) it is extremely unlikely that local needs other than those which are provided at the moment (e.g. employment opportunities) will be able to be met within the Pinewood Studios area;
 - iii) in terms of residents' wishes and those residents that may be otherwise affected by excluding the Pinewood Studios land, given that the future neighbourhood plan needs to be in general conformity with the Development Plan and given the current and emerging policy with regard to Pinewood Studios, it is not considered that any disadvantage to residents would arise if Pinewood Studios is excluded from the Neighbourhood Area. This is also the case because there is limited scope for a neighbourhood plan lawfully to alter or influence planning policy in this specific area. This limited scope may be weighed against the clear risk of raising 'false hope' with local residents that any neighbourhood plan may be able to introduce a Development Plan policy in relation to Pinewood Studios that cannot be delivered.
 - iv) following on from the above, it is considered that no local resident would be disenfranchised through the exclusion of Pinewood Studios.
- h) During the consultation only two supporting representations specifically support Pinewood Studios inclusion (Reps 0006 and 0016) however there are eight other representations which support the application generally and so could be inferred to also supporting Pinewood Studios inclusion. Nevertheless the level of supporting consultation responses is small and the only supporting responses specifically mentioning Pinewood Studios appears to re-inforce the Council concern above that its inclusion in the neighbourhood area could raise false community expectations for any subsequent neighbourhood plan in terms of what is likely to be able to delivered through a neighbourhood plan.
2. That an Iver Neighbourhood Area be designated comprising the Parish of Iver excluding Pinewood Studios as set out in the map in Appendix 6 to this report.

2. Executive Summary

This is the second neighbourhood area application submitted by Iver Parish Council and it covers the same area as the first i.e. reflects the land comprising the whole of Iver Parish's administrative area. The first application was withdrawn by the Parish Council following officers informing the Parish Council that they were minded to recommend the application be refused and a neighbourhood area be designated instead which would cover the whole Parish excluding the area of land comprising Pinewood Studios.

The Parish Council have provided a revised Supporting Statement (see Appendix 1), comprising a letter dated 24 March 2016 (which broadly expresses the same matters expressed in the first application but in addition attaches a separate Statement from consultants Planning Progress Limited which make a number of largely legal submissions about the representations made by Pinewood Studios with regard to excluding its land from the neighbourhood area as proposed and the approach the Council should take.

This second application has been the subject of public consultation and the consultation results are set out in Appendix 2. These comprise 7 responses from (assumed) local residents, 2 from resident associations, a response from Pinewood Studios Limited and 8 responses from other organisations/landowners. There are 10 responses in support, 1 conditional support, 4 neutral, 2 no objections and 1 objection. A late response has also been received and set out in Appendix 3. Responses to the public consultation (including the late response) have been shared with the Parish Council and where the Parish Council has commented these comments are set out in Appendix 4.

National planning policy guidance is that when deciding an application to designate a neighbourhood area the local planning authority should take into account the applicant body's statement explaining why the area applied for is considered appropriate to be designated as such and that it should aim to designate the area applied for (see PPG 41-35). Such a statement is required under the relevant regulations even where the applicant is a Parish Council and is not limited to applications where parish councils apply for areas larger or smaller than their own areas. The guidance goes on to explain that the local planning authority can refuse to designate the area applied for if it considers the area is not appropriate and that, where it does so, it must give reasons. Finally the authority must use its powers of designation to ensure that some or all of the area applied for forms part of one or more designated neighbourhood areas in any event.

The key issue to be considered in determining this application is whether or not Pinewood Studios' land should or should not be included in the neighbourhood area.

In addition to the relevant statutory provisions and national planning policy and guidance the Council should consider any relevant case law as well as any representations received to the consultation required by regulations as well as any other relevant material considerations.

Reference has already been made to the relevant statutory considerations as well as the representations received.

In terms of relevant case law the Council's attention has been drawn to the case of Daws Hill which in circumstances where the authority was deciding whether to exclude strategic sites from a proposed neighbourhood area confirmed that in all cases the discretion given to the authority is a broad one and that the exercise of discretion turns on the specific factual and policy matrix that exists in the individual case at the time the determination is made. This approach was confirmed by the Court of Appeal and is binding on the authority as a matter of law. The Parish Council's planning consultants nevertheless argue against the conclusions in this case and say that the circumstances in respect of the Daws Hill case are sufficiently different to mean that the Council are not bound by this case. The advice that the Council has received is that this is wrong and misconceived.

Turning then to the relevant factual and policy matrix it is highly material that the national and international significance of Pinewood Studios has been recognised and confirmed by the Secretary of State who allowed the recent expansion of the studios in the Green Belt based principally on that importance amounting to the 'very special circumstances' of the development required. This national and international importance means that in planning terms the Studios must be treated as 'strategic'. In addition this is supported by the Development Plan for the original site as this has a specific land use notation and policy in the saved South Bucks Local Plan.

In light of the way the current Development Plan reflects the strategic importance of Pinewood Studios, and the likely continuation of this (and expansion to cover the extended Studios area) in the emerging Chiltern and South Bucks Local Plan has clear implications upon the scope for a subsequent neighbourhood plan to have any relevant or lawful influence planning policy for the Studios area. This is because of the legal necessity for general conformity with the Development Plan as a basic condition of neighbourhood plans.

Taking all of the above into account the recommendation is for the application to be refused for the detailed reasons set out in the recommendations and for an Iver Neighbourhood Area to be declared for the Parish area minus Pinewood Studios (see [Appendix 6](#)).

3. Reasons for Recommendations

The application must be determined taking account of the desirability of designating the whole of the Parish council and other relevant considerations. If it considers the area is not appropriate it must give reasons.

If the authority refuses the application it must use its powers of designation to ensure that some or all of the area applied for forms part of one or more designated neighbourhood areas in any event.

The reasons for the recommendations in respect of all matters are set out in full in the recommendations.

4. Background

- 4.1 Iver Parish Council last year submitted a Neighbourhood Area Application to declare the entire Parish area a Neighbourhood Area in order for the Parish Council to be able to prepare an Iver Neighbourhood Plan. This application was publicised by South Bucks District Council via:
- a. The Application and background information being displayed on South Bucks District Council's website from 30th October 2015 to 27th November 2015;
 - b. Registered consultees on the Council's Planning Policy Consultation Database who provided an e-mail address were notified by e-mail;
 - c. Other registered consultees on the Council's Planning Policy Consultation Database were notified by letter;
 - d. A joint press release with Iver Parish Council was issued.

Statutory consultees were notified either through b) or c) above.

- 4.2 In addition Iver Parish Council:
- a. Provided details of the Application on the front page of the Iver Parish Council website and
 - b. Displayed a public notice on all the Parish Notice Boards from 30th October 2015.
- 4.3 The consultation period ran from 30th October to 27th November 2015 (a minimum four week requirement) and 15 representations were received (9 supporting, 2 objecting, 1 conditional objection and 4 no objections/neutral).
- 4.4 The application last year was due to be determined under delegated authority by the Head of Sustainable Development in consultation with the Cabinet Member for Sustainable Development and District Council Ward members covering Iver Parish.
- 4.5 Prior to the Council making its delegated decision the recommending officer (Planning Policy Manager) shared the representations received with the Parish Council, stated that he was minded to recommend refusal of the application and to recommend a neighbourhood area which would comprise the Iver Parish minus the area occupied by Pinewood Studios (existing Studios plus the area with planning permission for an extension to the Studios/under construction), sought the Parish Councils views and set out options open to the Parish Council.
- 4.6 The reasons for being 'minded' to make these recommendations were set out and provided to the Parish Council and the final recommendation was subject to consideration of any comments from the Parish Council. Unfortunately as South Bucks District Council was required to determine the application within 8 weeks of the application having been published not much time could be given to the Parish Council to make comments. This was not the fault of any party but the consequence of complying with the relevant statutory requirements.

- 4.7 Iver Parish Council decided to withdraw the Neighbourhood Area application before it could be determined by South Bucks District Council and then on 26th March 2016 submitted a new application to again cover the entire Parish area.
- 4.8 Given the above the Head of Sustainable Development considers that the delegated authority for the determination of neighbourhood area applications should not be exercised in this instance and as such the application falls to be determined by Cabinet.

5. New Iver Neighbourhood Area Application

- 5.1 The Iver Neighbourhood Area application contains a revised Supporting Statement from the earlier application previously set out in a letter dated 27th October 2015. The revised Statement is comprised of representations in the letter from the Parish Council dated 24 March 2016 together with representations made on its behalf by by planning consultants Planning Progress Limited (contained in full in Appendix 1). The key differences between the earlier application and its accompanying supporting statement and the current application statements is that the new Supporting Statement(s) comment on the earlier application process from the Parish Council's advisors perspective and provides comments on Pinewood Studios representation submitted on the earlier application. It also contains in particular a number of legal submissions made by planning consultants. It is not stated that the Parish Council has in fact taken legal advice.
- 5.2 South Bucks District Council do not consider that the Parish Council are restricted in what they wish to include in their statement to support their application however the following summary points are considered to be the most pertinent to this Council's consideration of the application. Points (a) to (f) reflect the matters raised in Parish Council's letter of 24th March 2016 and (g) to (j) reflect the matters raised in the separate Supporting Statement dated February 2016 from Planning Progress Limited and referred to in d) below:
- a. The Parish Council represents the needs, views and requirements of all residents who reside in the parish.
 - b. The Parish Council continues to be instrumental in co-ordinating responses to the Chiltern and South Bucks Local Plan through meetings and consultations held with residents and local groups.
 - c. With this background the Parish Council considered that it is appropriate that the Parish be designated as a Neighbourhood Area. This will allow the Parish Council to understand and be responsive to residents wishes across the Parish and to work with Parish residents to develop a Neighbourhood Plan that satisfies local needs.
 - d. The Parish Council has carefully considered and taken professional advice on the Pinewood representations submitted on the first Neighbourhood Area Application and their detailed comments are set out in a detailed separate Supporting Statement.

- e. The Parish Council consider there is no justification for excluding any part of the Parish from the designation of a Neighbourhood Area since to do so would disenfranchise those residents who live in any excluded area or who may otherwise be affected by any such exclusion.
- f. The Parish Council does not wish to extend the area proposed for designation as Neighbourhood Area beyond the Parish boundary as it considers that other more appropriate bodies exist to cover areas outside the Parish boundary.
- g. In addition and in particular it considers that as a matter of law where a Parish Council applies to designate a Neighbourhood Area and that area reflects the whole Parish Council area (and no less or no more) a presumption arises that applied for area is the appropriate area.
- h. Paragraphs 15 to 20 and 40 to 58 of the Supporting Statement by Planning Progress Limited set out their view as to Pinewood Studios previous representations. In particular Planning Progress Limited assert that:
 - i) Pinewood Studios has neither a strategic planning designation nor any national, regional or local 'strategic significance' in planning terms (para 17) and should be categorised as an 83 ha area of land under single ownership albeit with economic significance with a 'more complicated pattern of use and development' (para 18)
 - ii) "Inevitably, the proposed development and outline planning permission will create wider transport impacts (as the existing site already does)" (para 19)
 - iii) Even if considered of strategic significance, that is no reason for it to be "inappropriate" or not "desirable" to include it in the neighbourhood area (para 20).
 - iv) Pinewood Studios' representation appears misconceived and for example is confusing area designation with policy-making (para 40)
 - v) Paragraph 33 of the NPPG, which refers to certain criteria, is considered irrelevant to applications for neighbourhood area designations made by Parish Councils (para 43)
 - vi) Acceptance that the planning significance of Pinewood Studios is a relevant consideration (paragraph 45) but also (paragraph 63) that the Studios do not have any strategic planning significance and as such cannot be compared to the facts in the judgment in relation to Daws Hill, Wycombe case which addressed (and upheld) the lawfulness of the exclusion of sites from the proposed neighbourhood area which were strategic allocations within the Local Plan following an application by a neighbourhood forum.

- i. Paragraph 61 of the Supporting Statement points to the fact that Iver Parish Council is the only body that can apply for designation of the Parish as a neighbourhood area.
- j. Paragraph 68 (fifth bullet point) asserts that the Pinewood Studios Limited land should be included in any future neighbourhood plan as it lies within the Parish of Iver and due to its “impact throughout the parish and on those living within it.”

5.3 Although all the points raised in the Supporting Statement by Planning Progress Limited need to be taken into account they are not considered to be as relevant in the determination of this application, contain some factual errors and as such is suggested should not be given the same weight. The key factual errors or points necessary to clarify being:

- a. In Paragraph 4 it is stated that as part of the first Neighbourhood Area application Iver Parish Council was given “guidance” by South Bucks District Council. This implies that guidance was given on the application prior to its submission which was not the case. In a meeting to discuss the Parish Councils emerging Neighbourhood Plan it was established that the Parish Council was employing a professional advisor and as such officers would seek to provide advice or guidance to the Parish Council as and when requested. Officers on request provided an explanation of the neighbourhood area application process and details of applications submitted by parishes in Chiltern District. No specific guidance was requested as to the relevant or appropriate extent of the neighbourhood area or provided however officers offered to comment on any draft statement in advance of an application but this was not taken up by the Parish Council or their advisor. No further consultation or guidance was sought by the Parish Council.
- b. Paragraphs 6 and 7 imply and Paragraph 9 states that Pinewood Studios representation may have been a late representation in respect of the first application. This was not the case. The Council has to consult on the application for a minimum of 4 weeks and the website, notification letters, e-mails, Parish Council website and notices and press release were clear what the consultation end date was and Pinewood Studios representation was received within this period.
- c. Paragraph 7 states that the Parish Council were not given any opportunity to comment on Pinewoods response to the consultation. It is acknowledged that the time available for the Parish Council to comment was tight given that the application needed to be determined on or by 24th December however they were notified on 16th December 2015 and given to 10.00am on 21st December to provide comments. This opportunity is however subsequently acknowledged in Paragraph 9. The key point that the time given to comment was tight is accepted. It should be noted that Pinewood Studios have made representations in respect of the second application which was received on 9 May 2016. Appendix 4 contains a response from the Parish Council confirming they have seen Pinewood Studios representations and maybe providing comments prior to the Cabinet meeting.

-
- d. Paragraph 8 (and 9) states that the Parish Council were given “an ultimatum” to withdraw the application or the Council would refuse the application. This was not the case. It was made clear to the Parish Council that the recommending officer was minded to recommend refusal but in doing so set out options and the opportunity to comment prior to finalising the recommendation. This was via e-mail, reproduced in Appendix 5 to this report.
 - e. Paragraph 14 refers to Counsel’s advice not being shared with the Parish Council. This is correct as this is a legally privileged document. The principle purpose in seeking the opinion was not to provide support for a pre-determined position or to advise what decision to take, as may be inferred, but to advise the Council on the matters it should and should not take into account particularly in relation to case law when it determined the application. It is for the Council to determine the planning consideration of the application.
 - f. Paragraphs 21 to 29 provide Planning Progress Limited’s’ interpretation or opinion on statutory provisions and view on the government intention behind these provisions. Officers have sought further legal advice on this interpretation and following consideration of this advice the outcome has been incorporated where relevant in this report. Although Planning Progress Limited’s view should be taken into account the Council will need to come to its own views on the appropriate understanding of the law based on appropriate independent legal advice.
 - g. Similarly to f) above paragraphs 30 to 39 provide Planning Progress Limited’s interpretation on national planning policy and guidance and how in their view this should be interpreted.
 - h. Paragraph 44 states that the first application supporting statement was submitted on a standard South Bucks District Council template and was provided to the Parish Council for that purpose. There is no South Bucks District Council template for a supporting statement and it is up to individual parish councils to prepare and submit their statement. Officers were however asked in a meeting for examples of statements and the Parish Council was directed to Chiltern District Council website along with advice to look at other Council websites where neighbourhood areas had been declared if they wanted to consider earlier examples.
 - i. Paragraph 61 implies that South Bucks District Council had been in discussions with Pinewood Studios on the neighbourhood area first application. If this is the intended inference then it is incorrect as the Council has not been in discussion and only received a duly submitted consultation response from Pinewood Studios Limited.

5.3 Like the earlier application the new application was published in the same way but in addition the 15 people/organisations who submitted representations on the earlier application were also notified directly of the new application. The application was advertised for 4 weeks, with the consultation closing on 9th May 2016.

5.4 The following table sets out a summary of the applications received.

Representation Type	Count
Supporting Representations	10 *
Conditional Support	1
No objections	2
Conditional No Objections	0
Objections	1
Neutral Representations	4
TOTAL	18
Late Representations (at the time of writing this report) – see Appendix 3	0

* Includes 2 separate supporting reps from the same person

Appendix 2 to this report contains a more detailed table including a summary of the actual consultation responses. In addition the response from Pinewood Studios Limited is provided in full. This representation considers the Parish Council's latest supporting statements and echoes its previous submissions. It once again objects to the inclusion of its land within the neighbourhood area.

5.5 In addition the Parish Council was provided with copies of representations received and where they have responded these are set out in Appendix 4.

6. Considerations

6.1 When determining the application, Cabinet should take the following into account:

- a. Relevant statutory provisions
- b. National policy and guidance, set out in the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG)
- c. Relevant case law
- d. The Iver Parish Council application, set out in their Supporting Statement (see Appendix 1)
- e. Consultation responses to the application (Appendix 2)
- f. Any views expressed by the Parish Council on representations received (Appendix 4)
- g. The relevant planning matrix of any area being considered for potential exclusion.

6.2 In determining the Neighbourhood Area application the Council must determine the whether it is appropriate to designate the Neighbourhood Area, having regard to the

desirability of designating the whole of the area of a parish council as a neighbourhood area. National Planning guidance is that a local authority should aim to designate the area as applied for.

- 6.3 From the above the key issue resulting from the Iver Neighbourhood Area application and public consultation responses is whether the Neighbourhood Area should or should not include Pinewood Studios and as such the Pinewood Studios planning matrix should be considered.
- 6.4 The above considerations are now set out under sub-headings below.

Statutory Requirements

- 6.5 The following key statutory requirements need to be taken into account:
1. Regulation 5 of the Neighbourhood Planning (General) Regulations 2012 (SI 2012/637) (“the NP Regulations”) provides:

“(1) Where a relevant body submits an area application to the local planning authority it must include—

 - (a) a map which identifies the area to which the area application relates;
 - (b) a statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and
 - (c) a statement that the organisation or body making the area application is a relevant body for the purposes of section 61G of the 1990 Act.”
 2. Regulation 6A of the NP Regulations provides that:

“(1) Where a local planning authority receive an area application from a relevant body the authority must determine the application by the date prescribed in paragraph (2).

(2) The date prescribed in this paragraph is—

;

(b) where the relevant body is a parish council and the area to which the application relates is the whole of the area of the parish council, the date eight weeks from the date immediately following that on which the application is first publicised.”
- 6.6 Iver Parish Council is a “relevant body” and submitted all relevant parts to its application and therefore Regulation 5 (point 1. above) has been complied with. To comply with Regulation 6A (point 2. above) the Council will need to determine the application on or by 6th June 2016 and as such a Cabinet decision is required at this meeting.

National Planning Policy Framework (NPPF)

6.7 Paragraphs 183–185 of the NPPF relate to neighbourhood planning, and provide as follows:

183. Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes and neighbourhood forums can use neighbourhood planning to:

- set planning policies through neighbourhood plans to determine decisions on planning applications; and
- grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.

184. Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.

185. Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area. Once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict. Local planning authorities should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation."

National Planning Practice Guidance

6.8 Section ID41 of the NPPG addresses Neighbourhood Planning providing "advice on the neighbourhood planning system introduced by the Localism Act including key stages and decisions (e.g. deciding neighbourhood areas, the legal tests for neighbourhood plans, and the process of independent examination and referendum). At para ID41:24 in particular it states:

“An application must be made by a parish or town council to the local planning authority for a neighbourhood area to be designated (see regulation 5 of the Neighbourhood Planning (General) Regulations 2012 (as amended)). This must include a statement explaining why the proposed neighbourhood area is an appropriate area.”

Para ID41:25 goes on to state that:

“The community should consult the local planning authority before making an area application. There should be a positive and constructive dialogue about the planning ambitions of the community and any wider planning considerations that might influence the neighbourhood planning process if the outcome of that process is to be a neighbourhood plan or Order that meets the basic conditions for neighbourhood planning.”

6.9 At para ID41:32 the NPPG deals in particular with the question “What flexibility is there in setting the boundaries of a neighbourhood area?” answering as follows:

“In a parished area a local planning authority is required to have regard to the desirability of designating the whole of the area of a parish or town council as a neighbourhood area (see 61G(4) of the Town and Country Planning Act 1990). Where only a part of a parish council’s area is proposed for designation, it is helpful if the reasons for this are explained in the supporting statement. Equally, town or parish councils may want to work together and propose that the designated neighbourhood area should extend beyond a single town or parish council’s own boundaries. In areas where there is no parish or town council those wishing to produce a neighbourhood plan or Order must put forward a neighbourhood area using their understanding and knowledge of the geography and character of the neighbourhood.”

6.10 In terms of relevant considerations when setting a boundary of a neighbourhood area NPPG para ID41:33 provides:

“The following could be considerations when deciding the boundaries of a neighbourhood area:

- village or settlement boundaries, which could reflect areas of planned expansion
- the catchment area for walking to local services such as shops, primary schools, doctors’ surgery, parks or other facilities
- the area where formal or informal networks of community based groups operate
- the physical appearance or characteristics of the neighbourhood, for example buildings may be of a consistent scale or style
- whether the area forms all or part of a coherent estate either for businesses or residents

- whether the area is wholly or predominantly a business area
- whether infrastructure or physical features define a natural boundary, for example a major road or railway line or waterway
- the natural setting or features in an area
- size of the population (living and working) in the area”

6.11 Para ID41:34 of the NPPG addresses circumstances where it is proposed to change the neighbourhood area boundary prior to the council decision suggesting that

“Where the local planning authority has not yet made a decision on the area application, it has the option of advising that a new application be submitted with the revised boundary. If the local planning authority accepts the new application it must publish and consult on this new area application for at least six weeks”

Para ID41:35 then goes to advise:

“A local planning authority must designate a neighbourhood area if it receives a valid application and some or all of the area has not yet been designated (see section 61G(5) of the Town and Country Planning Act 1990 Act...

6.12 The Council should aim to designate the area applied for. However, a local planning authority can refuse to designate the area applied for if it considers the area is not appropriate. Where it does so, the local planning authority must give reasons. The authority must use its powers of designation to ensure that some or all of the area applied for forms part of one or more designated neighbourhood areas.

6.13 When a neighbourhood area is designated a local planning authority should avoid pre-judging what a qualifying body (i.e. in this case Iver Parish Council) may subsequently decide to put in its draft neighbourhood plan or Order. It should not make assumptions about the neighbourhood plan or Order that will emerge from developing, testing and consulting on the draft neighbourhood plan or Order when designating a neighbourhood area.

6.14 In terms of including land allocated in the Local Plan as a strategic site the NPPG confirms at para ID41:36 that a neighbourhood area

“can include land allocated in a Local Plan as a strategic site. Where a proposed neighbourhood area includes such a site, those wishing to produce a neighbourhood plan or Order should discuss with the local planning authority the particular planning context and circumstances that may inform the local planning authority’s decision on the area it will designate.”

Case Law

6.15 The High Court and subsequently the Court of Appeal have considered the relevant legislative framework and the principles to be considered and applied when setting a neighbourhood area boundary and in particular the local planning authority's discretion to disagree with the applicant body and amend the proposed neighbourhood area.

6.16 In *Daws Hill Neighbourhood Forum v Wycombe District Council (Daws Hill)*, the challenge by the Daws Hill Neighbourhood Forum ('the DHNF') was that the Local Planning Authority (Wycombe DC) had been wrong to decide to designate a Neighbourhood Area that was smaller than that which DHRA had applied for. The neighbourhood area designated by the Council excluded two sites included in the application which were formally recognised strategic sites within the Council's Adopted Core Strategy and there was in existence at the time of the decision a Council's Position Statement on Housing and Land for Business which contained two site-specific policies relating to the same sites (Daws Hill and Handy Cross). The relevant Council decided not to include these strategic sites within the NA on the following bases:

“▪ Any development of the key strategic sites (RAF Daws Hill and Wycombe Sports Centre [otherwise known as Handy Cross Sports Centre]) outside the existing 'immediate' neighbourhood will have implications that impact upon a wider sphere of influence. Strategic issues come into play with the planning of these sites, including any supporting transport measures. There are larger than local impacts and larger 'communities of interest'.

▪ It is considered likely that if and when a neighbourhood plan, including one or more of the 'strategic' sites, came to examination an Inspector would judge (presuming the emerging plan was found 'sound' and 'compliant') that the referendum would need to take place over a wide area, reflecting the wider 'community of interest'.

▪ In the interests of the investment of time, energy and cost the resulting work on a neighbourhood plan needs to be well targeted. With planning matters advancing on the two key strategic sites (Wycombe Sports Centre and RAF Daws Hill) this introduces an important consideration of timeliness. An outline planning application is under consideration by the Council at Wycombe Sports Centre, and a planning application for the former RAF Daws Hill site is expected. A Neighbourhood Plan would have to follow the various statutory stages set out in regulations culminating in an Examination and, after that, a Referendum. For both the original and amended areas proposed significant cost is likely to be incurred and it is considered that the investment (not only by the community but also Wycombe District Council) in such an exercise would not be timely because of the existing and expected timing of planning applications and associated decisions. Furthermore there are other opportunities for input to decisions under consideration for the key strategic sites.

- To designate a Neighbourhood Area to include the full area in the application could unrealistically raise expectations as to the effectiveness of a Neighbourhood Plan in relation to the strategic development sites. The community and the Local Planning Authority cannot stop the submissions of planning applications and the likelihood is that a neighbourhood plan would be overtaken by events. This could lead to frustration and confusion.
- Among the responses received to the original Neighbourhood Area application (whose consultation period ran from 18 May to 29 June) were two from landowning interests in the proposed area objecting to their sites being included therein. One respondent also objected that including the strategic sites at RAF Daws Hill and Wycombe Sports Centre in the Neighbourhood Area would be inappropriate as the proposals at these sites will have ‘wider than local’ impacts, particularly on strategic transport measures for the southern quadrant area.”

6.17 The arguments put forward in judicial review for unlawfulness of the decision in summary were that by excluding the two sites the local authority had failed to take into account the purpose of the 2011 Act, namely to give new rights and powers to enable local communities to participate in the planning process within their local area through neighbourhood planning. Particular emphasis was given to the nature of the Council's discretion in deciding whether a proposed neighbourhood area is appropriate.

6.18 The Court rejected the claim and in his ruling the judge concluded the following at para 57:

“ Section 61G(5) of the 1990 Act (inserted by the 2011 Act) requires the local planning authority in determining an application for a neighbourhood area to consider whether the area proposed is appropriate. The discretion given to the authority is a broad one. The exercise of discretion turns on the specific factual and policy matrix that exists in the individual case at the time the determination is made. In my judgment the Council properly had regard to the specific circumstances that existed at the time when the decision was made to designate a Neighbourhood Area which excluded the RAF Daws Hill site and the Handy Cross Sports Centre site.”

6.19 The circumstances included taking into account if it appeared likely “there will have to be a referendum over a wider area than the proposed neighbourhood area that consideration”. In the High Court Judge’s view that reinforced “the Council’s concern that there is a mis-match between the area represented by the DHNF and the area it sought to control for the purpose of neighbourhood planning. Moreover if a referendum is to be conducted over a wider area for the Neighbourhood Plan to be successful it may require the support of at least 50 per cent of the vote of those

outside the neighbourhood area proposed by the DHNF, who have not previously been involved in the preparation of the plan” [54].

6.20 The Judges reasoning was upheld in the Court of Appeal. In particular the Court of Appeal confirmed:

The broad discretion. The language of s.61G did not support the existence of the limitation as submitted by the appellants. Both subs. (1) and (5) described the designation function as a power, not a duty. On the face of it, a power given to a local planning authority to decide whether a specified area was "an appropriate area" to be designated as a neighbourhood area necessarily conferred a broad discretion. The designation of an area as a neighbourhood area was not an end in itself. The purpose of designating an area as a neighbourhood area was to define the area within which a neighbourhood forum [in this instance] (outside the area of a Parish Council) was authorised to exercise certain planning powers: the making of a neighbourhood plan and/or a neighbourhood development order. When determining the issue of appropriateness, it could, therefore, be necessary to have regard to a wide range of planning considerations [para 7]

When imposing the duty on the manner in which the designation power had to be exercised under s.61G (5) Parliament clearly envisaged that a local planning authority might exercise the power so as to designate a smaller area as a neighbourhood area leaving part or parts of the specified area out of any neighbourhood area.

Any decision of the local planning authority as to appropriateness had to take into account the factual and policy matrix that existed in each individual case at the time that the decision was made. Outline planning permission had been granted for the Sports Centre site and a revised outline application was under consideration. A planning application pursuant to a highly prescriptive development brief for the Daws Hill site had been approved in draft for consultation. Given that the primary purpose of the DHRA was to influence the scale of development on the two strategic sites through the neighbourhood development process, the Council was entitled to conclude that any neighbourhood development plan would be overtaken by events. In these circumstances, the Council was entitled to conclude that in this particular case, false expectations would be raised and time and resources would be wasted. This particular combination of factors could not sensibly be described as an irrelevant consideration for the purpose of the exercise of the designation power in s.61G (5).[19-22]

The Council ought to have regard to the character of the area when deciding to exclude the two strategic areas from the designated neighbourhood area and on a fair reading of the Council's reports it was clear that, both officers and

members were very well aware of the character of the various parts of the specified area proposed by the DHRA, and in particular they were familiar with the character of the two strategic sites [23-24].

Consultation and Consultation Responses

6.21 These are considered in Section 4 above and in appendices 2 and 3 to this report.

Pinewood Studios Planning Matrix

6.22 The planning matrix is important in that it will establish the current Development Plan approach to Pinewood Studios, key planning decisions that provide a material current and future planning policy context for the site and where possible the potential planning policy position in the emerging Development Plan.

Planning Document	Summary Planning Position	
	Existing Studios Site	Studios Extension (partially under construction)
South Bucks Saved Local Plan, 1999 and relevant part of the Proposals Map i.e. part of the existing Development Plan	<p>Specific policy, Policy E2;</p> <p>“The Pinewood Studios site as identified on the proposals map is allocated for film studio use. Extensions, new buildings and conversions within the site will be permitted provided that:</p> <ul style="list-style-type: none"> a) the proposals are for uses directly connected with film production or associated industries; and b) the proposals would be in accordance with all the other policies in the plan. Particular attention is drawn to policies EP3 (Use, Design and Layout of Development) and GB12 (Development Adjacent to Settlement Boundaries). <p>Proposals for redevelopment or re-use of the studios will only be permitted where:</p> <ul style="list-style-type: none"> i) it is demonstrated that the site is no longer required for studio use; and ii) the proposal would be for an employment generating use; and iii) the proposals would not result in a 	<p>Included within the Green Belt and as such protected against inappropriate development.</p>

	<p>significantly higher level of employment than currently exists at the site; and</p> <p>iv) the proposal would result in a reduction in the overall footprint of buildings on the site and incorporate substantial landscaping; and</p> <p>v) the proposal would be in accordance with all the other policies in this plan. Particular attention is drawn to policies EP3 (Use, Design and Layout of Development) and GB12 (Development Adjacent to Settlement Boundaries).</p> <p>In the event of any redevelopment the Council will prepare a development brief for the site.”</p> <p>The above policy is accompanied by the following (extract) explanatory text:</p> <p>“10.17 Pinewood Studios is a site of national and international significance for the production of films. The Council is not aware of any plans for the studio to relocate or close in the foreseeable future. However, the Council considers that a planning policy context for any future proposals is necessary and that the retention of this unique site for film production is extremely desirable. Therefore, Policy E2 allows for new development within the site boundary for studio and related uses.”</p>	
<p>South Bucks Core Strategy, 2011 and relevant part of the Proposals Map</p> <p>i.e. part of the existing</p>	<p>The site is included as part of a wider Biodiversity Opportunity Area and the Colne Valley Park (both related to Policy (CP9).</p> <p>Paragraph 1.2.28 states “Large employers based in South Bucks include the nationally important Pinewood Studios”</p>	<p>The site is included as part of a wider Biodiversity Opportunity Area and the Colne Valley Park (both related to Policy (CP9).</p>

<p>Development Plan</p>		
<p>Emerging Chiltern and South Bucks Local Plan (note at an early stage having only completed the Regulation 18 and Issues and Options consultation)</p>		<p>The Issues and Options consultation document includes in Option K iii) “removal of some employment areas from the Green Belt on the edge of settlements likePinewood Studios, Iver Heath.</p> <p>In addition Option E sets out Green Belt Strategic Options in Iver Heath for further testing which includes land to the north and South East of the Pinewood Studio extension site.</p>
<p>Planning Permission for the extension of the Studios</p>		<p>Planning permission granted on appeal by the Secretary of State (in summary) for an extension and reconfiguration of the Studios and related activities*, determining that the development although inappropriate in the Green Belt had ‘very special circumstances’ due to the national interest.</p> <p>Permission was granted by the Secretary of State to provide an appropriate long term framework for the redevelopment and expansion of the Studios reflecting its unique requirements.</p> <p>In addition the appeal decision gave a clear indication that the site should be removed from the Green Belt as part of a future Local Plan review.</p>

* The reconfiguration and expansion of facilities for screen based media, including film, television and video games, and associated services and industries, comprising: demolition of outdated accommodation; erection of new stages, workshops, office accommodation, demountable modular buildings, entrance structures and reception and security offices, gas CHP energy centre, underground waste water treatment plant, recycling facilities, backlots and film streetscapes, external film production; creation of new vehicular and pedestrian access from Pinewood Road, emergency access from Sevenhills Road, access roads within the site, surface and multi-level car parking; and associated landscaping and ecological habitat creation works.

- 6.23 From the above it is clear that the existing Pinewood Studios has a specific policy in the 1999 South Bucks Local Plan, which has been saved, because it is a “site of national and international significance for the production of films.” This importance has also been recognised and re-enforced in the 2011 South Bucks Core Strategy. As such the Development Plan is considered to allocate the existing Pinewood Studios as a strategic allocation for its continued use for film production originally in 1999 when the Local Plan was adopted but also subsequently retained in 2007 when ‘saved policies’ were first considered and again in 2011 when the Core Strategy was adopted.
- 6.24 The Studios have been granted planning permission for extension and importantly the re-configuration of uses on the existing site specifically because of the national interest represented by the work of the Studios (interpreted to be of strategic importance). This indicates that the existing studios and extended site should be considered as one in terms of significance (national or otherwise). The ‘extension’ part of the site is specifically identified in the emerging Chiltern and South Bucks Local Plan consultation as an option to be considered for removal from the Green Belt (again re-enforcing its strategic importance as land can only be removed from the Green Belt in exceptional circumstances).
- 6.25 The combination of the Development Plan and site extension justification for granting planning permission indicates that the Studios and extension together should be regarded as a strategic site, a position being re-enforced as part of the options under consideration in the emerging Local Plan in terms of the extension site but also potentially for land adjacent to it (albeit that the emerging Local Plan is at a very early stage).

7. Determination of the Application

- 7.1 The Council must determine this application first by reference to whether it considers it is desirable to designate the whole of the Parish Council area and whether the area applied for is appropriate. In reaching its conclusions the authority ought to have regard to relevant case law, national policy and guidance and other relevant material considerations including representations received.

- 7.2 National planning policy guidance provides that the local planning authority should take into account the applicant body's statement explaining why the area applied for is considered appropriate to be designated as such and that it should aim to designate the area applied for.
- 7.3 The advice that the Council has received is that there is no presumption arising in law where a Parish council applies for a neighbourhood area which reflects and is limited to the administrative area of the Parish Council in favour of granting the application of that area without more. The Council has a broad discretion.
- 7.4 The above analysis in this report and appendices has led to the conclusion that Cabinet should be recommended to refuse the neighbourhood area for the whole of Iver Parish for the reasons set out above and thereafter should designate a Neighbourhood Area excluding the Pinewood Studios land as shown on plan in Appendix 6.
- 7.5 In refusing the application the Council is required to set out its reasons for doing so and these are contained within Recommendation 1 above.

8. Consultation

- 8.1 The Neighbourhood Area Application has been the subject of a 4 week public consultation ending on 5.00pm on 9th May 2016. Consultation responses are set out in Appendix 2.

9. Options

- 9.1 The Council has two options. Firstly to allow the application and designate the entire Iver Parish area as a neighbourhood area or secondly refuse the application but thereafter designate a different area to that applied for namely the Parish Council area excluding Pinewood Studios.
- 9.2 No other neighbourhood area issues have been identified through the consultation.
- 9.3 No other changes to the proposed neighbourhood area have been sought or proposed.

10. Corporate Implications

10.1 Financial

Should the Council declare a Iver Neighbourhood Area then the Council will be eligible to apply for a £5,000 grant from government. This will in part off-set the costs incurred. Otherwise costs will be met from the Planning Policy budget and reserve.

10.2 *Legal*

The Council has sought legal advice on the earlier application and the current application and this advice is incorporated into the report.

11. **Links to Council Policy Objectives**

11.1 The recommendations to this report reflect the following Council priorities:

- a) We will deliver cost-effective, customer focused services
 - 1. Provide great value services – *by seeking to ensure that any further referendum area is the most appropriate to the matter in which it relates*
 - 2. Listen to our customers – *by taking into account the consultation responses*
- b) We will work towards safer and healthier communities
 - 3. Promote local communities – *by seeking to ensure that communities have a full and active involvement in both the emerging local plan and neighbourhood plans without falsely raising community expectations on the likely scope of a neighbourhood plan*

12. **Next Step**

12.1 Officers will formally write to Iver Parish Council to notify them. The decision of the Cabinet will also be published on the website (including the full reasons for excluding Pinewood Studios if this is the outcome) and the Iver Neighbourhood Area will be declared.

Background Papers:	Papers relating to the application and consultation process, all identified in the report and appendices
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Appendix 1

Iver Parish Council Supporting Statement

IVER PARISH COUNCIL

(incorporating Iver, Iver Heath and Richings Park)



63, Chequers Orchard
IVER
Bucks
SL0 9NJ

Mr Peter Beckford
Head of Sustainable Development
South Bucks District Council
Capswood
Oxford Road
Denham
Bucks. UB9 4LH

24th March 2016

Dear Mr Beckford,

Application for Designation of a Neighbourhood Area

Iver Parish Council wish to apply for the designation of the Parish of Iver as a Neighbourhood Area with the intention to develop a Neighbourhood Plan as defined by the Neighbourhood Planning (General) Regulations 2012. Iver Parish Council is a relevant body as defined by the Town and Country Planning Act 1990 section 61G.

The Neighbourhood Area is to incorporate the whole of the Parish area (map enclosed).

Supporting Statement

Iver Parish Council represents the needs, views and requirements of all the residents who reside within the Parish. The Council continues to be instrumental in co-ordinating responses to the Chiltern and South Bucks Local Plan through meetings and consultations held with residents and local groups.

With this background, Iver Parish Council considers that it is appropriate that the Parish be designated as a Neighbourhood Area. This will allow the Parish Council to understand and be responsive to residents' wishes across the Parish and to work with the Parish residents to develop a Neighbourhood Plan that satisfies local needs.



QUALITY
PARISH
COUNCIL

Telephone 01753 655331 Fax 01753 654922 e-mail clerk@iverparishcouncil.gov.uk
www.iverparishcouncil.gov.uk

We have considered carefully and taken professional advice on the Pinewood representations on the Parish Council's first application for designation of a Neighbourhood Area made in September 2015 and our detailed Supporting Statement is contained in a separate document which accompanies this letter.

In accordance with the statutory scheme and all Government guidance the whole Parish is the 'specified area' for this application and should be designated as the Iver Neighbourhood Area. There is no justification for excluding any part of the Parish from the Neighbourhood Area since to do so would disenfranchise those residents of the Parish who live in any excluded area or who may be otherwise affected by any such exclusion.

Iver Parish Council does not wish to extend the area proposed for designation as a Neighbourhood Area beyond the Parish boundary as it considers that other, more appropriate bodies exist to cover areas outside the Parish boundary.

The Neighbourhood Plan team has been set up and formally approved by the Parish Council as its recognised and authorised body for the creation of a Neighbourhood Plan for the village.

Iver Parish Council will display a public notice on the Parish website, on all of our Parish noticeboards and in the Community Library. A notification will be sent to the press.

Yours sincerely,



Colin Barlow
Clerk
Iver Parish Council



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Iver Neighbourhood Plan
Second Application for Area Designation
February 2016

SUPPORTING STATEMENT

Introduction and background

1. Planning Progress Limited ("PPL") is engaged by Iver Parish Council ("IPC") to provide professional support for the Iver Neighbourhood Plan ("INP").
2. IPC, as the qualifying body for the INP submitted the first application for designation of the Iver Neighbourhood Area ("INA") to South Bucks District Council ("SBDC") by letter dated 24 September 2015 ("First Application").
3. SBDC gave due notice on its website of the First Application having been received on Wednesday 27 October 2015 and stated that a four-week consultation period was to conclude at 5pm on 27 November 2015 (although four weeks from 27 October 2015 ends on Wednesday 24 November).
4. Following guidance from SBDC, the area applied for in the First Application was the whole of the Parish of Iver and the 'Supporting Statement' contained within IPC's letter of 24 September 2015 provides clear justification for that.
5. On 16 December 2015, almost three weeks after the end of the First Application consultation period, SBDC informed IPC of a representation submitted by Turley ("Turley's Report" or "TR") on behalf of Pinewood Studios Ltd ("PSL") seeking the exclusion of PSL land ("the PSL Land") from the INA.
6. The question obviously arises as to whether Turley's Report, dated 27 November 2015, was *received* by SBDC by 5pm on 27 November 2015. It was certainly not submitted within four weeks of 27 October.
7. Notwithstanding what appears to be a late representation on behalf of PSL, and prior to having any knowledge of the content of Turley's Report or any opportunity to comment on it, IPC were told by email of 16 December that SBDC intended to accede to Turley's request to exclude the PSL Land from the INA.

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8. SBDC's 16 December email gave IPC an ultimatum to withdraw the First Application or SBDC would refuse it and exclude the PSL Land from the INA.
9. SBDC gave IPC until 10am on 21 December 2015 - *in effect, two working days* - to submit comments on the late PSL representations or else SBDC would refuse the First Application and declare the INA excluding the PSL Land, even though at this time SBDC had had no discussion with IPC about this.
10. In the unreasonably short time period given by SBDC, IPC was not able to respond substantively to the PSL representations (Turley's Report is 39 pages long), so IPC had no option but to withdraw the First Application.
11. Turley's Report and the representations it makes on behalf of PSL are fundamentally flawed for the reasons set out below. This is the Supporting Statement to IPC's second application for the INA ("the Second Application").
12. The Second Application is made by IPC as the qualifying body for the INP, and the local council with administrative jurisdiction for the Parish of Iver, on the same basis as the First Application. That is, for the whole of the Parish to be designated as the INA as was originally supported by SBDC.
13. Paragraph 3, Schedule 4B, Town and Country Planning Act 1990 (as amended) imposes a statutory duty on all LPAs to "*give such advice or assistance to qualifying bodies as, in all the circumstances, they consider appropriate for the purpose of, or in connection with, facilitating the making of proposals for neighbourhood development [plans] in relation to neighbourhood areas within their area*".
14. SBDC owes this duty to IPC, not to PSL or any other business or landowner. Contrary to this duty, SBDC has so far refused to share with IPC the Counsel's opinion it sought and which, SBDC claims, supports PSL's position. So even now, IPC, as the qualifying body owed a statutory duty by SBDC, does not have access to all the information that previously inclined SBDC to grant PSL's request.

Planning significance of PSL Land

15. As we understand it, PSL is a corporate landowner of some 83 hectares - the PSL Land - entirely within the Parish of Iver, and on some of that land operates a number of businesses collectively known as Pinewood Studios. That in itself does not suggest any particular planning significance.
16. We are of course aware of the planning appeal (APP/N0410/A/13/2199037) that TR refers to as the PSDF - 'Pinewood Studios Development Framework' - appeal. As the Inspector notes at para. 14 of the Appeal Decision of 11 April 2014, 'Pinewood Studios Development Framework' is PSL's own term, not to be confused with SBDC's statutory Local Development Framework or any other designated status.



17. The economic significance of the businesses that comprise Pinewood Studios is obvious, and duly recognised by the appeal Inspector and the Secretary of State. However, *"the national, regional and local strategic significance of Pinewood Studios"* may be a "given" as far as Turley is concerned but as far as we are aware the PSL Land has no strategic planning designation nor any national, regional or local 'strategic significance' in planning terms.
18. 'Pinewood Studios' is covered by a planning policy in the South Bucks District Local Plan, adopted in 1999 and consolidated in 2007 and 2011. Saved 'Policy E2' is a policy intended to protect the 'employment' use of the site. This is referred to in para. 52 of the Appeal Decision but not in Turley's Report; maybe because the Local Plan does not refer to or characterise 'Pinewood Studios' as a strategic site.
19. What must be considered in this context is an 83 ha area of land under single ownership, but with a more complicated pattern of use and development, that is subject to a single outline planning permission with a long list of conditions attached to it. Inevitably, the proposed development and the outline permission will create wider transport impacts (as the existing site already does) but there is nothing inherently strategic or strategically significant about this in planning terms.
20. Even if the PSL Land is considered of strategic significance, that is no reason for it to be "inappropriate" or not "desirable" to include in the INA.

Statutory Rules on Area Designation

21. Section 61G, Town and Country Planning Act 1990 (as amended) sets out the scheme of regulations under which a 'neighbourhood area' is designated. The LPA has what is expressly referred to as a '*power of designation*' but only where a '*relevant body*' has applied to have a 'neighbourhood area' designated; s.61G(1).
22. A '*relevant body*' can only be a '*parish council*' or an '*organisation or body which is, or is capable of being, designated as a neighbourhood forum*'; s.61G(2). The two types of '*relevant body*' are clearly different and are therefore treated differently under this legislation; a '*parish council*' is an integral part of the 'government family' with existing jurisdiction over its parish area. A '*neighbourhood forum*' has to establish its credentials to be designated as such via a separate application process.
23. The distinction between a '*parish council*' and a '*neighbourhood forum*' is maintained in the all-important definition of '*the specified area*' at s.61G(3). which;

"(a) in the case of an application by a parish council, must be one that consists of or includes the whole or any part of the area of the council, and

(b) in the case of an application by an organisation or body, must not be one that consists of or includes the whole or any part of the area of a parish council."



24. Section 61G(4)(a) provides that *"in determining an application the [LPA] must have regard to the desirability of designating the whole of the area of a parish council as a neighbourhood area."*
25. Section 61G(5) then sets out that; *"If ...
(a) a valid application is made to the authority,
(b) some or all of the specified area has not been designated as a neighbourhood area, and
(c) the authority refuse the application because they consider that the specified area is not an appropriate area to be designated as a neighbourhood area,
the authority must exercise their power of designation so as to secure that some or all of the specified area forms part of one or more areas designated (or to be designated) as neighbourhood areas."*
26. Section 61G(6) goes on to provide that in determining an area designation application the LPA may *"modify designations already made; but if a modification relates to any extent to the area of a parish council, the modification may be made only with the [Parish] council's consent."*
27. Whilst a literal interpretation of these regulations appears to lead to some inconsistencies and ambiguities, the rationale is clear; *"the authority must exercise their power of designation so as to secure that ... all of the specified area forms part of one or more areas designated (or to be designated) as neighbourhood areas";* s.61G(5).
28. It is the words *"some or"* in s.61G(5) that cause confusion and should have been omitted from the subsection. This is tested by reinserting *"some"* and deleting *"or all"* so that s.61G(5) reads; *"the authority must exercise their power of designation so as to secure that some ... of the specified area forms part of one or more areas designated (or to be designated) as neighbourhood areas"*. This becomes an absurdity because it would mean that the *'power of designation'* only need apply to a very small part of *'a specified area'* and in that case would be a meaningless concept.
29. In our view the combined effect of s.61G(3) - (5) is not as clear as it should be but the *'power of designation'* is intended to be, and only makes any sense if it is considered, *an inclusive power* and the overall effect of these provisions is to establish a universal and interlocking network of neighbourhood areas.

Planning Policy Guidance

30. The approach summarised in paragraph 29 above is endorsed by paragraph 032 of the Government's Planning Policy Guidance ("PPG");
"In a parished area a local planning authority is required to have regard to the desirability of designating the whole of the area of a parish or town council as a neighbourhood area (see 61G(4) of the Town and Country Planning Act 1990). Where only a part of a parish council's area is proposed for designation, it is helpful if the reasons for this are explained in



the supporting statement. Equally, town or parish councils may want to work together and propose that the designated neighbourhood area should extend beyond a single town or parish council's own boundaries."

31. The local planning authority **is required to have regard to the desirability of designating the whole [parish] area**; this is a clear statutory duty on the LPA. The normal, default position is clearly for a parish council to apply for the whole of its parish area, and only where it does not - and instead applies for only part of its parish area - do reasons for *that* need to be given in the supporting statement.

32. Furthermore the pre-text for PPG para. 033 is in the second part of PPG para 032;:

"In areas where there is no parish or town council those wishing to produce a neighbourhood plan ... must put forward a neighbourhood area using their understanding and knowledge of the geography and character of the neighbourhood."

33. In those cases, where an area application is not being made by a parish or town council, para. 033, PPG, then suggests that;

"the following could be considerations when deciding the boundaries of a neighbourhood area:

- *village or settlement boundaries, which could reflect areas of planned expansion*
- *the catchment area for walking to local services such as shops, primary schools, doctors' surgery, parks or other facilities*
- *the area where formal or informal networks of community based groups operate*
- *the physical appearance or characteristics of the neighbourhood, for example buildings may be of a consistent scale or style*
- *whether the area forms all or part of a coherent estate either for businesses or residents*
- *whether the area is wholly or predominantly a business area*
- *whether infrastructure or physical features define a natural boundary, for example a major road or railway line or waterway*
- *the natural setting or features in an area*
- *size of the population (living and working) in the area"*

34. The *inclusive* approach to designation set out in the s.61G is further emphasised by para. 035, PPG, as follows.

"A local planning authority must designate a neighbourhood area if it receives a valid application and some or all of the area has not yet been designated.

The local planning authority should take into account the relevant body's statement explaining why the area applied for is considered appropriate to be designated as such.

The local planning authority should aim to designate the area applied for. However, a local planning authority can refuse to designate the area applied for if it considers the area is not



appropriate. Where it does so, the local planning authority must give reasons. The authority must use its powers of designation to ensure that some or all of the area applied for forms part of one or more designated neighbourhood areas.

When a neighbourhood area is designated a local planning authority should avoid pre-judging what a qualifying body may subsequently decide to put in its draft neighbourhood plan or Order. It should not make assumptions about the neighbourhood plan or Order that will emerge from developing, testing and consulting on the draft neighbourhood plan or Order when designating a neighbourhood area."

35. In the context of PSL's objection to the First Application, PPG para. 036 should also be considered here.

"Can a neighbourhood area include land allocated in the Local Plan as a strategic site?

A neighbourhood area can include land allocated in a Local Plan as a strategic site. Where a proposed neighbourhood area includes such a site, those wishing to produce a neighbourhood plan [in this case Iver Parish Council] should discuss with the local planning authority the particular planning context and circumstances that may inform the local planning authority's decision on the area it will designate."

36. It is absolutely clear from s.61G, TCPA, and the PPG guidance on how neighbourhood area designations should be handled by LPAs that the 'power of designation' is a positive, inclusive power and that "*the local planning authority should aim to designate the area applied for*". The PPG para. 033 criteria are of no relevance where a parish council has made the area designation application. Where those criteria are relevant they should be considered in the context of extending, not diminishing, the area applied for; this is made very clear in PPG para. 035.
37. Moreover, "*a neighbourhood area can include land allocated in a Local Plan as a strategic site*"; and where such an issue exists it is clearly for the parish council (rather than the landowner) to "*discuss with the [LPA] the particular planning context and circumstances that may inform the [LPA's] decision on the area it will designate*". It is self-evident from PPG para. 36, that *the LPA must have identified and designated the land as a strategic site* before it can even be considered as such.
38. The PPG does not deal with situations where a landowner considers its own site as 'strategic' because such a situation should not undermine the statutory process or the LPA's power of designation in any way.
39. PPG para. 035 also makes very clear that when designating a neighbourhood area the "*local planning authority should avoid pre-judging what a qualifying body may subsequently decide to put in its draft neighbourhood plan ... It should not make assumptions about the neighbourhood plan .. that will emerge from developing, testing and consulting on the draft neighbourhood plan ... when designating a neighbourhood area.*" This too supports the fundamental principle that the *power of designation* is inclusive in its operation because the merits of neighbourhood plan policies are for separate and distinct consideration.



PSL submissions on First Application

40. Turley's Report ("TR") on the above rules appears misconceived. At the top of its third page, TR confuses the "*desirability of designating the whole of the area of a parish council*" (s.61G(4)(a)) with NPPF guidance (para. 18 and elsewhere) *on policy-making*. As PPG para. 035 says, *assumptions about the neighbourhood plan* that may emerge - by way of policy-making - should not interfere, or be confused, with the area designation (see para. 38, above), yet this fundamental misconception runs throughout the TR and is at the heart of the submissions on behalf of PSL.
41. TR is also misconceived in its analysis of PPG paras. 032 and 033 (p.3, TR). To say as it does about halfway down its page 3, that "*The list in 033 ... provides a number of key considerations in the instant case ... etc*", is a misinterpretation of what paras. 032 and 033 actually say and how they should be applied.
42. When considered together with para. 032 as it is obviously intended to be, it is clear the para. 033 criteria will only be relevant "*In areas where there is no parish or town council [because] in a parished area a local planning authority is required to have regard to the desirability of designating the whole of the area of a parish .. council as a neighbourhood area*" (para. 032, PPG).
43. The PPG para. 033 criteria are clearly not, therefore, "*key considerations in the instant case*" as TR suggests. In fact, they are irrelevant considerations in the instant case, where the qualifying body and area designation applicant is a parish council.
44. Unfortunately, the "*Summary of the NP Application by Iver Parish Council*" at the bottom page 4, TR, perpetuates the above misconceptions by trying to forecast what the Iver Neighbourhood Plan may contain. The reasons why the supporting statement for the First Application is brief are twofold; first, because the First Application was for the whole parish area and that is clearly the default position under the statutory rules, so no further reasoning is required, and; secondly, the First Application supporting statement was submitted on SBDC's standard template for that purpose and was presented as such to IPC by SBDC.
45. The TR "*Representations*" (p.4, TR) are also misconceived. PSL's view of its own significance is irrelevant here, as is its economic significance and even its wider environmental impact. What is relevant is *the planning significance* of the PSL Land. Even if it were a strategic Local Plan site, which it is not, the statutory presumption supported by PPG is still to include it in the INA.

Turley's Report Summary and Conclusions (re First Application)

46. The "*Summary and Conclusions*" on pages 5, 6 of TR are as flawed as the preceding submissions on which they are based. First of all, it is not for PSL or any other landowner or business to request "*the refusal and amendment*" of an area



designation application. There is no provision in the TCPA or the PPG guidance for such a request. The 'power of designation' applies to secure all of the specified area within one or more designated neighbourhood areas; s.61G(5); *only already designated areas* may be modified to achieve that; s.61G(6).

47. There are four bullet points on page 6, TR;
- *Planning decisions regarding the future of an internationally and nationally significant facility such as Pinewood Studios should not be dealt with through a local / community level planning tool (1).*
 - *The unique circumstances of the Studios are best met through the Pinewood Studios Development Framework and the emerging SBDC Local Plan (2).*
 - *The failure of the application to assess wider planning considerations (such as the role of the studios) which would strongly support an alternative boundary which did not include the entire Parish (3).*
 - *The failure to consult with PSL as a major landowner, and an apparent pre-determination of the future direction of the NP (based on meeting the needs of residents, as stated in the application documentation). Failing to engage with PSL is highly likely to result in an NP which does not reflect its requirements and provides a significant constraint on its ability to remain at the forefront of its industry (4).*
48. The above points again reflect a misunderstanding of the principles to be applied;
- (1) Any international and national significance of Pinewood Studios, however that is judged, is irrelevant here. The PSL Land must, as a matter of law, be dealt with under the statutory development plan. If the INP proceeds to be made it will become part of the statutory development plan; it is not for PSL or any other landowner to unilaterally exclude itself from the planning system.
 - (2) There are no cogent reasons to support this assertion. The "*Pinewood Studios Development Framework*" is not part of the development plan; it simply refers to an outline planning permission. The PSL Land will indeed be subject to the emerging *Chiltern and South Bucks Local Plan*. PSL should not be able to choose which parts of the development plan will apply.
 - (3) There was no "*failure*" on the part of the First Application; PPG para. 035 makes clear that an area application *should not* assess "*the wider planning considerations*". Section 61G and PPG prescribe how an area application should be considered; there are no legitimate grounds in this case to "*support an alternative boundary*" or one that does not include the entire Parish.
 - (4) Consultation on the INP has not started yet so there has been no "*failure to consult with PSL*". There is no need or requirement for consultation prior to an area designation application.



49. The TR cites two 'precedents'; *Middleton St George* and *Daw's Hill*. Neither are precedents for this case. We deal with each in turn.

Middleton St George

50. Turley opposed this area designation on behalf of its client Peel Airports, which like PSL, is a subsidiary of the Peel Group; a large corporate landowner with far deeper pockets than Middleton St George Parish Council and IPC. Whilst Peel Group may consider it has a right to exclude its holdings from neighbourhood areas, that is certainly not the case. Landowner apart, there are no similarities with the INA.
51. The facts are entirely different to those in Iver. Turley simply managed to persuade the LPA to exclude the airport from the neighbourhood plan. That decision was not challenged, or endorsed, in law. It may well be wrong in law. What is certain is that it creates no precedent, legal or otherwise, for this case.

Daw's Hill

52. In the Daw's Hill case, every material consideration can be distinguished from the circumstances in Iver and from this Second Application;
- the area applied for included two brownfield sites *designated as strategic housing sites* in the adopted Core Strategy - therefore these strategic sites were identified as such *by the LPA* (the PSL Land is not in this category);
 - the area applied for was unparished and the applicant was not a town or parish council (this brings into play quite different considerations under s.61G and PPG, as explained above - see paras. 30-33 incl.);
 - the applicant for the area designation was a group of residents who had to first apply to be recognised as a neighbourhood forum; the Daw's Hill Neighbourhood Forum ("DHNF");
 - the residents in question lived outside the two areas ultimately excluded, and set up the DHNF and embarked on a neighbourhood plan with the *express intention of limiting development on the two areas designated in the local plan as strategic sites for development*;
 - therefore those areas, over which the DHNF sought 'jurisdiction' were outside their immediate neighbourhood so there was no direct connection between the DHNF and the two areas in question.
53. It is clear from the decision report of the LPA, Wycombe District Council ("WDC") (TR, Appendix 3), that although it had considered representations from the landowners, WDC made its own decision to exclude the areas in question because they were outside of the neighbourhood the DHNF actually represented and if the two areas had been included it would have given the resulting neighbourhood plan an influence beyond the neighbourhood. This was an unusual set of circumstances with no material similarities at all with the INA designation.



54. *Daw's Hill* went to the Court of Appeal ("CA"). There will be many who consider the CA decision wrong and its reasoning insufficient. This is because it would appear that the Court did not properly consider the significance of the 'power of designation' and what that means in practice. Neither does the CA reasoning deal with the query posed by DHNF's Counsel, that if the LPA has an unrestricted discretion to exclude any part of an area applied for, as the CA seemed to suggest, s.61G(5) clearly provides that the LPA can exclude *only a part of the area applied for*. Therefore, as there is nothing to stop repeat applications, if a series of area designation applications were made the LPA would ultimately only be able to exclude an increasingly small and diminishing part of the area it first excluded. This is referred to as the 'salami slicing' approach (though from a plan perspective a 'jigsaw' may be a better analogy); this leads to an absurd conclusion that the legislation could not have intended. (Logically, each tier of the development plan is intended to be at least capable of universal coverage; there is a presumption in favour of universal interlocking coverage - of jigsaw pieces - both at local plan and neighbourhood plan level. It was clearly not the intention of s.61G to give the LPA an unfettered discretion to exclude areas from the neighbourhood plan jigsaw, and certainly not at the behest of individual landowners.)
55. However, the CA judgement does make clear that the decision is confined to its particular facts, that of a neighbourhood forum applying for an area that forms no part of a parish under s.61G(3)(b). The *Daw's Hill* decision is not a precedent for an application by a parish council for the whole of its parish area under s.61G(3)(a) and has no application or relevance to the very different facts of the INA designation.
56. The recently published DCLG 'Technical consultation on implementation of planning changes' February 2016 ("the DCLG Consultation") currently open for responses seeks to clarify any anomalies caused by the CA decision in *Daw's Hill* and confirm beyond any doubt the intended purpose behind the power of designation.
57. Paragraph 5.6 of the DCLG Consultation proposes that *"a local planning authority must designate all of the neighbourhood area applied for, with no discretion to amend the boundary... when a parish council applies for the whole of the area of the parish to be designated as a neighbourhood area, or applies to enlarge an existing designation of part of the parish to include the whole of the parish area; or [where] a local planning authority has not determined an application for designation of a neighbourhood area within the current time periods described above."* This is in our view what is currently intended by the admittedly slightly ambiguous s.61G and this is likely to be confirmed by a statutory amendment due course.
58. Paragraph 5.8 of the DCLG Consultation continues that *"the designation should be made as soon as possible, once the authority is satisfied that the application is valid and complete."* This is because no consultation is necessary, and so that communities are not disadvantaged by delays of the type currently experienced. This provides clear guidance for the INA and the Second Application.



Conclusions to support this Second Application

59. The Second Application for the designation of the INA applies for the designation of the whole parish as the INA, just as the First Application did. The Second Application is necessary only because IPC was effectively forced to withdraw the First Application by SBDC's ultimatum of 16 December 2015 (see paras. 8-10 above).
60. The Second Application for the designation of the whole parish is not only consistent with, but is encouraged and intended by, s.61G(3) and (4), TCPA, and PPG paras. 032 and 035. It therefore *needs* no further supporting information; IPC as the parish council for the whole of the area applied for is quite properly applying for the entire parish area. This approach is confirmed as correct by the DCLG Consultation.
61. Furthermore, IPC is the only body that can apply for designation of any part of the Parish of Iver as a Neighbourhood Area and is the only organisation that (according to s.61G and the PPG) SBDC should be *in discussion with* on the INA application (albeit that anyone can make *representations* on it).
62. Turley's representations in support of PSL's desire to exclude the PSL Land appear to be based on PSL's own, rather exaggerated, view of the *planning* status of the PSL Land and on an incorrect interpretation of the rules on area designation.
63. The PSL Land has no planning designation as a strategic site (and even if it did, PPG para. 036 makes clear that "*a neighbourhood area can include land allocated in a Local Plan as a strategic site*"). The PSL Land is not a strategic site for neighbourhood area designation purposes because *SBDC has not identified, designated or allocated it as such*. WDC had allocated the land in question as strategic sites in the Daw's Hill case; a crucial and fundamental distinction.
64. The PSL Land is an area of land with a conditional outline planning permission; that is no reason to exclude it from the INA.
65. Furthermore, PSL's representations are evidently pre-occupied with what the Iver Neighbourhood Plan may contain. On this, PPG para. 35 is very clear; "*When a neighbourhood area is designated a local planning authority should avoid pre-judging what a qualifying body may subsequently decide to put in its draft neighbourhood plan .. It should not make assumptions about the neighbourhood plan ... that will emerge from developing, testing and consulting on the draft neighbourhood plan ... when designating a neighbourhood area.*"
66. It goes without saying that under no circumstances should SBDC designate the INA *based on PSL's assumptions*.
67. To exclude the PSL Land from the INA would be unlawful. It would also set a precedent for landowners and large businesses to unilaterally demand the exclusion of their land from the statutory development plan; an outcome entirely contrary to fundamental principles of neighbourhood planning and the wider planning system. In our view, any such decision by SBDC would be susceptible to legal challenge.



68. Were the potential future effects of the Iver Neighbourhood Plan ("INP") to have any bearing on this area designation decision, then logically there is no reason to *exclude* and every reason to *include* the PSL Land in the INA;
- the INP will not be able to interfere with or undermine the PSDF outline planning permission;
 - the INP will have to be in general conformity with the strategic objectives of the emerging CSBLP which the PSL Land will also be subject to;
 - IPC will always be a statutory consultee on any planning determinations relating to the PSL Land so it is logical for any such IPC representations in future to be based on the INP and its evidential foundations and their implications, if any, for the PSL Land;
 - were the PSL Land to be excluded from the Iver Neighbourhood Area, there would be no justification for including PSL in any INP consultations;
 - the PSL Land is within the Parish of Iver and should therefore logically be included in the consultations, deliberations and, ultimately, the planning policies of the INP because the PSL Land has an impact throughout the Parish and on all those living within it, and *vice versa*.
69. There is no doubt that as a matter of law, by reference to all relevant planning principles, policy and guidance and by virtue of common sense, the whole of the area applied for in the Second Application, that is the whole of the Parish of Iver, should be designated as the Iver Neighbourhood Area.

Planning Progress Limited

February 2016



Appendix 2**Summary of Representations Received On/Before 9th May 2016**

Rep	Representation From	Summary of the Representation	Comment/Conclusion
Rep 0001	Peter Chapman	<p>I support the application because it will allow Iver Parish Council to respond better to some of the infrastructure challenges which it has faced in the past and which are getting more significant. I refer to the impact of the Crossrail engineering work and the eventual start of services in a couple of years' time; to the ongoing issues of HGV movements; and to possible Heathrow expansion issues, if the government accepts the recommendations of Howard Davies' Airport Commission.</p> <p>I believe the application will put Iver Parish Council in a stronger position to plan for, or to campaign for, facilities which will improve the quality of life of Iver residents, such as health and medical facilities, schools, primary and secondary, and higher quality retail premises, all of which are justified if Iver continues to become busier and busier because of these national planning developments.</p>	Support
Rep 0002	James Dyson Transport for London	<p>Please note that the following comments represent the views of Transport for London (TfL) as a property owner, employer and a transport provider. These comments are made entirely on a 'without prejudice' basis and represent TfL's views on the specific neighbourhood area application(s), as well as wider protocol issues around TfL's role in the Neighbourhood Planning process.</p> <p>TfL notes that the proposed boundary includes Iver railway station which will benefit from Crossrail (to be known as the Elizabeth line) services from 2019. The Elizabeth line will be operated by Transport for London as part of London's integrated transport network. TfL will need to understand the implications of any forthcoming neighbourhood plan proposals on this service. In addition, Elizabeth line services will give a transformational improvement in the frequency, capacity and connectivity at Iver station and, as such, provides a unique opportunity to capitalise on these benefits through promoting sustainable local growth in areas close to or well connected to the</p>	Neutral

		<p>station. Accordingly TfL is keen to be involved throughout the neighbourhood planning process for this area.</p> <p>The Neighbourhood Planning (General) Regulations 2012 state that consultation will occur through all stages of the neighbourhood planning process with 'people who live, work or carry on business in the area'. Given its very nature, as a transport operator, employer and owner of land, assets and infrastructure across London and beyond, TfL would expect to be consulted throughout the neighbourhood planning process.</p> <p>TfL has an interest in facilitating the neighbourhood planning process and to ensure that any local transport aspirations are achievable. In addition this provides an opportunity for TfL to ensure investment is targeted appropriately in relation to neighbourhood plans and that infrastructure which is fundamental to transport operations can be protected to ensure service reliability. In some places TfL is also a landowner and developer.</p>	
Rep 0003	Geoff Bennett	<p>I wish to register my support for Iver Parish Councils application for Neighbourhood Area status; Local councillors should have more say in local decisions, and how Section 106 monies are spent.</p>	Support (note this is in effect a repeat representation to Rep 0012)
Rep 0004	Geoffrey Copas Copas Farms	<p>I am writing to inform you that I support the approach that the Parish of Iver is declared as a Neighbourhood area.</p>	Support
Rep 0005	Andrea Gilmour Hertfordshire County Council	<p>Hertfordshire County Council Property (Development Services) on behalf of the County Council's services have no comment to make on the Notification of Iver Neighbourhood Area Application.</p>	Neutral
Rep 0006	Chris Jordan	<p>Over the years, Iver, Iver Heath and Richings Park, collectively, have suffered from a lack of coordinated development. As a result, the area's infrastructure has failed to keep pace with the increase in population, as have local employment opportunities, and the villages have been swamped by HGV traffic which has taken away their soul and identity.</p> <p>The area's residents feel they have no influence over their own environment. The Parish represents</p>	Support

		<p>one-sixth of the population of the South Bucks district and yet there is a widespread and strongly held view feel that the areas needs have been largely ignored by the District and County Councils for many years. This sentiment was clearly evident in a recent meeting in Iver Village Hall at which representatives of South Bucks District Council gave a presentation on the proposed District Plan and the potential use of green belt land for housing and other development. Such was the level of interest and, indeed, concern that the hall was filled to capacity and many residents were turned away.</p> <p>The Ivers and Richings Park are at the centre of a series of major projects, planned or proposed, that will have very far-reaching impacts, some of which threaten to overwhelm the area. These include Crossrail, relocation of the Heathrow Express Depot, M4 widening, Western Rail Access to Heathrow, Heathrow Airport Expansion and the developments at Pinewood Studios. Added to this, creeping development from the neighbouring towns of Slough and Uxbridge is on the brink of creating an urban continuum, stretching from Berkshire to Essex. Faced with these external challenges, it is vital that local residents have the opportunity to express their own preferences as to how the area should be developed. Centres of population work best when they have a sense of identity and community. The proposal by Iver Parish Council to generate a Neighbourhood Plan would give residents the opportunity to achieve these qualities by providing guidance to planning authorities as to how to serve best the needs of the local population within the context of the district.</p> <p>The rejection by South Bucks District Council of Iver Parish Council's first application on the basis of objections from representatives of Pinewood Studios has no logic, nor does it appear to have a sound legal basis. The area of land occupied by Pinewood Studios lies within the Parish of Iver. It is self-evident that planning decisions within the parish have implications for Pinewood Studios, just as planning decisions relating to the land it occupies have an impact on the parish as a whole. It makes no sense to disengage them as separate entities, for they are part of the same whole. The Ivers have long suffered from a lack of joined-up thinking in planning decisions. The Parish needs coordinated planning, not piecemeal development by parties in pursuit of their own particular interests to the detriment of others.</p>	
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		I urge South Bucks District Council to support Iver Parish Council, and the population that it serves, by agreeing to its proposal to be declared a Neighbourhood Area and approval of a Neighbourhood Plan for the whole Parish.	
Rep 0007	Fiona Gill	As a long time resident of Iver I would urge you to support the bid by Iver to be declared a Neighbourhood Area and create a Neighbourhood Plan. The villages need to be able to influence how the area develops in future years and to have a say in improving the area in which we live.	Support
Rep 0008	Barbara Hodgkinson	If Iver Heath think this will work for them then go ahead with the neighbourhood area.	Conditional Support
Rep 0009	Seamus Henry	I support the application	Support
Rep 0010	Martin Small Historic England	Historic England has no objection to the proposal. However, we would like to take the opportunity of your consultation to raise issues setting out the support Historic England is able to offer in relation to Neighbourhood Plans. These issues have been shared with the Parish Council.	No Objection
Rep 0011	Phil Markham Buckinghamshire County Archaeological Service	<p>We maintain the local Historic Environment Record and provide expert advice on archaeology and related matters. The historic environment is recognised as a non-renewable, outstanding and distinctive resource that contributes to Buckinghamshire’s economy, tourism, education, culture and community identity. This approach forms a core planning principal of the National Planning Policy Framework. Neighbourhood Plans will eventually require examination by the Local Planning Authority (LPA) to ensure their conformity with this National framework. Understanding the heritage value of a Neighbourhood Planning Area is an important part of developing the Plan.</p> <p>We would recommend that Iver Parish Council consults the Historic Environment Record (HER) to obtain details of the known heritage assets in the plan area. A heritage asset is “a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage assets include designated heritage assets and assets identified by the local planning authority (including local listing)” (NPPF 2012). The NPPF specifically mentions Historic Environment Records as the key</p>	Neutral

		evidence base on the historic environment for plan making and local plans (NPPF paragraphs 169 and 170).	
Rep 0012	Geoff Bennett	I wish to register my support for the Iver Neighbourhood Area application.	Support (note this is in effect a repeat representation to Rep 0003)
Rep 0013	Barbara Morgan Network Rail	<p>Network Rail is a statutory undertaker responsible for maintaining and operating the country's railway infrastructure and associated estate. Network Rail owns, operates, maintains and develops the main rail network. This includes the railway tracks, stations, signalling systems, bridges, tunnels, level crossings and viaducts. The preparation of development plan policy is important in relation to the protection and enhancement of Network Rail's infrastructure. In this regard, please find our comments below.</p> <p>We note that Iver Parish Council area plan includes a section of railway / Network Rail land within the proposal map therefore:-.</p> <p>Network Rail drew the Parish Council's attention to detailed information when preparing a neighbourhood plan and this has been shared with the Parish Council.</p> <p>Whilst Network Rail has no objection in principle to the Neighbourhood Area by Iver Parish Council, we would request the opportunity to comment on any future planning applications should they be submitted for sites adjoining the railway, or within close proximity to the railway as we may have more specific comments to make (further to those above).</p>	No objection
Rep 0014	Graham Young, Treasurer Richings Park and Thorney Residents' Association.	The Association fully support the decision by Iver Parish Council to re-submit their application. We were also extremely disappointed by the action of SBDC with regards to the original submission, in particular, only giving the Parish Council a few days in which to respond to the Pinewood Studios objection. This has caused the Parish Council to incur some considerable costs which we would hope that SBDC will see fit to reimburse.	Support

		<p>As you are hopefully aware, Iver is an area meeting a range of challenges from major infrastructure projects as well as changes to local commercial traffic arising from its attractiveness to warehousing and freight distribution companies. The creation of a neighbourhood plan gives us an opportunity to develop solutions that are practical and could hopefully deliver real improvements in the quality of life for everyone in our community.</p> <p>We firmly believe this approach will provide significant benefits for both residents and developers alike and will be a mechanism for ensuring that the downsides of development will be dramatically reduced and correctly mitigated for.</p>	
Rep 0015	Ann Mayling, Chair Iver Heath Residents' Association	<p>We welcome the decision by Iver Parish Council to re-submit their application.</p> <p>Following the public meetings to explain the process and to gain our input our members were very supportive of the neighbourhood plan as a way for us to get engaged with the development of our village in a meaningful way. There was significant disappointment that the process was stalled.</p> <p>The case studies of other areas show how it can create sustainable solutions that benefit everyone - businesses and residents.</p> <p>As you know we are an area meeting a range of challenges from major infrastructure projects as well as regional and local demands. This means we need to look for a new approach in responding to the changing needs of the community. The creation of a neighbourhood plan gives us real hope that we can contribute to the development of solutions that are practical and deliver real improvements in the quality of life for everyone in our community.</p> <p>We firmly believe this approach delivers significant benefits for the residents and developers providing a mechanism for ensuring we are proactive and yet pragmatic in shaping the future development in our area and in contributing to the new local plan.</p> <p>We look forward to the support of all our local elected representatives in taking this through to a successful outcome.</p>	Support

<p>Rep 0016</p>	<p>Bhagat S Hundal</p>	<p>I support the efforts of Iver Parish Council in designating the whole of the Iver Parish as a neighbourhood area.</p> <p>After reading the current proposal, the neighbourhood area should apply to the whole parish and not exclude land owned by Pinewood Studios. To allow one land owner special status would be unfair to the rest of the land owners in the parish.</p> <p>It is well known the main issue of the parish are: -</p> <ol style="list-style-type: none"> 1. HGV Traffic 2. Lack of High Schools in the area. 3. Lack of parking around Iver station. <p>I believe the Parish will take an active role to find the answers to these problems. There are some difficult choices which the residents of Iver need to make and they should be given the curtesy to make these choices.</p>	<p>Support</p>
<p>Rep 0017</p>	<p>Emily Federici, Sustainable Places Planning Advisor Environment Agency</p>	<p>There are a lot of environmental constraints and opportunities within the parish area. This includes land contamination (particularly from former landfill sites), areas of flood risk and three main rivers (Alderbourne, River Colne and the Colne Brook) within the parish boundary.</p> <p>There may be opportunities to make environmental improvements through the Neighbourhood Plan. The Parish Council will need to consider the constraints and opportunities as they develop their plan policies and if they are considering any site allocations.</p> <p>Attached with this response is a guide published by the Environment Agency, Natural England, Forestry Commission and English Heritage – ‘Planning for the environment at the neighbourhood level’, which I would encourage the Parish Council to review and consider as they progress with their Neighbourhood Plan.</p> <p>We would be pleased to provide further comments as the plan progresses.</p>	<p>Neutral</p>

Rep 0018	Pinewoods Studios Limited (via Clyde' & Co LLP)	<i>See Below for a copy of the full response.</i>	Object
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Ian.Ginbey@Clydeco.com

Our Ref
IG/EB/1613778

Your Ref

Date
9 May 2016

Dear Sirs

Iver Neighbourhood Plan - Second Application for Designation of the Iver Neighbourhood Area Town and Country Planning Act 1990 (as amended) Neighbourhood Planning (General) Regulations 2012

We act on behalf of Pinewood Studios Limited ("PSL"), being the operator of Pinewood Studios ("the Studios") on Pinewood Road, Iver Heath, Buckinghamshire SL0 0NH and additional, adjoining land ("the Additional Land"), which has the benefit of planning permission¹ ("the Permission") for the expansion of the Studios. The Permission has been implemented.

1. Introduction

- 1.1 We refer to the above application ("the Application") dated February 2016, which has been submitted to South Bucks District Council ("the Council") on behalf of Iver Parish Council ("IPC") pursuant to Section 61G of the Town and Country Planning Act 1990 (as amended) ("the Act") and Regulations 6 and 6A of the Neighbourhood Planning (General) Regulations 2012 ("the Regulations").
- 1.2 The Application seeks the designation of the Iver Neighbourhood Area ("INA"), which extends to the whole of the parish of Iver ("the Parish"). In effect, it comprises the re-submission of an application ("the Original Application"), which was submitted in September 2015 but later withdrawn in December 2015.
- 1.3 The Studios are located within the Parish. As such, the Application proposes to include the Studios (and the Additional Land) in the INA.
- 1.4 PSL **strongly objects** to the inclusion of the Studios (and the Additional Land) within the boundary of the INA.

¹ PINS ref. APP/N0410/A/13/2199037

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2. Background

The Studios

- 2.1 The Studios enjoy an unparalleled reputation in the world film industry since they were established in the 1930s, becoming a market leader with a global reach and reputation. They are the largest and most prolific film and television studio in the UK and one of the leading providers of production facilities to the screen-based creative industries in the world. Their status was recognised by the Secretary of State for Communities and Local Government who, on granting the Permission, concluded that the Studios have ‘...a leading global status’ and are ‘...an essential component of the UK film industry’². The Studios operate as the hub of the West London film and television production cluster.
- 2.2 The range of production facilities, services and skills available on a single site at the Studios is one of the most comprehensive in the world, and provides a unique offer that attracts the best international producers and directors to make their films in the UK. The Studios also accommodate a community of approximately 180 specialist businesses, enterprises and suppliers. The co-location of stages with workshops and production offices, together with the essential array of specialist trades and crafts such as carpenters, plasterers, prop makers, armourers, set dressers and scenic artists, on the scale offered by the Studios, is unique.
- 2.3 This is the international, national, regional and local strategic context of the Studios against which we respectfully suggest the Council should assess whether it is, in the terms of the statutory framework, desirable and/or appropriate to include the Studios within the INA.

Original Application

- 2.4 For the avoidance of any doubt, PSL continues to rely upon the points articulated in its detailed representations (“the Representations”) in response to the Original Application, per the letter dated 27 November 2015 as sent to the Council by Turley (being PSL’s retained planning consultants). A further copy of the Representations (less appendices) can be found at [appendix 1](#) to these submissions.
- 2.5 We need not repeat the substance of the Representations here but we do emphasise that: (i) PSL does not oppose the designation of a neighbourhood area *per se* over the majority of the Parish; but (ii) given the unquestionable national, regional and local strategic significance of the Studios, it would not be appropriate (or ‘desirable’ pursuant to Section 61G(4)(a) of the Act) to include the Studios within the INA.
- 2.6 The Representations invited an amendment to the proposed boundary of the INA (per Section 61G(5) of the Act), the effect of which would have been refusal of the Original Application but designation of the remaining (and vast majority) area of the Parish as the INA. It is understood that the Council was minded to proceed on this basis but, instead, IPC withdrew the Original Application. For the avoidance of doubt, PSL remains firmly of the view that this is the correct and appropriate approach. Moreover, it would be a lawful approach.

² Para 19 SoS Decision Letter

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Other Preliminary Matters

- 2.7 We note that the Application is accompanied by a supporting statement ("the Statement") dated February 2016 as prepared by Planning Progress Limited as to which we make the following preliminary observations:
- (i) paragraphs 5-10 of the Statement make various complaints about the conduct of the earlier consultation period for the Original Application. However, given that the Original Application was withdrawn, and this is a new consultation on the (new) Application, it is unnecessary for us to address those complaints here;
 - (ii) paragraphs 15-20 seek to dispute the '*planning significance*' and '*strategic status*' of the Studios (and Additional Land) but this submission is not tenable because (amongst other things): (i) in granting the Permission, the Secretary of State (and his appointed Inspector) could not have been clearer as to the commercial and economic importance of the activities taking place at the Studios at an international, national, regional and local level; (ii) policy E2 of the South Bucks District Local Plan (1999, as consolidated) expressly refers to the Studios and its explanatory text states: '*Pinewood Studios is a site of national and international significance for the production of films...the retention of this unique site for film production is extremely desirable...'*(our emphasis), all of which are plainly material considerations in any decision pursuant to the Application;
 - (iii) the Statement accepts the obvious economic significance of the businesses that comprise the Studios; and
 - (iv) the Statement omits to proffer any material *planning* justification to support the inclusion of the Studios within the INA but, instead, seeks (unsuccessfully) to rebut the various submissions advanced in the Representations.
- 2.8 In short, the Statement fundamentally misunderstands the provisions of the Act, the National Planning Policy Framework (2012) ("the NPPF") and the National Planning Policy Framework (2014) ("NPPG") insofar as they are relevant to the Application specifically and/or the designation of neighbourhood areas generally.

3. Legislation and Policy*The Act*

3.1 The primary legal framework is at Section 61G of the Act.

3.2 Section 61G(1) states that:

'A neighbourhood area' means an area within the area of a local planning authority in England which has been designated by the authority as a neighbourhood area; but that power to designate is exercisable only where—

(a) a relevant body has applied to the authority for an area specified in the application to be designated by the authority as a neighbourhood area, and

(b) the authority are determining the application (but see subsection (5)).'

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3.3 Section 61G(2) of the Act defines '*relevant body*' as being a parish council or other organisation capable of being designated as a neighbourhood forum. The Statement makes particular reference to this distinction (see paragraphs 21-23 of the Statement) suggesting that the specific reference to parish councils somehow conveys a special status. Unfortunately, this is a misreading of Section 61G (and the related sub-sections); the differentiation is made simply to address the different circumstances that exist across the country i.e. not all areas have the benefit of a parish.

3.4 Sub-sections (3), (4) and (5) of Section 61G of the Act provide (insofar as is relevant):

'(3) The specified area —

(a) in the case of an application by a parish council, must be one that consists of or includes the whole or any part of the area of the council, and...

(4) In determining an application the authority must have regard to—

(a) the desirability of designating the whole of the area of a parish council as a neighbourhood area, and...

(5) If —

(a) a valid application is made to the authority,

(b) some or all of the specified area has not been designated as a neighbourhood area, and

(c) the authority refuse the application because they consider that the specified area is not an appropriate area to be designated as a neighbourhood area,

the authority must exercise their power of designation so as to secure that some or all of the specified area forms part of one or more areas designated (or to be designated) as neighbourhood areas.'

3.5 Some clear points arise from these legislative provisions: (i) it does not follow that the Application must comprise the full extent of the Parish i.e. IPC is entitled to submit an application in respect of a smaller part of the Parish; (ii) it imparts a discretion on the Council to **have regard** to the **desirability** of designating the whole of the Parish; and (iii) the Council has an inherent power to refuse the Application and to modify the INA (such that it does not include the Studios) if it considers that the Studios are not an appropriate area to be included within the INA.

The Regulations

3.6 Regulation 5(b) requires that an application must contain '*a statement explaining why this area is considered appropriate to be designated as a neighbourhood area*'.

3.7 Regulation 7 provides:

'(1) As soon as possible after designating a neighbourhood area, a local planning authority must publish the following on their website and in such other manner as they consider is likely to bring the designation to the attention of people who live, work or carry on business in the neighbourhood area -

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(a) the name of the neighbourhood area;

(b) a map which identifies the area; and

(c) the name of the relevant body who applied for the designation.

(2) As soon as possible after deciding to refuse to designate a neighbourhood area, a local planning authority must publish the following on their website and in such other manner as they consider is likely to bring the refusal to the attention of people who live, work or carry on business in the neighbourhood area —

(a) a document setting out the decision and a statement of their reasons for making that decision ("the decision document"); and

(b) details of where and when the decision document may be inspected.'

NPPF

- 3.8 Paragraphs 16 and 183-185 of the NPPF make it clear that neighbourhood plans should serve as a local/community level plan, with the purpose of ensuring that local people get the appropriate type of development in their community. Specifically, paragraph 184 states that such plans should conform with the strategic needs and requirements of the local planning authority area as set out within the strategic policies of the Local Plan (which neighbourhood plans should '*plan positively to support*').

NPPG

- 3.9 Principally, the guidance on the designation of neighbourhood areas is set out within the NPPG, to which we now turn.
- 3.10 Paragraph 024 Reference ID: 41-024-20140306 *What is the process for designating a neighbourhood area?* provides that an application '*must include a statement explaining why the proposed neighbourhood area is an appropriate area.*'
- 3.11 In this case, the Statement is apparently that statement. However, whilst it contains a number of legal submissions, it is revealing that it omits to promulgate any material submissions as to the planning justification for including the Studios and the Additional Land within the INA. This might be because it is predicated upon a flawed interpretation of the NPPG; for example, we note that, at paragraph 31, the Statement purports to assert that IPC does not need to justify the proposed boundary of the INA where it comprises the entirety of the Parish. This is misconceived and betrays a misunderstanding of the law for the reasons set out in PSL's submissions.
- 3.12 Paragraph 025 Reference ID: 41-025-20140306 *Should the community consult the local planning authority before making an area application?* then provides as follows:
- 'The community should consult the local planning authority before making an area application. There should be a positive and constructive dialogue about the planning ambitions of the community and any wider planning considerations that might influence the neighbourhood planning process if the outcome of that process is to be a neighbourhood plan or Order that meets the basic conditions for neighbourhood planning.'* (our emphasis)
- 3.13 Yet, there is no reference within the Statement to any contact with the Council since the exchanges in December 2015 (see appendix 2 which contains a leaflet advertising a



consultation event organised for local residents and businesses). Nor has PSL or Turley been contacted by IPC. It is evident that IPC has again failed to comply with a clear recommendation in the NPPG and given no further thought to the need and value of considering 'wider planning considerations' relevant to PSL.

- 3.14 Paragraph 032 Reference ID: 41-032-20140306 *What flexibility is there in setting the boundaries of a neighbourhood area?* states that:

'In a parished area a local planning authority is required to have regard to the desirability of designating the whole of the area of a parish or town council as a neighbourhood area...Where only a part of a parish council's area is proposed for designation, it is helpful if the reasons for this are explained in the supporting statement. Equally, town or parish councils may want to work together and propose that the designated neighbourhood area should extend beyond a single town or parish council's own boundaries...'

- 3.15 At paragraph 32 of the Statement, it is asserted that the second paragraph of 032 is a pre-text for paragraph 033 (as below). This submission is wrong. Paragraph 032 is expressly divided from paragraph 033 and refers without any qualification to 'the boundaries of a neighbourhood area'. As such, the considerations which follow are plainly capable of amounting to material considerations in the exercise powers under Section 61G where the question relates to a parish council's area.

- 3.16 Paragraph 033 Reference ID: 41-033-20140306 *What could be considerations when deciding the boundaries of a neighbourhood area?* adds that:

'The following could be considerations when deciding the boundaries of a neighbourhood area:

- *village or settlement boundaries, which could reflect areas of planned expansion*
- *the catchment area for walking to local services such as shops, primary schools, doctors' surgery, parks or other facilities*
- *the area where formal or informal networks of community based groups operate*
- *the physical appearance or characteristics of the neighbourhood, for example buildings may be of a consistent scale or style*
- *whether the area forms all or part of a coherent estate either for businesses or residents*
- *whether the area is wholly or predominantly a business area*
- *whether infrastructure or physical features define a natural boundary, for example a major road or railway line or waterway*
- *the natural setting or features in an area*
- *size of the population (living and working) in the area*

Electoral ward boundaries can be a useful starting point for discussions on the appropriate size of a neighbourhood area; these have an average population of about 5,500 residents.'

- 3.17 Thus, whilst parish boundaries *can* be a useful starting point within parished areas, consideration must always be given to wider planning considerations that might influence the process. Those wider planning considerations include (but are not limited to) those matters listed above in Paragraph 033.

- 3.18 The Statement also refers to Paragraph 035 Reference ID: 41-035-20140306 *Must a local planning authority designate a neighbourhood area and must this be the area applied for?* which, in effect, re-states the requirements of Section 61G(5). It provides that (amongst other things):

'The local planning authority should take into account the relevant body's statement explaining why the area applied for is considered appropriate to be designated as such...'

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The local planning authority should aim to designate the area applied for. However, a local planning authority can refuse to designate the area applied for if it considers the area is not appropriate. Where it does so, the local planning authority must give reasons. The authority must use its powers of designation to ensure that some or all of the area applied for forms part of one or more designated neighbourhood areas. (our emphasis)

3.19 As such, it is clear that the Council is not required to designate the full area applied for by the Application where it is not desirable/appropriate to do so (i.e. where there are wider planning considerations not to do so).

3.20 Paragraph 036 Reference ID: 41-036-20140306 *Can a neighbourhood area include land allocated in the Local Plan as a strategic site?* provides as follows:

'A neighbourhood area can include land allocated in a Local Plan as a strategic site. Where a proposed neighbourhood area includes such a site, those wishing to produce a neighbourhood plan or Order should discuss with the local planning authority the particular planning context and circumstances that may inform the local planning authority's decision on the area it will designate.' (our emphasis)

3.21 As stated above, neither IPC nor Planning Progress has undertaken these discussions. Given their emphasis placed on other parts of the NPPG this is a notable omission.

3.22 Finally, paragraph 037 Reference ID: 41-037-20140306 *Can a local planning authority amend the boundary of a neighbourhood area once it has been designated?* provides that:

'A local planning authority can amend the boundary of a neighbourhood area after it has been designated only if the local planning authority is responding to a new application for a neighbourhood area to be designated.'

4. Case Law

4.1 Paragraphs 36 – 39 of the Statement refer to the legislative framework as providing 'a positive, inclusive power'. However, these submissions do not assist IPC and have already been addressed in *R(Daws Hill Neighbourhood Forum) v Wycombe District Council* both by the High Court (see [2013] EWHC 513 (Admin)) and by the Court of Appeal (see [2014] EWCA Civ 228).

4.2 *Daws Hill* was a successful defence by Wycombe District Council ("WDC") to its decision to refuse to designate the whole of a neighbourhood area proposed by a neighbourhood forum and instead to designate a reduced area excluding two large strategic sites: RAF Daws Hill and Handy Cross. The High Court (Supperstone J) provided the following guidance on the interpretation of Section 61G:

'...57 Section 61G(5) of the 1990 Act (inserted by the 2011 Act) requires the local planning authority in determining an application for a neighbourhood area to consider whether the area proposed is appropriate. The discretion given to the authority is a broad one. The exercise of discretion turns on the specific factual and policy matrix that exists in the individual case at the time the determination is made.' (our emphasis)

4.3 The Court of Appeal endorsed the judgment of the High Court and held as follows:

'...when exercising the discretion conferred by section 61G(5), the council was entitled to have regard to the "policy and factual matrix" that existed at the time of its decision, so as to exclude the two strategic sites from the designated neighbourhood area for reasons which all related to their

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strategic nature. ...it is difficult to see why the factors considered by the council when deciding to exclude the two strategic sites from the designated neighbourhood area (see [2013] PTSR 970, para 28) were irrelevant considerations or why the council's decision frustrated the purpose of the 2011 Act, if the discretion conferred by the subsection is a discretion to decide whether a given area should or should not be designated as a neighbourhood area, and is not confined to a discretion to decide within which neighbourhood area that area should be included.

20 If the discretion is not so confined, any decision by the local planning authority as to appropriateness must take into account the factual and policy matrix that exists in each individual case at the time that the decision is made. As I have mentioned, the claimants do not challenge the judge's account of the factual and policy matrix. It is unnecessary to repeat the detail. The first four reasons given by the council for excluding the two strategic sites from the specified area (it was common ground that the fifth reason did not take the matter any further) are all interlinked. In summary, it was not simply that RAF Daws Hill and the sports centre sites were strategic sites that would have larger than local impacts on larger "communities of interest" requiring any referendum to take place over a much wider area than the specified area, possibly extending to the whole of the district council's area; it was that the planning process in respect of these two strategic sites was already well advanced by September 2012. Outline planning permission had been granted for the sports centre site and a revised outline application for that site was under consideration, and a planning application pursuant to a highly prescriptive development brief for the RAF Daws Hill site, which had been approved in draft for consultation in June 2012, was anticipated that autumn....

22 Given that the primary purpose of the DHRA was to influence the scale of development on the two strategic sites through the neighbourhood development plan process, the council was entitled to conclude that any neighbourhood development plan would be overtaken by events. Depending on the complexity of the issues to be resolved in the neighbourhood development plan (and there is no dispute that the two strategic sites raised very complex issues), and assuming a positive outcome at both the independent examination and the referendum stages, it would take between 12 and 21 months before a neighbourhood development plan could be approved. In these circumstances the council was entitled to conclude that in this particular case false expectations would be raised and time and resources would be wasted. In my judgment, this particular combination of factors could not sensibly be described as an irrelevant consideration for the purpose of the exercise of the designation power in section 61G(5).¹ (our emphasis)

- 4.4 This judgment has not been revisited. This is unsurprising because it is obviously correct.
- 4.5 PSL relies upon the following key points that emerge from the above framework:
- (1) the tests of 'desirability' and 'appropriateness' are equivalent and confer a discretion to grant or refuse the Application subject to consideration of all material considerations;
 - (2) there is a clear and straightforward mechanism to refuse the proposed INA and then to make an alternative, reduced area designation under Section 61G(5) as endorsed in *Daws Hill*;
 - (3) Sections 61G(4) and (5) provide a broad discretion (where refusal has taken place) to designate the new neighbourhood area boundary taking into account the 'relevant factual and policy matrix' at the time of designation such as the strategic planning policy context and the complexity of planning applications in respect of the Studios and the Additional Land;
 - (4) the NPPG is also a material consideration in the decision to designate. The list at paragraph 033 is not closed and it is not mandatory to have regard to each item (albeit, it is plainly good practice to consider each in turn, where relevant);

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- (5) the NPPG is clear that IPC should have discussed the proposed designation in advance so as to understand the full implications arising from it; and
- (6) all of the above takes place within the overarching statutory duty under paragraph 3 of Schedule 4B to the Act, namely to provide such advice and assistance to ensure that the plan is made.

5. Desirability of Designating the INA

- 5.1 The starting point in considering the Application is the desirability of designating the whole of the Parish.
- 5.2 However, as noted above, this does not prevent the exclusion of part of the Parish; to the contrary, the Council has an express power to amend the boundary of the INA where wider planning considerations justify doing so. We summarise these considerations below.

Wider Considerations

- 5.3 It is well established that sites of strategic importance have a significant bearing upon the 'desirability test'. Whilst it is possible to include a strategic site in a neighbourhood area, it is more likely that it would not be desirable to do so (per, for example, *Daws Hill*).
- 5.4 When considering whether it is desirable to designate the whole of the Parish as the INA, it is incumbent on the Council to consider wider planning considerations, which here plainly include the Permission to which significant weight should be attached particularly given the endorsement of the Secretary of State and the extensive scrutiny to which it was subject at public inquiry.
- 5.5 On any objective application of these considerations, it is beyond any doubt that the Studios are of strategic significance in planning terms. The Secretary of State agreed that the Studios have '*a leading global status, and [are]... an essential component of the UK film industry, which makes a substantial contribution to the UK economy*' (see paragraph 19 of his decision).
- 5.6 In so concluding, the Secretary of State had balanced the national interest of protecting the Green Belt against the national interest in promoting the sustainable economic growth provided by the Studios. Having done so, he was satisfied that a miscellany of economic, social and environmental benefits arising from the expansion of the Studios clearly outweighed Green Belt harm such that very special circumstances existed to justify this significant development in the Green Belt (per paragraph 87 of the NPPF). The considerable contribution of the Studios to the national media and creative industry and scale of the contribution to the UK economy was central to demonstrating very special circumstances and further underscores the wider significance and importance of the Studios. This analysis was undertaken by reference to a comprehensive and recent evidence base (including a long-term business assessment of future requirements) which was subject to a rigorous examination at the public inquiry.
- 5.7 The scale of the existing Studios is significant, representing one of the largest production studios in the UK and in the world, and will be substantially increased (by approximately 100% as measured by floorspace) through implementation of the Permission, phase 1 of

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which is now nearing completion. Once completed this first phase will represent around a 50% increase in floorspace. The planning status of the Studios is, therefore, highly relevant when the Council is considering whether it is desirable to include them in the INA.

- 5.8 As such, it is quite wrong for the Statement to assert that PSL is unilaterally promoting the Studios as having strategic and national importance.

Paragraph 33 of the NPPG

- 5.9 Although the list is not exhaustive, it is informative to assess the Studios against each of the considerations set out in Paragraph 33 as below:

- 5.10 **Village or settlement boundaries, which could reflect areas of planned expansion** - the Studios lie outside the settlement boundary of Iver Heath village. Whilst part of the Studios, comprising much of the existing Studios, is excluded from the Green Belt the remainder is within the Green Belt (albeit that the Permission allows for significant development within this area). The Studios are, therefore, subject to either policies in the Council's adopted Local Plan or the conditions imposed on the Permission.

- 5.11 **The catchment area for walking to local services such as shops, primary schools, doctors' surgery, parks or other facilities** - the Studios are a security-restricted site, fenced off to members of the public and with security controlled access for those seeking to enter. This is because of the commercially sensitive nature of the work on site. The Studios provide no access to the services listed above and its exclusion from the neighbourhood area would not alter this position. Controlled *recreational only* access across part of the Studios is possible subject to the controls set out in a planning obligation associated with the Permission.

- 5.12 **The area where formal or informal networks of community-based groups operate** - there is no relevant formal or informal community-based group operating on the Studios and there is no resident population. The Original Application expressly stated that its purpose is '*to understand and be responsive to residents' wishes across the Parish*'. This purpose would be entirely unaffected by including the Studios within the INA.

- 5.13 **The physical appearance or characteristics of the neighbourhood, for example buildings may be of a consistent scale or style** - the Studios are physically distinct and demarcated from the rest of the surrounding land by the boundary fencing referred to above. It has a noticeably different built scale and style dominated by the sound stages and other production buildings reflecting its bespoke function as a major media production facility.

- 5.14 **Whether the area forms all or part of a coherent estate either for businesses or residents** - the Studios accommodate bespoke business activities. Whilst they are located in proximity to residential areas, they do not form part of a coherent whole (within the meaning of the NPPG) given the obvious priorities of protecting the confidence of on-site commercial interests to which we have already referred.

- 5.15 **Whether the area is wholly or predominantly a business area** - this indicates that a business use area is unlikely to be appropriate for a residential neighbourhood plan.



- 5.16 **Whether infrastructure or physical features define a natural boundary, for example a major road, railway line or waterway** - the existing Studios are secured on all sides by established physical features including Pinewood Road to the east and north, Black Park to the west and a heavily treed boundary to the south. The extent of the expansion of the Studios (as authorised by the Permission) is similarly defined, including by the M25 and Sevenhills Road to the north and east, Pinewood Road to the west and the settlement edge of Iver Heath defined by the properties in Pinewood Green to the south.
- 5.17 **The natural setting or features in an area** - the Studios are densely developed and contain limited areas of open space which are utilised entirely for production activities. The expansion authorised by the Permission is on land which is currently open (and, until the use commences, also used by productions for exterior set building).
- 5.18 **Size of the population (living and working) in the area** – as above, there are no residents living at the Studios although they do support a substantial working population (c. 1,800 at peak times).
- 5.19 **Electoral ward boundaries can be a useful starting point for discussions on the appropriate size of a neighbourhood area; these have an average population of about 5,500 residents** - the Studios are located within the Iver Heath Ward. The Parish comprises the Iver Heath, Iver Village and Richings Park Wards. The proposed INA therefore extends beyond a ward boundary.

6. Precedents

- 6.1 The Representations refer to two examples of applications for neighbourhood areas which had been refused in similar circumstances (which we refer to as *Daws Hill* (as already traversed above) and *Middleton St George*³). Whilst the Statement purports to distinguish these cases, we remain firmly of the view that they represent strong support for PSL's position as set out in these submissions and the Representations. A summary of these cases is detailed at [appendix 3](#) and further documentation is provided at [appendices 4 – 6](#).
- 6.2 In brief, the local authority in Middleton St George accepted the sub-regional economic importance of Durham Tees Valley Airport (also taking into account the existence of a draft policy within the emerging Local Plan) and, consequently, refused an application for a neighbourhood area that sought to include the Airport and, instead, revised the boundary so as to exclude the Airport. That decision was not challenged. Rightly so, because it is evident that the authority's decision was plainly within the powers of the Act. To suggest - as the Statement does - that '*it may well be wrong in law*' is another tentative and potentially misleading submission.
- 6.3 As to Daws Hill, we need not repeat PSL's position, which is set out in full in the Representations. However, we do briefly respond to the commentary within the Statement that maintains that WDC's decision – as upheld by both the High Court and Court of Appeal⁴ - was '*wrong to many*'. Candidly, this is an extraordinary submission. As

³ See Appendices 4 and 5 - Committee Report on the Middleton St George NP and decision notice on the Daws Hill NP respectively

⁴ See Appendix 6- legal judgment *Daws Hill Neighbourhood Forum v. Wycombe DC, Secretary of State for CLG and Taylor Wimpey UK Ltd* [2013] EWHC 513 Admin



a matter of law, the judgment of the Court of Appeal is binding (and very weighty) authority unless overturned by the Supreme Court, which plainly has not occurred.

- 6.4 As such, we would respectfully submit that Daws Hill is directly relevant to the Council's determination of the Application and weighs heavily in favour of excluding the Studios from the INA.

7. DCLG Technical Consultation

- 7.1 The DCLG 'Technical Consultation on implementation of planning changes' (February 2016) closed on 16 April 2016 and has not had any published findings to date. We are however cognisant that it has been subject to significant objection in respect of the proposed changes to the Neighbourhood Planning process, including by PSL.

- 7.2 At present, therefore, the only applicable provision is section 61G of the Act, as drafted.

- 7.3 The argument at paragraph 57 of the Statement, as to Parliamentary intention, is misguided. DCLG are proposing a statutory amendment which (even if pursued) would have to progress through the Parliamentary process in due course. Moreover, the Technical Consultation is not *guidance* for the purposes of the Application. Indeed, it would be unlawful to treat a consultation document of this kind, without any confirmed response, as guidance in the manner submitted by Planning Progress.

8. Summary and Conclusions

- 8.1 PSL remains strongly opposed to inclusion of its land within the INA and relies upon the following points (in summary):

- (a) a neighbourhood plan is an appropriate vehicle for plan-making in respect of local, community-scale matters (the limitations of the neighbourhood plan process have been explored in a number of recent judgments of the High Court, culminating in *R(Crownhall Development) v Chichester DC* [2016] EWHC 73 (Admin));
- (b) whereas, the Studios are an internationally and nationally significant facility, which undoubtedly fulfil a strategic function and should not be dealt with through a local/community level planning tool;
- (c) the Application has palpably failed to assess the wider planning considerations (such as the role of the Studios and those of relevance set out in the NPPG) which serve to demonstrate that the Studios should be excluded from the INA;
- (d) the inclusion of the Studios (and the Additional Land) would likely cause substantial long-term complexity for all parties involved including the Neighbourhood Plan Steering Group (and any consultants who they instruct) and the Council's own designated officer. The result would be substantial wasted resource for all involved and a high probability of delay to the neighbourhood plan, preventing it from addressing other matters which local people wish to address;

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- (e) the simplest and most appropriate way in which the Council can avoid the substantial difficulties identified above is to refuse the current designation under Section 61G(4) (and provide their detailed reasons under Section 61G(9)) and it would be entirely lawful to do so;
 - (f) the decision in *Daws Hill* provides a useful template, defended successfully up to the Court of Appeal; and
 - (g) the Statement is flawed in fundamental respects and does not contain any planning rationale for the inclusion of the Studios and the Additional Land. It relies on a series of legal submissions that presume to argue contrary to the clear statutory language of Section 61G(5) which confers a broad discretion to designate a reduced area.
- 8.2 In addition, the failure of IPC to consult PSL is of real concern and contrary to the NPPG.
- 8.3 As above, it is open to the Council to reject the Application and draw an alternative boundary which excludes the Studios and Additional land (as shown on the enclosed plan at appendix 7). Such a boundary would not conflict with IPC's previously stated rationale for the boundary of the INA.
- 8.4 We respectfully request the Council do so.

Yours faithfully



Clyde & Co LLP

Enc.

Appendix 1: Letter dated 27 November 2015 sent by Turley to the Council (exc appendices)

Appendix 2: Copy of IPC Consultation Leaflet

Appendix 3: Summary of Relevant Precedents

Appendix 4: Committee Report – Middleton St George NP

Appendix 5: Decision on Daws Hill NP

Appendix 6: *Daws Hill Neighbourhood Forum v Wycombe CD, Secretary of State for CLG and Taylor Wimpey plc*

Appendix 7: Suggested Alternative Boundary



27 November 2015

Delivered by email and post

Mr Peter Beckford
Head of Sustainable Development
Chiltern District Council and South Bucks District Council
Capswood
Oxford Road
Denham
Buckinghamshire
UB9 4LH

Dear Mr Beckford

IVER NEIGHBOURHOOD PLAN: REPRESENTATIONS ON PROPOSED NEIGHBOURHOOD AREA

I am writing on behalf of our client, Pinewood Studios Ltd ('PSL'), to make representations to the consultation in respect of the designation of the proposed Iver Neighbourhood Area ('INA') pursuant to section 61G of the Town and Country Planning Act ('TCPA') 1990 and Regulation 6 and 6A of the Neighbourhood Planning (General) Regulations 2012.

Pinewood Studios is contained wholly within Iver Parish's administrative area, the whole of which is proposed to be included within the INA.

PSL does not oppose the designation of a neighbourhood plan (NP) over the majority of the Parish Council area. However, given the national, regional and local strategic significance of Pinewood Studios ('the Studios'), it would not be appropriate ('desirable' under the terms of section 61G(4)(a)) to include PSL's land and the land covered by the recent consent from Secretary of State ('SoS') for the Pinewood Studios Development Framework (PSDF)¹ within the proposed INA.

PSL therefore formally requests that an amendment to the proposed boundary of the INA is made, through the statutory route under section 61(5) TCPA such that the current application for designation is refused because the specified area is not an appropriate area to be designated as a neighbourhood area (NA), and the Council exercise their power of designation so as to secure that the remaining majority of the Parish Area is designated as an NA.

Background

Both the District Council and the Parish Council will already be well aware of the status and role of the Studios from the PSDF appeal and public inquiry. Pinewood Studios enjoys an unparalleled reputation in

¹ PINS ref. APP/N0410/A/13/2199037

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Manchester
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the world film industry since it was established in the 1930s, becoming a market leader with a global reach and reputation. It is the largest and most prolific film and television studio in the UK and one of the leading providers of production facilities to the screen-based creative industries in the world. Its status was recognised by the SoS in the PSDF decision letter, concluding that it *'has a leading global status'* and *'is an essential component of the UK film industry'*². It operates as the hub of the West London film and television production cluster.

The range of production facilities, services and skills available on a single site at Pinewood is one of the most comprehensive in the world, and provides a unique offer that attracts the best international producers and directors to make their films in the UK. Pinewood Studios also accommodates a community of approximately 180 specialist businesses, enterprises and suppliers. The co-location of stages with workshops and production offices and the essential array of specialist trades and crafts, such as carpenters, plasterers, prop makers, armourers, set dressers and scenic artists is unique.

Additional capacity had historically been added through piecemeal development and a previous masterplan with outline planning permission covering the Studios' operational land. This has changed with the outline planning permission for the PSDF, granted by the SoS on appeal for a comprehensive built development of a wider and extended site, and over a long timescale (10 years).

This is the international, national, regional and local strategic context of the Pinewood Studios site against which to assess whether it is, in the terms of the statutory framework, 'desirable' to include the site within the proposed Iver NP.

Legal Framework for Determination of Neighbourhood Plan Applications

The primary legal framework is at Section 61G of the TCPA of which sub-sections (3), (4) and (5) provide (so far as relevant):

(3) The specified area —

(a) in the case of an application by a parish council, must be one that consists of or includes the whole or any part of the area of the council, and...

(4) In determining an application the authority must have regard to—

(a) the desirability of designating the whole of the area of a parish council as a neighbourhood area, and...

(5) If —

(a) a valid application is made to the authority,

(b) some or all of the specified area has not been designated as a neighbourhood area, and

(c) the authority refuse the application because they consider that the specified area is not an appropriate area to be designated as a neighbourhood area,

the authority must exercise their power of designation so as to secure that some or all of the specified area forms part of one or more areas designated (or to be designated) as neighbourhood areas.

² Para 19 SoS Decision Letter

These sub-sections 61G(3)-(5) therefore make clear that an application by a parish council to designate a neighbourhood plan area does not have to comprise the full parish area and can cover a smaller part. The sub-sections also require them to have regard to the **desirability** of designating the whole of the parish area. Guidance on the 'desirability' test is provided through the National Planning Policy Framework ('NPPF') and National Planning Practice Guidance ('NPPG') (considered below).

Sub-section 61G therefore provides Local Planning Authorities (LPAs) with the power to refuse the application and then to modify the area if they consider that the specified area is not an appropriate area to be designated as an NA, to ensure that the NP area proceeds but according to a more appropriate designation.

Policy and Guidance on Neighbourhood Planning

The 'NPPF, paragraphs 16 and 183-185 all indicate that NPs should serve as a local / community level plan, with the purpose of ensuring that local people get the right type of development in their community.

Paragraph 18, in particular, makes clear that the NP should conform to national planning policy, with the strategic needs and requirements of the local planning authority area as set out within the strategic policies of the Local Plan (which it should '*positively support*').

Specific guidance on the operation is set out in National Planning Policy Guidance (NPPG), Paragraph: 032 Reference ID: 41-032-20140306 '*What flexibility is there in setting the boundaries of a neighbourhood area?*' and Paragraph: 033 Reference ID: 41-033-20140306 '*What could be considerations when deciding the boundaries of a neighbourhood area?*'

Paragraphs 032 and 033 make plain that whilst parish boundaries *can* be the starting point within parished areas, consideration must always be given to wider planning considerations that might influence the process. The list in 033 is not exclusive, but provides a number of key considerations in the instant case notably:

- Village or settlement boundaries, which could reflect areas of planned expansion.

PSL falls outside the settlement boundary of Iver Heath village.
- The catchment area for walking to local services such as shops, primary schools, doctors' surgery, parks or other facilities.

The Studios are a security-restricted site, fenced off to members of the public and with security controlled access for those seeking to enter, because of the commercially sensitive nature of the work on site.
- The area where formal or informal networks of community-based groups operate.

There is no relevant formal or informal community-based group operating on the site.
- The physical appearance or characteristics of the neighbourhood, for example buildings may be of a consistent scale or style.

Pinewood Studios is physically demarcated from the rest of the surrounding land – with a noticeably different architectural scale and style in the sound stages, reflecting its function as a major media production facility.



- Whether the area forms all or part of a coherent estate either for businesses or residents.

The site is physically demarcated from residential areas, as set out above.
- Whether the area is wholly or predominantly a business area.

Although this component of the guidance may denote a business plan, the criterion operates in the same manner in relation to separate business areas, such as the Studios.
- Whether infrastructure or physical features define a natural boundary, for example a major road, railway line or waterway.

As set out above, the existing Studios site is fenced off and physically demarcated on all sides by established physical features including Pinewood Road to the east and north, Black Park to the west and a heavily treed boundary to the south.

The extent of the PSDF site is similarly defined, including the M25 and Sevenhills Road to the north and east, Pinewood Road to the west and the settlement edge of Iver Heath defined by the properties in Pinewood Green to the south.
- The natural setting or features in an area.

The Studios is a developed site.
- Size of the population (living and working) in the area.

The Studios supports a substantial working population (c. 1,800 at peak times) on the site (with staff numbers expected to approximately double following completion of the PSDF).
- Electoral ward boundaries can be a useful starting point for discussions on the appropriate size of a neighbourhood area; these have an average population of about 5,500 residents.

The boundary of Iver Heath electoral ward comprises a smaller area than that of the Parish. It is a potential starting point but wider considerations can justify an alternative boundary.

The NPPG then specifies that an application for designating an NA must include a statement explaining why the proposed area is appropriate and address the relevant planning considerations. It is possible for LPAs to refuse the NA application and amend the NA boundary, stating reasons for doing so.

Summary of the NP Application by Iver Parish Council

Iver Parish Council has submitted an application to South Bucks District Council (SBDC) for the designation of the INA. The Studios (including the full extent of the PSDF site and other land owned by PSL) fall within the proposed INA.

It is notable that that the supporting statement prepared by the Parish Council is very brief, with the rationale for the proposed boundary comprising a single paragraph within the covering letter for the application, providing limited justification (based on the premise that excluding part of the Parish would potentially disenfranchise residents in such areas) and making no reference to the NPPG. There are no permanent residents living within the boundaries of Pinewood Studios who would be eligible to vote in an NP referendum in accordance with the Neighbourhood Planning (Referendum) Regulations 2012 (as amended).

The supporting statement also offers an insight into the future direction of the NP, referring to a NP which responds to residents' wishes and meets **local** needs. It is critical to note in this context that the Iver Parish Council and a consortium of local residents have sought over many years to resist the growth of the Studios. There is a substantial concern that the promoters of the Plan would further their opposition through this route.

Representations

The role of NPs is clearly defined in policy and guidance. It is to deal with local / community level issues. NPs are therefore not intended to deal with sites or issues which have a wider status; it is certainly not appropriate that a site of international and national importance, such as Pinewood Studios, should be dealt with through an NP. The stated purpose of the Iver NP is to address local issues; it should not seek to address strategic matters or sites of more than local significance. The inclusion of Pinewood Studios within the proposed Iver NP would therefore be wholly inappropriate and not desirable as a matter of national policy or in the interest of long-term strategic plan-making in the District.

The importance of the Studios and its role in the global media industry is well established, most recently in the PSDF decision letter. The SoS (and Inspector) reached this conclusion having regard to a comprehensive and recent evidence base, including a long-term business assessment of future requirements, which had been subject to a rigorous assessment through a Public Inquiry. The contribution of the PSDF to the national media and creative industry and scale of contribution to the UK economy was central to establishing that Very Special Circumstances existed, justifying a substantial expansion of the Studios into the Green Belt. It is undoubtedly a site of more than local significance and importance and should not be governed by the Iver NP.

The SoS also concluded that the PSDF scheme represented an appropriate long-term framework for the redevelopment and expansion of the Studios, reflecting its unique requirements³. Accordingly, seeking to control future development at the Studios through an NP is entirely inappropriate. Such strategic planning matters as may be required can be dealt with through the emerging SBDC Local Plan. The Local Plan has undergone Initial Consultation (in April 2015); it is therefore at its formative stages and there will be sufficient opportunity for local residents to engage in the plan preparation process and shape future policy direction.

The justification statement included with the INA application is brief and does not reflect the requirement of the NPPG to give weight to wider planning considerations in setting the boundary of an NP and offers no support to the claim that it is an appropriate boundary. This is a fundamental flaw in the application, particularly in light of the presence of a long-established facility of more than local importance, such as the Studios.

It is instructive to note that the Parish Council has not sought to contact or engage with PSL regarding the inclusion of its land within the INA. Failure to engage with landowners, particularly those with significant land holdings with an NA represents a significant shortcoming in the NP preparation process, contrary to the NPPG⁴ which guides the promoters of NPs to involve landowners and the development industry in the process. In the absence of such involvement, substantial doubt must be cast on its effectiveness. It is a very significant error at the first step of the proceedings.

Summary and Conclusions

Pinewood Studios therefore formally objects to the proposed INA boundary designation and requests its refusal and amendment, which follows the Parish boundary, on the basis that:

³ Paragraph 20 SoS Decision Letter

⁴ Paragraph: 048 Reference ID: 41-048-20140306

Turley

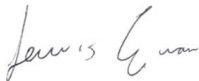
- Planning decisions regarding the future of an internationally and nationally significant facility such as Pinewood Studios should not be dealt with through a local / community level planning tool.
- The unique circumstances of the Studios are best met through the Pinewood Studios Development Framework and the emerging SBDC Local Plan.
- The failure of the application to assess wider planning considerations (such as the role of the studios) which would strongly support an alternative boundary which did not include the entire Parish.
- The failure to consult with PSL as a major landowner, and an apparent pre-determination of the future direction of the NP (based on meeting the needs of residents, as stated in the application documentation). Failing to engage with PSL is highly likely to result in an NP which does not reflect its requirements and provides a significant constraint on its ability to remain at the forefront of its industry.

There are a number of precedents for NA applications being refused in similar circumstances⁵. In one instance, the decision has been endorsed by the High Court and Court of Appeal in judgments⁶ which reaffirmed the need to define boundaries having regard to the presence of strategic sites, reflecting sites with plans and applications well advanced, and the existence of other opportunities for the local community to input to the planning of the sites. These are cited in the attached Appendix on relevant authorities.

In accordance with the NP regulations and NPPG an LPA may refuse the proposed NA and draw an alternative boundary which excludes the PSL land (as shown on the enclosed plan (Appendix 5)). Such a boundary would not conflict with the Parish Council's stated rationale for the INA boundary.

I trust you will give due consideration to this letter in considering the application. I would be happy to review this with you further.

Yours sincerely



Lewis Evans
Senior Planner

lewis.evans@turley.co.uk

⁵ See Appendices 2 and 3 - Committee Report on the Middleton St George NP and decision notice on the Daws Hill NP respectively

⁶ See Appendix 4- legal judgment Daws Hill Neighbourhood Forum v. Wycombe DC, Secretary of State for CLG and Taylor Wimpey plc [2014] EWCA Civ 228

The Ivers are changing!



The new Pinewood development

Help! Attend a Neighbourhood Plan Meeting.

(area designation application pending)

Mon Nov 16th Iver Village Hall.

Wed Nov 18th Iver Heath
Village Hall.

Mon Nov 23rd Richings
Park Sports Club.

All start at 7.30pm
Attend any meeting!



Reduce HGVs?



Revive shopping areas?



Better facilities?



More homes?

The Iver Neighbourhood Plan (INP) will contain local planning policies that will influence future development in the Ivers.

Where should a relief road go to take HGVs from residential roads?

Should Green Belt Protection continue?

Are the shopping areas useful, could they be better?

Are there enough leisure facilities in the Ivers?

Are community health facilities adequate and in the right places?

Is it important for the Ivers to have a secondary school?

If new homes are needed, what kind and where should they be built?

These are some of the questions that we need you, the residents and businesses of the Ivers to answer. This is your opportunity to influence development and the changes taking place and to say how you think the Ivers could be better. Please try to attend one of the consultation meetings about the Iver Neighbourhood Plan and look out in due course for the questionnaire which every household will receive through the post. Information will also be available in the library or online at iverparishcouncil.gov.uk

Iver Parish Council, 63, Chequers Orchard, SL0 9NJ 01753 655331

Appendix 2 : Relevant Precedents

1. Recent Neighbourhood Area (NA) applications provide useful parallels in terms of the form of application for an NA, the geography, the justification provided and the outcome.

Middleton St George Darlington

2. Firstly, an application for NA by Middleton St George PC in Darlington sought to designate the whole of the parish (and an adjacent parish) within which Durham Teess Valley Airport, an international passenger and commercial airport (owned by Peel Airports), was located. The justification for the boundary was similarly brief as that by Iver PC, although it made specific reference to the importance of airport-related planning matters to residents.
3. Turley objected on behalf of Peel Airports on the basis that, as a key regional and national asset and international gateway, airport planning was the antithesis of the issues an NP should deal with. Reference was made to the recent preparation of a masterplan for the airport which was based on a substantial evidence base, technical consultation and local engagement, and to the commercial constraint that an NP would place on the airport.
4. The application was refused and the NA boundary was revised by the LPA to exclude the airport. The reasons cited were the sub-regional economic significance, the set of unique functions across the entire site which should be considered as a whole and the existence of a draft policy relating to airport development in the emerging Local Plan, which it was considered to properly deal with the future development of the airport.

Daws Hill, Wycombe

5. Another example of the LPA amending an NA boundary is the case of the Daws Hill NP in Wycombe promoted by the Daws Hill Neighbourhood Forum (DHNF). The NA included two sites identified as strategic sites in the adopted Core Strategy which were contiguous to the main residential area. The NA application was refused, with the LPA omitting the two sites on the basis that:
 - their development presented strategic issues which went beyond local impacts;
 - the consequential likelihood of an NP including the strategic sites necessitating a referendum which covered a wider area than the NA boundary (reflecting the strategic nature of the sites) thus failing to comply with the NP process;
 - the opportunity to influence the planning process in respect of both sites through the application process (one was subject to a live planning application and an application was expected on the other);
 - unrealistic raising of expectations in relation to the effectiveness of the NP in light of the progress made on planning applications on both sites (with decisions expected on both applications before the NP was adopted); and
 - objections from the respective landowning interests one of whom cited 'wider than local' impacts associated with the site.
6. That decision was subject to an unsuccessful legal challenge by the DHNF. Paragraphs 51 – 56 of the High Court decision (extracted below) are of particular relevance:

51. Ms Ornsby submits that all the reasons given for the decision arise from the policy and factual matrix that the Council properly had regard to when determining whether the proposed neighbourhood area is appropriate. The reasons, she submits and I agree, need to be looked at in the context of the report and supporting documentation that informed those reasons. Appendix A to the Officer's Report sets out the background and issues, the consultation responses and the options available to the Council. At paragraph 12 it is noted:

"It is clear that strategic issues come into play in the planning of these sites, including hard decisions having to be made about resolving the very challenging transport/infrastructure issues in the area, and meeting wider housing and economic development needs, and all of these issues have 'larger than local' impacts. It therefore needs to be carefully considered whether the extent of this proposed neighbourhood area is an appropriate one for neighbourhood planning via the proposed forum."

52. Ms Ornsby submits that in considering whether the proposed neighbourhood area was appropriate, it was open to the Council to take into account the strategic nature of the Daws Hill and the Handy Cross sites, and to find that there was a substantial mis-match between the proposed neighbourhood forum and the area which it sought to control. Mr Unsworth states (at para 4(e) of his witness statement) that:

"The objective of the residents that make up the DHNF appears, and has always appeared, to seek to limit the re-development of this strategic site." (See also DHRA Position Statement, 1 November 2011, page 2).

The Report to Council (Appendix A, para 16) continues:

"Looking at the individual site issues, it is acknowledged that whilst there is a clear statutory strategic planning policy framework in place, there is no site-specific allocation or adopted policy for the former RAF Daws Hill. However, as one of the largest brownfield sites in the District, any development which progresses here will have wider connotations in terms of the ability of the District to meet its development requirements in a way which satisfies the priority given in the Core Strategy and the NPPF to developing on brownfield sites. If the former RAF Daws Hill is developed in such a way as to fail to optimise the site's development potential, then more pressure will be brought to bear on other sites, and the potential benefit of the site to the wider community may be not fully exploited. Therefore, whilst the Council fully recognises local stakeholders' concerns about the planning issues in the area, it is considered that including the former RAF Daws Hill in a Neighbourhood Area and hence any subsequent neighbourhood plan would not be the appropriate approach to address the strategic planning issues for the site."

53. Ms Ornsby submits that these points translate into the first of the reasons given in the decision. This was, she submits, plainly a matter of judgment for the Council and it would have been wholly wrong to leave these points out of account. It does not follow that strategic sites cannot be the subject of a Neighbourhood Area; however it was not appropriate for them to be so in the present case.
54. If at the outset of the process it appears likely there will have to be a referendum over a wider area than the proposed neighbourhood area that consideration, in my view, reinforces the Council's concern that there is a mis-match between the area represented by the DHNF and the area it sought to control for the purpose of neighbourhood planning. Moreover if a referendum is to be conducted over a wider area for the Neighbourhood Plan to be successful it may require the support of at least 50% of the vote of those outside the neighbourhood area proposed by the DHNF, who have not previously been involved in the preparation of the plan.

55. *Local authority resources are limited. Having regard to the stage that had been reached in relation to planning matters affecting the two strategic sites and the time it would take for a Neighbourhood Plan to complete the various statutory processes, the Council was entitled to consider if any useful purpose would be served by the proposed Neighbourhood Area when the sites would be under development before the process was concluded.*

56. *If the likelihood is that a neighbourhood plan would be overtaken by events, the proposed neighbourhood area designation will not influence the outcome of the planning applications in respect of the two sites, which could, as Ms Ornsby submits, well lead to frustration at local level.*

7. The judgement confirmed that the LPA had correctly exercised discretion reflecting the specific factual and policy matrix and the judge agreeing that there was a mismatch between the area represented by the DHNF and the area it was seeking to control.

Conclusions

8. These cases support the need for careful consideration to be given to the boundaries of NAs at the outset. Failure to do so can have significant implications for land-use planning within an NA in the future.
9. They demonstrate that site or issues which are of more than local significance should not be dealt with through Neighbourhood Plans and that Local Planning Authorities must carefully consider the particular circumstances of a proposed NA in determining applications for their designation.

**CABINET
1 JULY 2014**

ITEM NO.

MIDDLETON ST GEORGE – NEIGHBOURHOOD AREA DESIGNATION

**Responsible Cabinet Member –
Councillor Chris McEwan, Economy and Regeneration Portfolio**
Responsible Director – Ian Williams, Director of Economic Growth

SUMMARY REPORT

Purpose of the Report

1. To seek members approval for the designation of a Neighbourhood Area at Middleton St George (MSG).

Summary

2. The Localism Act 2011 gives neighbourhoods the opportunity to develop their own Neighbourhood Development Plans. The Council as local planning authority has a duty to support the process of Neighbourhood Planning. This includes a number of legal requirements, as set out in the Neighbourhood Planning (General Regulations) 2012, to publish and consult at various stages of the neighbourhood planning process.
3. In February this year, Middleton St George Parish Council (in association with Low Dinsdale Parish Council) applied to Darlington Borough Council for Middleton St George ward (see attached Map 1 at **Appendix 1**) to be designated as a Neighbourhood Area for the purpose of preparing a Neighbourhood Development Plan. A Neighbourhood Plan is a way for the parish councils or neighbourhood forums to help shape how their community develops over the coming years. Unless there are valid planning reasons to the contrary the Council must designate the area applied for as a Neighbourhood Area. If the Council considers the area not to be appropriate it must issue a refusal notice explaining why. It must also exercise its power of designation so as to secure that some of the area applied for forms a Neighbourhood Area or part of a Neighbourhood Area.
4. The consultation on the proposed Neighbourhood Area ended on 12 May, and four responses were received. Having considered each response, and the issues raised, officers are of the opinion that the application should be refused as submitted for the reasons set out in the main report. However, officers are of the opinion that, if Durham Tees Valley Airport was to be removed from the proposed Area, then the remaining Area can be so designated. Middleton St George Parish

Council was informed by letter of this proposal and the reasons for it and, despite reservations, it has agreed to the proposed modification to the boundary.

5. Members are therefore recommended to refuse the application because they consider that the specified area is not an appropriate area to be designated as a Neighbourhood Area, but to exercise their power of designation and designate as a the Neighbourhood Area the area shown on Map 2 **Appendix 2**.

Recommendation

6. It is recommended that :-
 - (a) Cabinet refuses the application from Middleton St George Parish Council to designate the area shown on Map 1 **Appendix 1** as a Neighbourhood Area.
 - (b) Cabinet designates the area shown on Map 2 **Appendix 2** as a Neighbourhood Area for the proposed Middleton St George Neighbourhood Plan.

Reasons

7. The recommendations are supported by the following reasons :-
 - (a) It is inappropriate for Durham Tees Valley Airport to be included in the Neighbourhood Area, for the reasons set out in paragraph 14 of the main report.
 - (b) The area within Middleton St George, once the Airport is removed, is an appropriate area to be designated as a Neighbourhood Area for the purposes of the proposed Middleton St George Neighbourhood Plan.

Ian Williams
Director of Economic Growth

Background Papers

No background papers were used in the preparation of this report

Steve Petch : Extension 2627

S17 Crime and Disorder	This report has no implications for crime and
Health and Well Being	No direct impacts of this report.
Carbon Impact	There are no carbon impact implications in this report.
Diversity	There are no specific issues relating to diversity
Wards Affected	Middleton St George
Groups Affected	All groups are affected
Budget and Policy Framework	The Council's Policy Framework includes the Local Development Plan (Local Plan). This report relates to the process for producing Neighbourhood Plans which ultimately could become part of the Development Plan for the Borough and would be part of the decision making process for planning applications in the designated area. The Neighbourhood Planning process places legal requirements on the Council to provide officer support and advice, for which resources have not been allocated. It may require the diversion of existing resources from currently planned work to facilitate the Neighbourhood Planning process. The Council will receive £30,000 per completed plan but this may not cover all costs. In addition, the later stages of the process include the appointment of an independent Examiner, and potentially the holding of a Referendum, before the Plan is adopted. These will need to be funded by the Council.
Key Decision	No
Urgent Decision	No
One Darlington: Perfectly Placed	Neighbourhood Plans would form part of the Local Plan, which is itself considered to be the spatial representation of OD:PP.
Efficiency	This is a new piece of legislation which the Council is legally obliged to support and process. This will inevitably result in an additional officer workload

MAIN REPORT

Information and Analysis

- The Localism Act 2011 (the Act) introduced neighbourhood planning as a way for communities to decide the future of their own area. It is not compulsory for neighbourhoods to do a plan. It is for communities to decide if they wish to be involved in neighbourhood planning. The detailed responsibilities for neighbourhood planning are set out in the Neighbourhood Planning (General Regulations) 2012 which came into force in April 2012.

9. A Neighbourhood Area may extend from a small area centrally located within one ward or on the boundary of a number of wards, or could extend to several wards or parishes. The Regulations require relevant bodies (including Parish Councils) submitting an area application to include a map which shows the area to be designated; a statement explaining why the area is considered to be appropriate for designation and confirmation that the parish council concerned is the relevant body for the purpose of neighbourhood planning for that area.
10. On receipt of a Neighbourhood Area application, the local planning authority must publicise it for a period of not less than 6 weeks and invite representations. Having considered the application and any representations, the Council will decide whether or not to approve the designation. If the Council approves the designation of the Neighbourhood Area, it will be published on the Council's website.
11. In February this year, Middleton St George Parish Council (in association with Low Dinsdale Parish Council) applied to Darlington Borough Council for the area within the Middleton St George ward boundaries (see attached Map 1 at **Appendix 1**) to be designated as a Neighbourhood Area for the purpose of preparing a Neighbourhood Development Plan.
12. The Council consulted on the proposed area using various methods, including help from the Parish Council which produced a special newsletter to advertise the proposed area across the ward. In addition, website, individual letters to surrounding parishes and local authorities etc.
13. The consultation generated four responses.
 - (a) Gladman Developments have no comments on the proposed Neighbourhood Area but wish to be involved in the development of the Plan.
 - (b) Long Newton Parish Council does not want the Area to extend beyond the proposed boundary, into its Parish Council area.
 - (c) Durham Tees Valley Airport strongly objects to the inclusion of land at the airport in the designated Area. In its view, planning for the airport should be led by the recently adopted Airport Masterplan.
 - (d) Stockton Borough Council provides some useful references to latest government guidance on Neighbourhood Plans and confirms its willingness to support the Neighbourhood Plan process if appropriate.
 - (e) The full responses are available at :
<http://www.darlington.gov.uk/Living/Planning/Planning+Policy/NeighbourhoodPlanning.htm>
14. Having considered each response, and the issues raised, officers are of the opinion that the application should be refused on the grounds that it is inappropriate for Durham Tees Valley Airport to be included in the Neighbourhood Area, for the reasons set out below.

- (a) Durham Tees Valley Airport is regarded as strategic transport infrastructure of sub-regional significance to the Tees Valley area economy. The purpose of the Neighbourhood Plan is intended to serve local issues concerned with Middleton St. George and Low Dinsdale and therefore it is considered inappropriate that decisions of sub-regional importance be dealt with through the Neighbourhood Plan process.
 - (b) The Airport, as strategic infrastructure, undertakes its own set of unique functions across the entire site and it is therefore important that planning matters in the future on the site are considered as a whole; hence the recent publication of the airport masterplan by the Airport. The Neighbourhood Area applied for would include only part of the airport, excluding the area within Stockton's Council boundary. It is considered that a neighbourhood plan covering only part of the site would have a fractured approach and could act to confuse the strategic vision of the airport.
 - (c) A draft policy (MGP7) relating to Airport development is part of the Council's emerging Local Plan Making and Growing Places Preferred Options Development Plan Document and it is considered that this document (in association with the Airport Masterplan) should, if adopted, deal with future issues concerned with airport development. Furthermore it is considered that the technical expertise required in Airport Planning should be dealt with through the Aviation policy framework and would be beyond the resources of the parish Council.
15. Having considered that the specified area is not an appropriate area to be designated as a Neighbourhood Area, officers then reviewed the area not including the Airport. Officers consider that it would be appropriate to designate the area shown on **Map 2 Appendix 2** as a Neighbourhood Area.
16. Middleton St George Parish Council was informed by letter of the above reasons and presented with a map showing the area proposed to be designated as the Neighbourhood Area (**see Map 2 at Appendix 2**). Although clearly reluctant to exclude the airport from the Neighbourhood Area, the Parish Council has ultimately agreed to the area proposed by officers.

Financial Implications

17. Central government has agreed to make funds available to Councils to cover the cost of supporting Neighbourhood plans. There is a non-ring-fenced payment of up to £30,000 per scheme (plan), paid in three stages:
- (a) The first payment of £5,000 will be made following designation of a Neighbourhood Area recognising the officer time supporting and advising the community in taking forward a neighbourhood plan.
 - (b) The second payment of £5,000 will be made when the local planning authority publicises the Neighbourhood Plan prior to examination. This will contribute towards the costs of the examination as well as other staff costs incurred at this

stage.

- (c) The third payment of £20,000 will be made on successful completion of the neighbourhood planning examination. This is to cover costs for that examination and any other further steps that may be needed for the neighbourhood plan to come into legal force, including referendum. However, the payment is not dependent on pursuing the referendum route if both parties agree on a different approach at that point (for example, if both parties agree, the neighbourhood plan could be taken forward as part of the local plan or as a supplementary planning document).

Consultation

- 18. The proposed Middleton St George Neighbourhood Area application was the subject of consultation as mentioned at paragraph 12 above and all representations were considered as part of the decision-making process.
- 19. If Cabinet decides to designate an area less than that applied for it does not need to be re-consulted on.

**Decision in respect of the designation of the
Daws Hill Residents' Association's application for
Neighbourhood Area Status**

In respect of the application by the Daws Hill Residents' Association applications for Neighbourhood Area status, the following decision has been taken in accordance with the requirements of The Neighbourhood Planning (General) Regulations 2012.

Neighbourhood Area

In accordance with the Cabinet Decision on 10th September 2012 (Item 43), the application from the Daws Hill Residents' Association (as set out in the letter dated 31st August 2012 and accompanying attachments) for the Neighbourhood Area set out in Figure 1 is **REFUSED**. However, Wycombe District Council has designated¹ a smaller Neighbourhood Area which excludes the Wycombe Sports Centre and the former RAF Daws Hill site. This revised Neighbourhood Area is set out in Figure 2 (the area within the solid black line) accompanying this notice to form the Daws Hill Neighbourhood Area.

The reasons for the refusal for the Neighbourhood Area as applied for are as follows:

- Any development of the key strategic sites (RAF Daws Hill and Wycombe Sports Centre) outside the existing 'immediate' neighbourhood will have implications that impact upon a wider sphere of influence. Strategic issues come into play with the planning of these sites, including any supporting transport measures. There are larger than local impacts and larger 'communities of interest'.
- It is considered likely that if and when a neighbourhood plan, including one or more of the 'strategic' sites, came to examination an Inspector would judge (presuming the emerging plan was found 'sound' and 'compliant') that the referendum would need to take place over a wide area, reflecting the wider "community of interest".
- In the interests of the investment of time, energy and cost the resulting work on a neighbourhood plan needs to be well targeted. With planning matters advancing on the two key strategic sites (Wycombe Sports Centre and RAF Daws Hill) this introduces an important consideration of timeliness. An outline planning application is under consideration by the Council at Wycombe Sports Centre, and a planning application for the former RAF Daws Hill site is expected. A Neighbourhood Plan would have to follow the various statutory stages set out in regulations culminating in an Examination and, after that, a Referendum. For both the original and amended areas proposed significant cost is likely to be incurred and it is considered that the investment (not only by the community but also WDC) in such an exercise would not be timely

¹ Schedule 9 of the Localism Act 2011 – Section 61G (5)

because of the existing and expected timing of planning applications and associated decisions. Furthermore there are other opportunities for input to decisions under consideration for the key strategic sites.

- To designate a Neighbourhood Area to include the full area in the application could unrealistically raise expectations as to the effectiveness of a Neighbourhood Plan in relation to the strategic development sites. The community and the Local Planning Authority cannot stop the submissions of planning applications and the likelihood is that a neighbourhood plan would be overtaken by events. This could lead to frustration and confusion.
- Among the responses received to the original Neighbourhood Area application (whose consultation period ran from 18th May to 29th June) were two from landowning interests in the proposed area objecting to their sites being included therein. One respondent also suggested that including the strategic sites at RAF Daws Hill and Wycombe Sports Centre in the Neighbourhood Area would be inappropriate as the proposals at these sites will have 'wider than local' impacts, particularly on strategic transport measures for the southern quadrant area.

25 September 2012
Wycombe District Council
Planning and Sustainability
Contact: David Dewar (tel) 01494 421570 (email)
david_dewar@wycombe.gov.uk

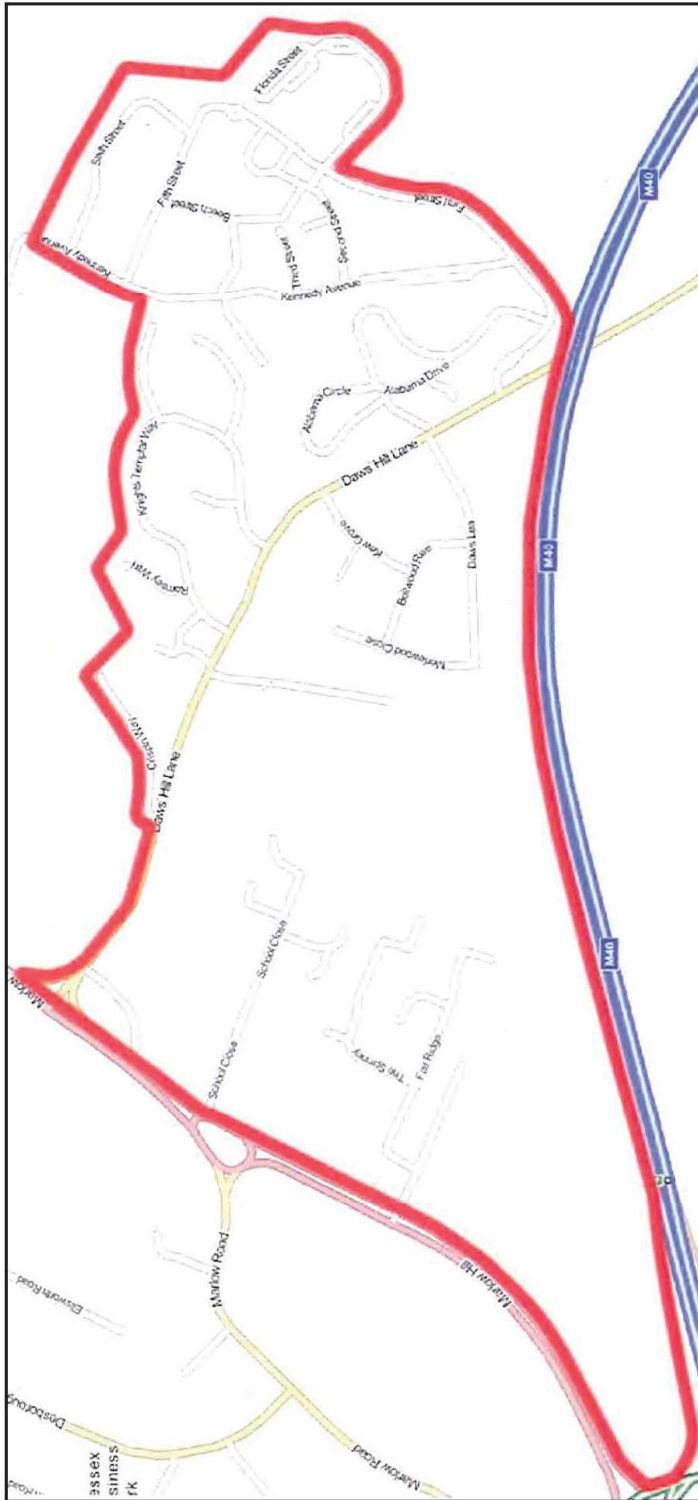


Figure 1: Neighbourhood Area boundary proposed by the Daws Hill Residents Association

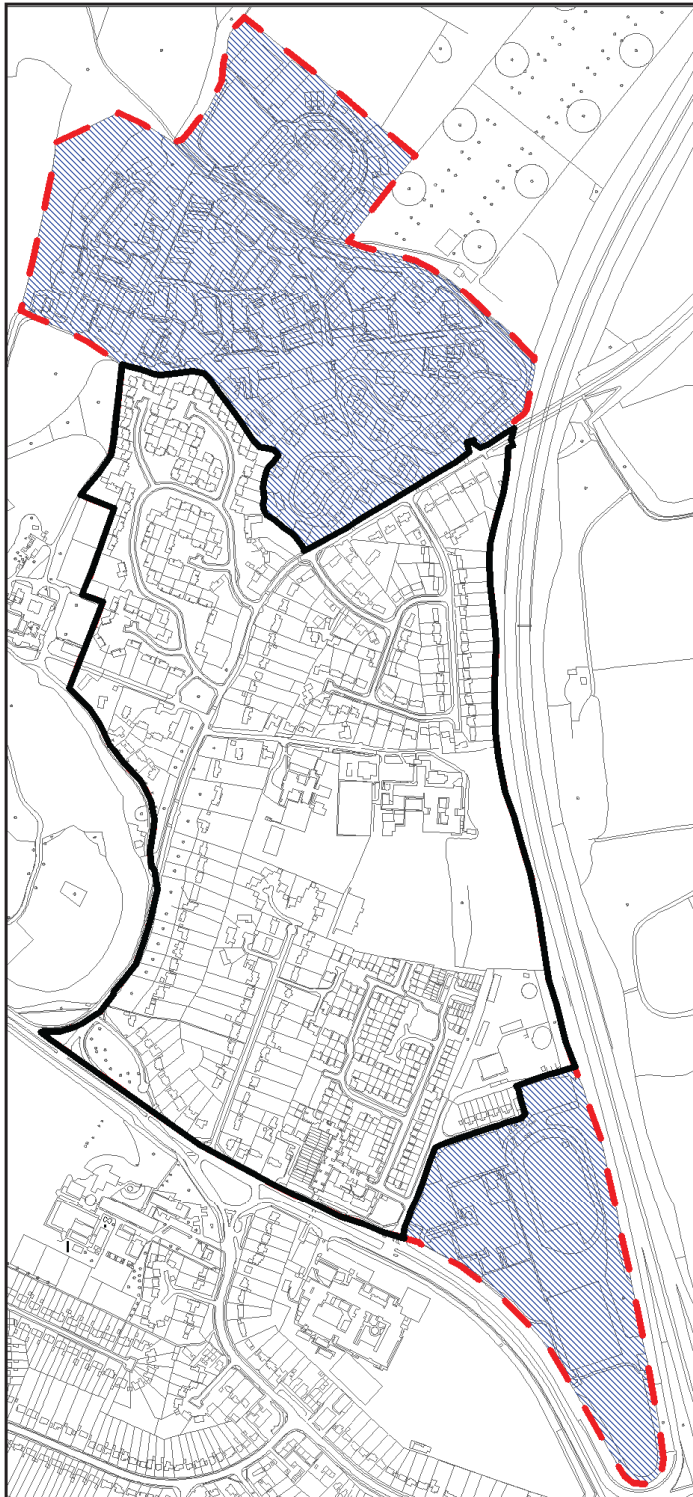


Figure 2: Map showing Daws Hill Neighbourhood Area as designated by Wycombe District Council (area within solid black line) and the areas excluded from the designated Neighbourhood Area (shaded)

Status:  Positive or Neutral Judicial Treatment

The Queen on the application of Daws Hill Neighbourhood Forum, Stuart Armstrong, Angus Laidlaw v Wycombe District Council v Secretary of State for Communities and Local Government, Taylor Wimpey UK Limited

Case No: CO/12288/2012

High Court of Justice Queen's Bench Division Administrative Court

13 March 2013

[2013] EWHC 513 (Admin)

2013 WL 617599

Before: The Hon. Mr Justice Supperstone

Date: 13th March 2013

Hearing dates: 21–22 February 2013

Representation

Paul Stinchcombe QC and Lisa Busch (instructed by Messrs Leigh Day & Co) for the Claimant.

Suzanne Ornsby QC and Isabella Tafur (instructed by Democratic, Legal and Policy Services, Wycombe DC) for the Defendant.

Morag Ellis QC and Wayne Beglin (instructed by Messrs Berwin Leighton Paisner LLP) for the 2nd Interested Party.

Judgment

Mr Justice Supperstone:

Introduction

1 Daws Hill Neighbourhood Forum ("DHNF") challenges the decision of Wycombe District Council ("the Council") made on 25 September 2012 to designate Daws Hill Residents' Association ("DHRA"), pursuant to [section 61G of the Town and Country Planning Act 1990](#) (as amended by the [Localism Act 2011](#)) as a Neighbourhood Forum in a Neighbourhood Area that was smaller than that which DHRA had applied for. The neighbourhood area designated by the Council excluded two sites included in the application:

- i) the site known as the RAF Daws Hill Site, and
- ii) the site known as the Handy Cross Sports Centre site (which is also referred to as Wycombe Sports Centre).

2 The Council contend that DHNF, as an unincorporated association, lacks legal personality to make this application. That issue has been addressed by adding Mr Stewart Armstrong and Mr Angus Laidlaw, both of whom are members of DHNF, as Claimants, acting on its behalf,

pursuant to the order of Lang J when permission to apply for judicial review was granted on 14 January 2013. Notwithstanding this, the Claimants sought a ruling to the effect that, as a Neighbourhood Forum properly designated under the [Localism Act 2011](#), the DHNF does have legal capacity to make this application for judicial review in its own name. However at the outset of the hearing Mr Paul Stinchcombe QC, for the Claimants, acknowledged that this is now an academic issue and he did not pursue the matter.

The legislative framework

3 The [Localism Act 2011](#) ("the 2011 Act") made amendments to the [Town and Country Planning Act 1990](#) ("the 1990 Act"). [Sections 61E-61Q](#) were inserted into the 1990 Act, introducing provisions which empower parish councils and designated neighbourhood forums to initiate the process for making neighbourhood development orders and neighbourhood development plans in relation to a designated neighbourhood area.

Neighbourhood development orders

4 [Section 61E\(2\)](#) of the 1990 Act provides that:

"A 'neighbourhood development order' is an order which grants planning permission in relation to a particular neighbourhood area specified in the order—

- (a) for development specified in the order, or
- (b) for development of any class specified in the order."

Neighbourhood development plan

5 [Section 38A\(2\) of the Planning and Compulsory Purchase Act 2004](#) ("the 2004 Act") (as amended by the 2011 Act) provides that

"A 'neighbourhood development plan' is a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan."

6 Both neighbourhood development orders and neighbourhood development plans must be in general conformity with a strategic policy as contained in the development plan for that area ([paragraph 8\(2\)\(e\) of Schedule 4B](#) to the 1990 Act, applied to neighbourhood development plans pursuant to [section 38C](#) of the 2004 Act).

Neighbourhood forum

7 [Section 61F\(3\)](#) of the 1990 Act provides:

"For the purposes of a neighbourhood development order, an organisation or body is authorised to act in relation to a neighbourhood area if it is designated by a local planning authority as a neighbourhood forum for that area."

8 [Section 38C](#) of the 2004 Act (as inserted by the 2011 Act) applies [section 61F\(3\)](#) to neighbourhood development plans.

9 [Section 61F\(5\)](#) of the 1990 Act explains that a local authority may designate an organisation or body as a neighbourhood forum if it meets certain conditions prescribed in that sub-section:

- (5) A local planning authority may designate an organisation or body as a neighbourhood forum if the authority are satisfied that it meets the following conditions—

(a) it is established for the express purpose of promoting or improving the social, economic and environmental well-being of an area that consists of or includes the neighbourhood area concerned (whether or not it is also established for the express purpose of promoting the carrying on of trades, professions or other businesses in such an area),

(b) its membership is open to—

(i) individuals who live in the neighbourhood area concerned,

(ii) individuals who work there (whether for businesses carried on there or otherwise), and

(iii) individuals who are elected members of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned,

(c) its membership includes a minimum of 21 individuals each of whom—

(i) lives in the neighbourhood area concerned,

(ii) works there (whether for a business carried on there or otherwise), or

(iii) is an elected member of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned,

(d) it has a written constitution, and

(e) such other conditions as may be prescribed.”

10 [Section 61F](#) sets out in [sub-section \(7\)](#) the considerations which a council must take into account when determining whether or not to designate an organisation or body as a neighbourhood forum. It provides, so far as is material:

“(7) A local planning authority—

(a) must, in determining under sub-section (5) whether to designate an organisation or body as a neighbourhood forum for a neighbourhood area, have regard to the desirability of designating an organisation or body—

(i) which has secured (or taken reasonable steps to attempt to secure) that its membership includes at least one individual falling within each of sub-paragraphs (i) to (iii) of sub-section (5)(b),

(ii) whose membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area, and

(iii) whose purpose reflects (in general terms) the character of that area,”

Neighbourhood area

11 [Section 61G](#) of the 1990 Act deals with the meaning and designation of “neighbourhood area”. It provides, in so far as is relevant:

“(1) A ‘neighbourhood area’ means an area within the area of a local planning authority

in England which has been designated by the authority as a neighbourhood area; but that power to designate is exercisable only where—

(a) a relevant body has applied to the authority for an area specified in the application to be designated by the authority as a neighbourhood area, and

(b) the authority are determining the application (but see sub-section (5)).

(2) A 'relevant body' means—

(a) a parish council, or

(b) an organisation or body which is, or is capable of being, designated as a neighbourhood forum (on the assumption that, for this purpose, the specified area is designated as a neighbourhood area). ...

(4) In determining an application the authority must have regard to—

(a) the desirability of designating the whole of the area of a parish council as a neighbourhood area, and

(b) the desirability of maintaining the existing boundaries of areas already designated as neighbourhood areas.

(5) If—

(a) a valid application is made to the authority,

(b) some or all of the specified area has not been designated as a neighbourhood area, and

(c) the authority refuse the application because they consider that the specified area is not an appropriate area to be designated as a neighbourhood area,

the authority must exercise their power of designation so as to secure that some or all of the specified area forms part of one or more areas designated (or to be designated) as neighbourhood areas.

(6) The authority may, in determining any application, modify designations already made; but if a modification relates to any extent to the area of a parish council, the modification may be made only with the council's consent.

(7) The areas designated as neighbourhood areas must not overlap with each other.

...

(9) If the authority refuse an application, they must give reasons to the applicant for refusing the application.

...

(11) Regulations may make provision in connection with the designation of areas as neighbourhood areas; ..."

Procedure for making a neighbourhood development order and/or a neighbourhood development plan

12 [Schedule 4B](#) to the 1990 Act makes provision in relation to the process for the making of neighbourhood development orders. [Paragraph 7 of Schedule 4B](#) requires a local authority to submit a proposal for a neighbourhood development order for independent examination. If, following that examination, the local authority is satisfied that the draft neighbourhood development order meets the requisite conditions, the authority must hold a referendum on the making of a neighbourhood development order (para 12(4)).

13 The area in which the referendum takes place must, as a minimum, be the neighbourhood area to which the proposed order relates (para 12(7)). The independent examiner considering the proposal must also consider whether the area for any referendum should extend beyond the neighbourhood area to which the draft order relates (para 8(d)). A draft order meets the basic conditions if, inter alia, the making of the order is in general conformity with the strategic policies contained in the development plan for the area for the authority (or any part of that area) (para 8(2)(e)). If the authority considers it appropriate to do so it may extend the referendum area to include other areas (para 12(8)).

Neighbourhood Planning (General) Regulations 2012

14 [Regulation 5](#) provides:

“(1) Where a relevant body submits an area application to the local planning authority it must include—

(a) a map which identifies the area to which the area application relates;

(b) a statement explaining why this area is considered appropriate to be designated as a neighbourhood area; and

(c) a statement that the organisation or body making the area application is a relevant body for the purposes of section 61G of the 1990 Act.”

Relevant policy

The National Planning Policy Framework (“NPPF”)

15 Paragraph 14 of the NPPF provides that

“At the heart of the National Planning Policy Statement is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

...

For decision-taking this means:

approving development proposals that accord with the development plan without delay.”

16 Paragraphs 183-185 of the NPPF relate to neighbourhood planning, and provide as follows:

“183. Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes and neighbourhood forums can use neighbourhood planning to:

set planning policies through neighbourhood plans to determine decisions on planning applications; and

grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.

184. Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.

185. Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area. Once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the Local Plan for that neighbourhood, where they are in conflict. Local planning authorities should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation."

Factual background

17 The Daws Hill Residents' Association ("DHRA") is representative of the Daws Hill locality, a residential community situated on the southern edge of High Wycombe, Buckinghamshire. It was established in September 2011, inter alia, to engage with the Council and Buckinghamshire County Council, in respect of the RAF Daws Hill site and the Handy Cross Sports Centre site, two brownfield development sites in the Daws Hill area which are identified in the Council's Adopted Core Strategy (July 2008) and the Council's Position Statement on Housing and Land for Business (July 2011).

18 On 10 April 2012, pursuant to the enactment of the 2011 Act, DHRA applied to the Council for designation as a Neighbourhood Forum with regards to a Neighbourhood Area which included both the existing residential development in the locality and the RAF Daws Hill and Handy Cross Sports Centre sites. Both sites are directly contiguous to the existing residential development within the Daws Hill locality.

19 Daws Hill and Handy Cross are strategic sites. Policy CS4.3 ("High Wycombe Key Areas of Change – M40 Gateway") in the Council's Adopted Core Strategy contains the following:

"(i) *Gateway to the town* – establishing the Handy Cross junction and its environs as a celebrated entrance to the town with high quality new buildings heralding a sense of arrival.

....

(vii) *Synergies between major development sites* – considering the potential for major development sites in the gateway to play complementary and mutually-supporting roles and ensuring that all such opportunities are seized."

20 In November 2008 a Handy Cross Site Concept Statement was produced by the Council setting out the principles for the development of this site and emphasising its strategic significance for the District.

21 The Council's Position Statement on Housing and Land for Business ("the Position Statement") contains two site-specific policies, PS8 and PS10, relating to the Daws Hill and Handy Cross sites respectively.

The RAF Daws Hill site

22 The Position Statement followed a decision to decommission the site for military purposes. PS8 refers to land use requirements which includes residential development, a mixed use neighbourhood centre and provision of a range of other on and off site infrastructure and community facilities. The housing mix is to include affordable housing in line with Core Strategy Policy CS13. Under the heading "Delivery", the Position Statement states that:

"Timing is subject to a satisfactory scheme being brought forward and the appropriate and timely provision of infrastructure, although it is considered that development could take place over a period of approximately 2014–19."

Paragraph 4.24 of the Position Statement is as follows:

"Given the size and significance of this site an extensive pre-application consultation process will be expected to ensure that the local community have meaningful input into the preparation of proposals for the site."

23 In June 2012, the Council, in conjunction with Buckinghamshire County Council, published a "Public Consultation Draft Development Brief" ("the Development Brief") for the site. The Development Brief stated that it had been informed, in addition to certain workshops, by "the on-going discussions of the Daws Hill Reference Group", which included DHRA. The Development Brief also makes numerous references to the need to integrate any redevelopment of RAF Daws Hill with the surrounding residential development, paying regard to the sensitivity of the boundaries between the site and existing development and the need for integration with regards to infrastructure and transport, specifically along Daws Hill Lane. Section 4 of the Development Brief provides an analysis of the site in its context. Main issues in relation to the site and key responses include the need to integrate the site with its surroundings visually and physically. Main land use issues identify "Need for local centre – to provide focus for current and planned community" and "Intensity and form of residential use in light of the character of existing residential area and the tree constraints". In October 2012 the Council produced a revised draft of the Development Brief. Following the approval of the Highway Authority's Southern Quadrant Transport Strategy in December 2012 the Council adopted the Daws Hill Development Brief as a Supplementary Planning Document, made in accordance with the [Town and Country Planning \(Local Planning\) \(England\) Regulations 2012](#).

24 The Daws Hill site was purchased by Taylor Wimpey in 2011 and a planning application is expected to be made at the end of March 2013. At the date of the decision it was envisaged that this would be an outline application, which, if granted, would thereafter have required the approval of reserved matters before development could commence (see para 45 below).

Handy Cross site

25 The Position Statement at PS10 states that the site is proposed as a mixed use development for the following: Public Transport Interchange featuring a coachway and local park and ride facility serving High Wycombe; leisure centre facility; and business park providing up to 36,000m² of employment generating floor space, other supporting development and a hotel. It states that reference should be made to principles contained within the Concept Statement produced by the Council in 2008 (see para 20 above). The Council's Concept Statement proposed the redevelopment of the site for a relocated sports centre and a Transport Interchange. The Statement noted that "Handy Cross is an important and busy junction which plays a key role in both local and regional movement networks" (4/55). Further the Statement identified the need for "the layout, architectural, and landscape approach of the site [to] respond sensitively to adjacent residential properties..." (4/58).

26 On 19 May 2011 outline planning permission was granted for a coachway/park and ride facility; a business park with up to 33,105m² of offices, an 150-bed hotel and retention of the

existing district leisure facilities. A revised application for outline permission, which includes a retail facility, was submitted on 13 May 2012. On 12 December 2012 the Council resolved to grant outline planning permission for the revised proposal, subject to the completion of a [section 106](#) obligation. A reserved matters application for the first phase of development was expected to be made by the end of February 2013 and determined in May 2013. There is a programme for construction which has a start on site date later this year (see para 46 below).

The decision of the Council

27 On 31 July 2012 the Council decided "in principle" to approve the officer's recommendations excluding both sites from the Neighbourhood Area for DHNF. On 25 September 2012 the Council's Cabinet decided to designate DHNF in respect of a Neighbourhood Area from which both the RAF Daws Hill site and the Handy Cross Sports Centre site were excluded for reasons consistent with the officer's report. By letter dated 26 September 2012 this decision was notified to DHRA.

28 The reasons for the refusal for the Neighbourhood Area as applied for are as follows:

"Any development of the key strategic sites (RAF Daws Hill and Wycombe Sports Centre [otherwise known as Handy Cross Sports Centre]) outside the existing 'immediate' neighbourhood will have implications that impact upon a wider sphere of influence. Strategic issues come into play with the planning of these sites, including any supporting transport measures. There are larger than local impacts and larger 'communities of interest'.

It is considered likely that if and when a neighbourhood plan, including one or more of the 'strategic' sites, came to examination an Inspector would judge (presuming the emerging plan was found 'sound' and 'compliant') that the referendum would need to take place over a wide area, reflecting the wider 'community of interest'.

In the interests of the investment of time, energy and cost the resulting work on a neighbourhood plan needs to be well targeted. With planning matters advancing on the two key strategic sites (Wycombe Sports Centre and RAF Daws Hill) this introduces an important consideration of timeliness. An outline planning application is under consideration by the Council at Wycombe Sports Centre, and a planning application for the former RAF Daws Hill site is expected. A Neighbourhood Plan would have to follow the various statutory stages set out in regulations culminating in an Examination and, after that, a Referendum. For both the original and amended areas proposed significant cost is likely to be incurred and it is considered that the investment (not only by the community but also WDC) in such an exercise would not be timely because of the existing and expected timing of planning applications and associated decisions. Furthermore there are other opportunities for input to decisions under consideration for the key strategic sites.

To designate a Neighbourhood Area to include the full area in the application could unrealistically raise expectations as to the effectiveness of a Neighbourhood Plan in relation to the strategic development sites. The community and the Local Planning Authority cannot stop the submissions of planning applications and the likelihood is that a neighbourhood plan would be overtaken by events. This could lead to frustration and confusion.

Among the responses received to the original Neighbourhood Area application (whose consultation period ran from 18 May to 29 June) were two from landowning interests in the proposed area objecting to their sites being included therein. One respondent also objected that including the strategic sites at RAF Daws Hill and Wycombe Sports Centre in the Neighbourhood Area would be inappropriate as the proposals at these sites will have 'wider than local' impacts, particularly on strategic transport measures for the southern quadrant area."

The grounds of challenge

29 Mr Stinchcombe in his skeleton argument for the Claimants (at para 34) described the essence of DHNF's case as follows:

“(1) The Government enacted the 2011 Act in order that community input into those development proposals which will have a significant impact on that community can be undertaken by way of Neighbourhood Planning, and through Neighbourhood Forums, Neighbourhood Areas, Neighbourhood Development Plans and Neighbourhood Development Orders, thereby empowering Neighbourhood Forums ‘to influence the type, design, location and mix of new development’ [Introduction to Neighbourhood Planning at 5/127] in respect of such proposals. That intention is made abundantly clear both by the Act itself and by the published policy documents [The ‘Plain English Guide to the [Localism Act](#)’; the ‘Introduction to Neighbourhood Planning’; and the ‘Frequently Asked Questions’ document].

(2) The Council was duty bound to act in accordance with that position, pursuant to its duties not to frustrate the purposes of the 2011 Act, and to take into account and further the Government's policy as set out in the documents referred to above...

(3) However, the Council has failed to do so in taking the decision in issue [in] this case; indeed it has done exactly the opposite. In so doing, it has failed to take key material considerations into account (namely, the stipulations set out in the above mentioned policy documents) and/or acted irrationally and in any event has acted unlawfully by acting contrary to the clear purpose of the 2011 Act.”

The parties' submissions and discussion

30 The parties are in broad agreement that the legislative purpose in introducing the neighbourhood planning provisions into the 1990 Act is to enable neighbourhood forums (and parish councils) which reflect the community in question to make neighbourhood plans guiding development in their neighbourhood area within a strategic planning context. The 2011 Act gives new rights and powers to enable local communities to participate in the planning process within their local area through neighbourhood planning.

31 In [Padfield v Minister of Agriculture, Fisheries and Food \[1968\] AC 997](#) (where Parliament conferred a discretion on the Minister to appoint a committee of investigation to investigate complaints as to the operation of the Milk Marketing Scheme) Lord Reid said (at [1030]) that:

“Parliament must have conferred the discretion with the intention that it should be used to promote the policy and objects of the Act [which] must be determined by construing the Act as a whole...”

Mr Stinchcombe submits that the Council, in making its decision as to the extent of the area, acted contrary to this principle by failing, in making the decision, to take into account the purpose of the Act, and that the Council frustrated that purpose. Ms Suzanne Ornsby QC, for the Council, submits rather, the Council has used its discretion to promote the policy and objects of the Act: it has designated a neighbourhood forum in respect of a neighbourhood area, thus enabling the development of a neighbourhood plan to guide planning at an appropriate level in that area, having regard to the characteristics of the area and the neighbourhood forum in question.

32 Mr Stinchcombe asks whether having decided to designate a Neighbourhood Forum under the Act Parliament can have intended that the Council can lawfully exclude from the Neighbourhood Area for that Forum the important development sites in the neighbourhood which will impact most on the local community in the foreseeable future. That, he submits, is what was done in the present case, by the exclusion of the two sites. [Section 38\(6\)](#) of the Act makes clear that the Neighbourhood Forum will have to operate within the parameters of the strategic vision. That is acknowledged by the Claimants. However plainly the fact a site is of strategic importance cannot of itself be a good reason for excluding that site from the Neighbourhood Area.

33 Mr Stinchcombe submits that in legislating to establish Neighbourhood Forums that once

designated will have significant planning powers, albeit within the identified constraints of general conformity with the strategic policies of the Development Plan and the requirement for a referendum, the Government was intent upon delegating to Neighbourhood Forums genuinely substantive powers to shape the planning of their neighbourhood.

34 Mr Stinchcombe referred to passages in three policy documents in support of his submission that the Government's intention in enacting the 2011 Act is for Neighbourhood Forums to have real power to shape their local communities, and to be able to influence "the type, design, location and mix" ("Introduction to Neighbourhood Planning") of the most important developments in their locality which will "make a big difference" to the lives of those who live there ("Plain English Guide to the [Localism Act](#) "; and see "Neighbourhood Planning – Frequently Asked Questions"). Mr Stinchcombe submits these documents contain an accurate summary of the purpose of the regime created by the 2011 Act. He accepts that they cannot be used as an aid to construction. However he contends that they do not contain material inconsistent with statute or regulations. Ms Ornsby observed that being so there was no need for her to address their contents. Moreover she submits that it is not appropriate for the authority to have regard to them as material considerations.

35 The Council erred in law, Mr Stinchcombe submits, in that it failed to take into account the character of the area by excluding development sites which are part and parcel of a single area. The Council itself considers the wider community of Daws Hill to be a neighbourhood which is made up of constituent parts, including the two sites. The purpose of the Act is to promote neighbourhood planning and to enable the local impact of proposed development to be considered at the local level. Therefore there must, he submits, be an obligation to look at the character of the area. A neighbourhood is an area identifiable by reference to its geography, community and character. It is no surprise therefore that [section 61F\(7\)\(a\)\(iii\)](#), pre-supposes that a neighbourhood area has a character. The word "neighbourhood" must have the same meaning in [sections 61F and 61G](#). The notion of character of an area must, he submits, translate through to [section 61G](#) from 61F.

36 The Council, Ms Ornsby submits, did in fact have regard to the character of the area, but she and Ms Morag Ellis QC, for Taylor Wimpey, do not accept that the requirement in [section 61F\(7\)](#) to have regard to "character" transfers to [section 61G](#). I agree. There is no similar provision in [section 61G\(5\)](#) equating to that in [section 61F\(7\)\(a\)](#) which lists factors which must be taken into account in deciding whether to designate an organisation or body as a neighbourhood forum. [Section 61F\(5\)](#) sets out conditions which must be satisfied before the status of neighbourhood forum, a new body created by the 2011 Act, can be acquired; by contrast, no such conditions have to be satisfied by parish councils, bodies that have a long history. Distinctions between parish councils and neighbourhood forums are carried over to [section 61G](#). There is no provision in a non-parish case for the authority to have regard to the desirability of designating the whole of the specified area as a neighbourhood area (see [section 61G\(4\)\(a\)](#)).

37 [Section 61G](#) gives a local authority a discretion as to whether to designate the entire area applied for as a neighbourhood area or designate only part of that area. [Section 61G\(5\)](#) requires the local planning authority to consider whether the area specified in the application is or is not an appropriate area to be designated as a neighbourhood area. [Section 61G\(4\)](#) sets out two matters which the local authority must have regard to, neither of which is relevant in the present case. [Regulation 5 of the Neighbourhood Planning \(General\) Regulations 2012](#) requires bodies applying for the designation of the neighbourhood area to include with their application, a statement explaining why that area is considered appropriate to be designated as such. It follows, Ms Ornsby submits, that the authority cannot be precluded from considering the appropriateness of the proposed area. An authority is not bound to designate the area proposed if it considers that it is not an appropriate area for designation. In such circumstances however it "must" designate at least some of the area sought ([section 61G\(5\)](#)).

38 The statement explaining why the specified area was considered appropriate to be designated as a Neighbourhood Area was set out in a letter dated 31 August 2012 from DHRA to Mr Unsworth, Head of Planning and Sustainability at the Council. DHNF is stated to have been set up to prepare a Neighbourhood Plan for the proposed Neighbourhood Area.

39 The Council's Report to the Cabinet containing the recommendation to Council states at paragraph 20:

"In reaching a judgment about the extent of the area, the Council as Local Planning Authority needs to consider:

- # Is the proposed area consistent, coherent and appropriate for neighbourhood planning?
- # Is the neighbourhood area an appropriate area to 'plan' for in planning terms?
- # Does the proposed neighbourhood area reflect recent/current development proposals in the area?"

40 Mr Stinchcombe does not suggest that the Council misdirected itself by considering these matters when making the decision to exclude the two sites from the area to be designated. Further Mr Stinchcombe accepts that the question as to whether any given site is appropriate for designation is a matter for the judgment of the Council. Ms Ornsby submits that Parliament has given local authorities a wide discretion when determining the issue of an appropriate area; the reason for that, she suggests, is that under the statutory regime of the 1990 and 2004 Acts it is essentially the local planning authority for the district that has overall responsibility for public planning of the area as the decision-taker and the plan-maker for the district in respect of which it is the only authority responsible for the strategic planning of its area. Therefore, she submits, it is proper that it should have a wide discretion as the local planning authority for the purposes of ensuring that the area is properly planned for in the public interest.

41 Whether an area is appropriate or not for designation turns, Ms Ornsby submits, on the specific factual and policy matrix that exists at the time the decision was made. Ms Ellis notes that there are no transitional provisions in the legislation which is significant because it means that any neighbourhood planning decision is to be determined in the existing planning context. This is another reason, she suggests, why a wide discretion is given to the local planning authority; each exercise of discretion turns on its own circumstances.

42 In my judgment [section 61G\(5\)](#) does give the planning authority a broad discretion when considering whether the specified area is an appropriate area to be designated as a Neighbourhood Area. In exercising that discretion the authority should, in my view, have regard to the particular circumstances existing at the time the decision is made. Accordingly I now turn to consider the policy and factual position that existed at the time the decision was taken by the Council. First, there is the Adopted Core Strategy of July 2008 which comprises a Development Plan. It provides some guidance on the Handy Cross site (CS4.3), but not on the Daws Hill site which was not being released at the time (beyond the indication that if the site does become available it will potentially be caught by the policy: CS4.3(viii)). Subsequently in the light of the pending release of the Daws Hill site and to provide further guidance on bringing forward the Handy Cross site, there was the Position Statement of the Council made in July 2011. Daws Hill is considered at PS8 (see para 22 above). The position with regard to Handy Cross Sports Centre is set out at PS10 in the Position Statement (see para 25 above).

43 As for emerging policy, there is the Southern Quadrant Transport Strategy. The highway authority, in consultation with the Council as planning authority and Daws Hill Reference Group (see Unsworth W/S, para 4(b)) have embarked on preparing a comprehensive transport strategy generally for the area and specifically for the delivery of the two sites. At the time the decision was taken transport measures were being progressed in connection with these two sites; they were very well developed and had been the subject of consultation. Following the approval of the Southern Quadrant Transport Strategy in December 2012 the Council adopted the Daws Hill Development Brief (see para 23 above). Section 2 of the Development Brief describes the Brief's purpose and structure as follows:

"This Supplementary Planning Document provides statutory development guidance for the site that will be used to evaluate planning applications for redevelopment as and when they are submitted.

This brief will assist landowners and developers formulate proposals that achieve wider objectives and to reassure local people about what is considered appropriate and what the benefits and impacts may be. When adopted, it will be used along with other local

and national planning policies to guide the decisions made on planning applications within the RAF Daws Hill site.”

At section 4 there is an analysis of the site and its context; in section 6 design principles are considered and in section 7 consideration is given to the density of development and the level of housing that the local authority considers is appropriate.

44 Ms Ornsby submits these policy documents make clear that at the time the in principle decision was taken by the Council a very detailed, fairly prescriptive policy framework was in the process of being completed which was addressing type, design, and mix for the Daws Hill site which was the subject of substantial consultation that has now been completed.

45 The factual position in relation to the stages in the planning process was as follows. At the time an outline application was contemplated; a full application is now imminent, due by end of March 2013 (see second witness statement of Mr Armstrong, a Planning Consultant advising Taylor Wimpey, at para 9). Mr Unsworth states it is now anticipated that commencement of development will be in early 2014 (W/S para 4(f)). The Council's Annual Monitoring Report dated December 2011 noted, in respect of former RAF Daws Hill “Anticipated commencement before 1 April 2014, with 213 dwellings before 1 April 2017 and 270 after”. Ms Ornsby submits that a perfectly reasonable professional judgment was made by the Council on the facts known at the time as to the timeliness of the development of the Daws Hill site; it was not a matter of “crystal ball gazing”, as Mr Stinchcombe suggested.

46 Again in relation to the Handy Cross site, it was a matter for professional judgment as to when the site was likely to come forward. Outline planning permission was granted on 19 May 2011. On 12 December 2012 the Council resolved to grant outline planning permission subject to completion of a [section 106](#) obligation for a revised application. Mr Unsworth said at paragraph 5 of his witness statement:

“A reserved matters application for the first phase of development is expected to be made at the end of February and determined in May, with a view to starting on the site by this autumn. Therefore the planning process for the consideration of this site will be complete or committed well before any Neighbourhood Plan is finalised.”

At the time of the decision it was very likely that outline planning permission would be granted, which in fact occurred on 20 February 2013.

47 The Report to Cabinet contains an analysis of how long it would take for the neighbourhood plan process in relation to the proposals for Daws Hill Neighbourhood Area by DHRA to be completed (at pp.119–120). Ms Ornsby submits that the estimate of up to 21 months is a perfectly reasonable judgment which has not been disputed by the Claimants. The reality therefore is that by the time a neighbourhood plan is in place development of the Daws Hill site will have commenced and the process in relation to Handy Cross will be well underway.

48 Further there has been substantial consultation undertaken in respect of bringing forward these two sites (see witness statement of Mr Unsworth at para 2 in relation to the Southern Quadrant Strategy; and at para 3 in relation to the RAF Daws Hill Development Brief). Mr Unsworth (in particular in his witness statement at paras 4(b) and (c) and 9(c)) and Mr Armstrong (in his second witness statement at paras 24-34) detailed the substantial consultation that has been undertaken and is further planned in respect of the planning application for the RAF Daws Hill site and other opportunities for those that comprised the Neighbourhood Forum to be engaged in the planning decisions relating to these strategic sites. Ms Ellis referred to the proposed extension and strengthening of the provisions for public consultation and engagement in the statutory planning system by [ss.61W-Y](#) of the 1990 Act, added by [s.122](#) of the 2011 Act. Although not yet in force, they are, she submits, material to the construction of the 2011 Act and the issue of Parliamentary intention and statutory purpose.

49 Five reasons are given for the refusal for the Neighbourhood Area as applied for. These reasons must, Ms Ornsby submits, be read as a whole.

50 Mr Stinchcombe criticises the reasons in a number of respects. He submits that the first reason misses the point that any Neighbourhood Development Plan will have to accord with the strategic vision of the Local Planning Authority in any event. The Council's reason is based, he

suggests, upon the false premise that, because a development site may have wider than local impact, the local community should have no role in influencing matters as a Neighbourhood Forum and through Neighbourhood Development Plans, even over local impacts. Further Parliament has enacted provisions that provide for Neighbourhood Areas which cross local planning authority boundaries to be designated ([section 61\(l\)](#) of the Act), and for a referendum to extend beyond the neighbourhood area to which the draft order relates, if necessary ([Schedule 4B, para 8\(1\)\(d\) and para 12\(8\)](#)). Mr Stinchcombe submits that there was a manifest failure by the Council to take into account the indivisible character of the area. The two sites fall within the Daws Hill neighbourhood. There is no reference in the decision to character or site characteristics. The two sites form part of an existing neighbourhood that could be served by a local centre. There is no justification for excluding the two sites and severing the neighbourhood. If therefore, as the second reason for the decision, suggests, it is likely that a referendum will need to take place over a wide area, reflecting the wider "community of interest", the legislation has provided for that to take place. As for the concern for the interests of the investment of time, energy and cost (the third reason) this, Mr Stinchcombe submits, is "crystal-ball gazing" because no-one can possibly know when any scheme will finally be approved and implemented for either site. The proposed Neighbourhood Area would enable DHNF to have influence on development proposals for those sites. It is wrong to assert that to designate a Neighbourhood Area for DHNF which included the two sites would inevitably be a waste of time and resources. The fourth reason is also flawed. It is the refusal to designate these development sites within DHNF's Neighbourhood Area which frustrates both DHNF and the purpose of the Act. The fifth reason relating to the views of two landowners objecting to the inclusion of their land in the Neighbourhood Area, the parties are agreed, takes the other reasons no further.

51 Ms Ornsby submits that all the reasons given for the decision arise from the policy and factual matrix that the Council properly had regard to when determining whether the proposed neighbourhood area is appropriate. The reasons, she submits and I agree, need to be looked at in the context of the report and supporting documentation that informed those reasons. Appendix A to the Officer's Report sets out the background and issues, the consultation responses and the options available to the Council. At paragraph 12 it is noted:

"It is clear that strategic issues come into play in the planning of these sites, including hard decisions having to be made about resolving the very challenging transport/infrastructure issues in the area, and meeting wider housing and economic development needs, and all of these issues have 'larger than local' impacts. It therefore needs to be carefully considered whether the extent of this proposed neighbourhood area is an appropriate one for neighbourhood planning via the proposed forum."

52 Ms Ornsby submits that in considering whether the proposed neighbourhood area was appropriate, it was open to the Council to take into account the strategic nature of the Daws Hill and the Handy Cross sites, and to find that there was a substantial mis-match between the proposed neighbourhood forum and the area which it sought to control. Mr Unsworth states (at para 4(e) of his witness statement) that:

"The objective of the residents that make up the DHNF appears, and has always appeared, to seek to limit the re-development of this strategic site." (See also DHRA Position Statement, 1 November 2011, page 2).

The Report to Council (Appendix A, para 16) continues:

"Looking at the individual site issues, it is acknowledged that whilst there is a clear statutory strategic planning policy framework in place, there is no site-specific allocation or adopted policy for the former RAF Daws Hill. However, as one of the largest brownfield sites in the District, any development which progresses here will have wider connotations in terms of the ability of the District to meet its development requirements in a way which satisfies the priority given in the Core Strategy and the NPPF to developing on brownfield sites. If the former RAF Daws Hill is developed in such a way as to fail to optimise the site's development potential, then more pressure will be brought to bear on other sites, and the potential benefit of the site to the wider community may be not fully exploited. Therefore, whilst the Council fully recognises local stakeholders'

concerns about the planning issues in the area, it is considered that including the former RAF Daws Hill in a Neighbourhood Area and hence any subsequent neighbourhood plan would not be the appropriate approach to address the strategic planning issues for the site."

53 Ms Ornsby submits that these points translate into the first of the reasons given in the decision. This was, she submits, plainly a matter of judgment for the Council and it would have been wholly wrong to leave these points out of account. It does not follow that strategic sites cannot be the subject of a Neighbourhood Area; however it was not appropriate for them to be so in the present case.

54 If at the outset of the process it appears likely there will have to be a referendum over a wider area than the proposed neighbourhood area that consideration, in my view, reinforces the Council's concern that there is a mis-match between the area represented by the DHNF and the area it sought to control for the purpose of neighbourhood planning. Moreover if a referendum is to be conducted over a wider area for the Neighbourhood Plan to be successful it may require the support of at least 50% of the vote of those outside the neighbourhood area proposed by the DHNF, who have not previously been involved in the preparation of the plan.

55 Local authority resources are limited. Having regard to the stage that had been reached in relation to planning matters affecting the two strategic sites and the time it would take for a Neighbourhood Plan to complete the various statutory processes, the Council was entitled to consider if any useful purpose would be served by the proposed Neighbourhood Area when the sites would be under development before the process was concluded.

56 If the likelihood is that a neighbourhood plan would be overtaken by events, the proposed neighbourhood area designation will not influence the outcome of the planning applications in respect of the two sites, which could, as Ms Ornsby submits, well lead to frustration at local level.

Conclusion

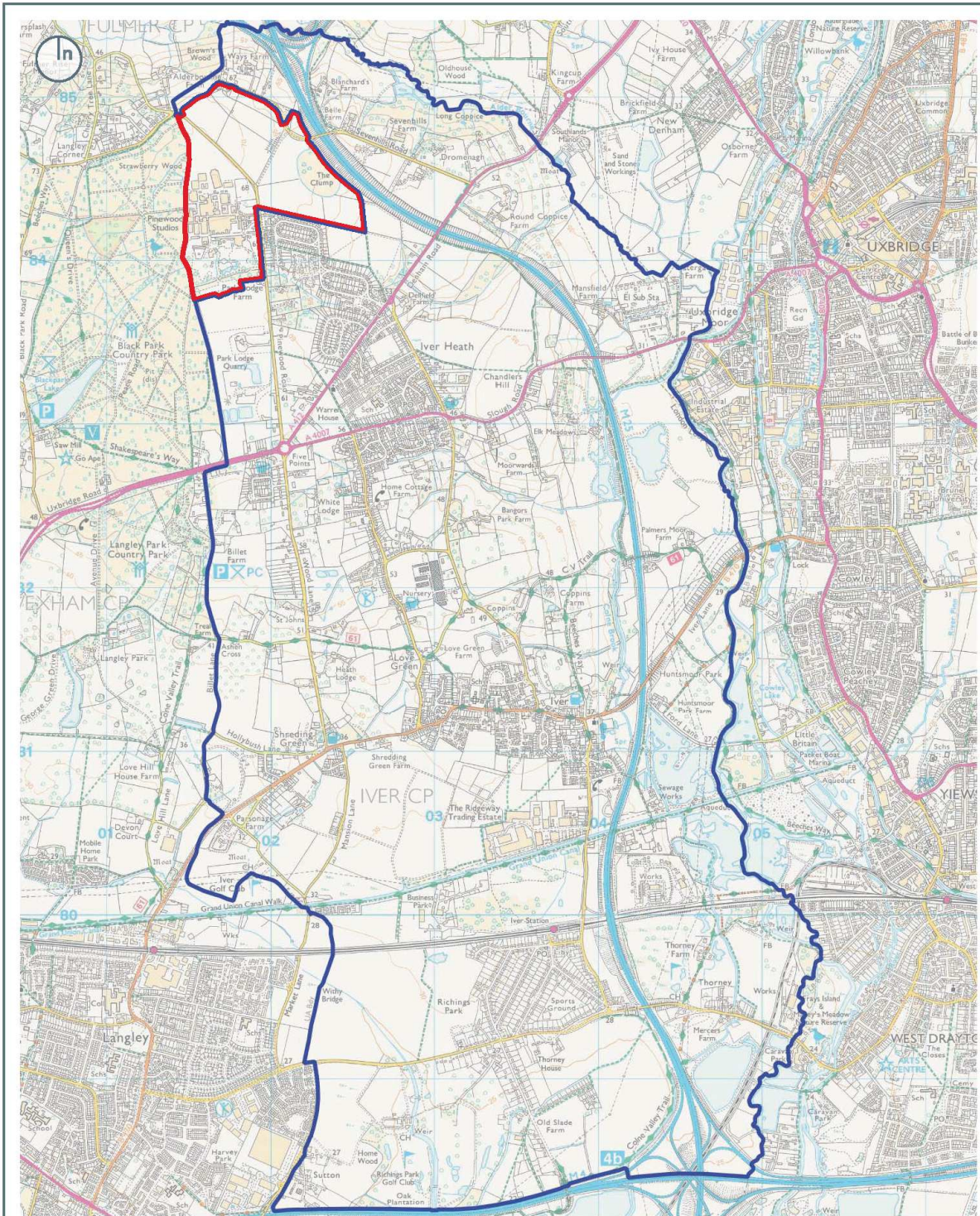
57 [Section 61G\(5\)](#) of the 1990 Act (inserted by the 2011 Act) requires the local planning authority in determining an application for a neighbourhood area to consider whether the area proposed is appropriate. The discretion given to the authority is a broad one. The exercise of discretion turns on the specific factual and policy matrix that exists in the individual case at the time the determination is made. In my judgment the Council properly had regard to the specific circumstances that existed at the time when the decision was made to designate a Neighbourhood Area which excluded the RAF Daws Hill site and the Handy Cross Sports Centre site. None of the grounds of challenge to the decision taken by the Council in this case have been made out.

58 Accordingly, for the reasons I have given, this claim fails.

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- Pinewood Studios Ltd site boundary
- Suggested neighbourhood area boundary

Client:
Pinewood Studios Ltd

Project:
Review of Iver Neighbourhood Plan

Drawing:
Suggested neighbourhood area boundary

Project Number: PINM3004	Status: Final
Drawing Number: 20_	Scale: 1:31,000 @ A4
Revision: 00	Date: November 2016



Appendix 3

Late Representations Received After 5.00pm on 9th May 2016

Rep	Representation From	Summary of the Late Representation
Rep 00019	National Grid	<p>National Grid's electricity and gas transmission apparatus - assets do not interact with any of the proposed development sites.</p> <p>Gas Distribution – Low / Medium Pressure - whilst there is no implications for National Grid Gas Distribution's Intermediate / High Pressure apparatus, there may however be Low Pressure (LP) / Medium Pressure (MP) Gas Distribution pipes present within proposed development sites.</p> <p>Contact details and further information provided and shared with the Parish Council.</p>

Appendix 4

Iver Parish Council Comments on Representations

From: Admin - Iver Parish Council [mailto:admin@iverparishcouncil.gov.uk]
Sent: 12 May 2016 14:18
To: Graham Winwright
Cc: Clerk - Iver Parish Council; Cllr Wendy Matthews; Cllr Carol Gibson; Peter Edwards
Subject: Iver Neighbourhood Designation Application
Importance: High

Dear Graham,

Thank you for giving the Parish Council the opportunity to comment on the INA Consultation responses before you complete your report to Cabinet.

The Parish Council is very encouraged by the overwhelming, and well-reasoned, support for the whole parish area applied for. This is very telling and represents the majority of responses; other than the neutral responses from statutory consultees all except one of the respondents is supportive of the application and this should obviously be persuasive.

The only objection is on behalf of Pinewood - an objection letter that was forwarded to the Parish Council just half an hour before the six week consultation period closed! You will no doubt mention this in your report. Pinewood's objection is a lengthy one that we will address in a separate submission to the Cabinet Members prior to their meeting on 24 May.

Kind regards,

Perri Sullivan
Clerk Designate
Iver Parish Council

E-mail Notification to Iver Parish Council Prior to the Determination of the First
Neighbourhood Area Application

From: Graham Winwright
Sent: 16 December 2015 14:54
To: Iver Parish Council (admin@iverparishcouncil.gov.uk)
Subject: Iver Parish Council Neighbourhood Area Application [OFFICIAL]
Importance: High

Dear Parish Clerk

I refer to Iver Parish Council application for the whole Parish to be declared a Neighbourhood Area, recently the subject of public consultation from 30th October to 27th November 2016.

The Council has received 15 representations and is in the process of considering these representations under delegated authority.

One representation has been submitted by Pinewood Studios Ltd in which they are requesting that a declared neighbourhood area excludes Pinewood Studios. I attach a copy of their representation.

Having taken Counsels advice and after considering all relevant matters I am minded to not recommend declaring the neighbourhood area based on the application in its current form.

Questions are raised over the approach taken by the Parish Council in not demonstrating that they have followed national guidance before submitting the area application and in not justifying inclusion of Pinewood Studios in the submitted Statement.

In view of the above and attached the Parish Council may want to consider withdrawing the current Neighbourhood Area application and re-submitting in due course a revised area application or more fully justified application to include Pinewood Studios after having regard to advice in the National Planning Practice Guidance on neighbourhood area applications.

Unfortunately this Council is required to determine the application on or by 24th December 2015 and so time is a significant constraint. As such I would need to know whether your Council wants to withdraw the application or to submit any comments to be taken into account by 10.00am on 21st December 2015.

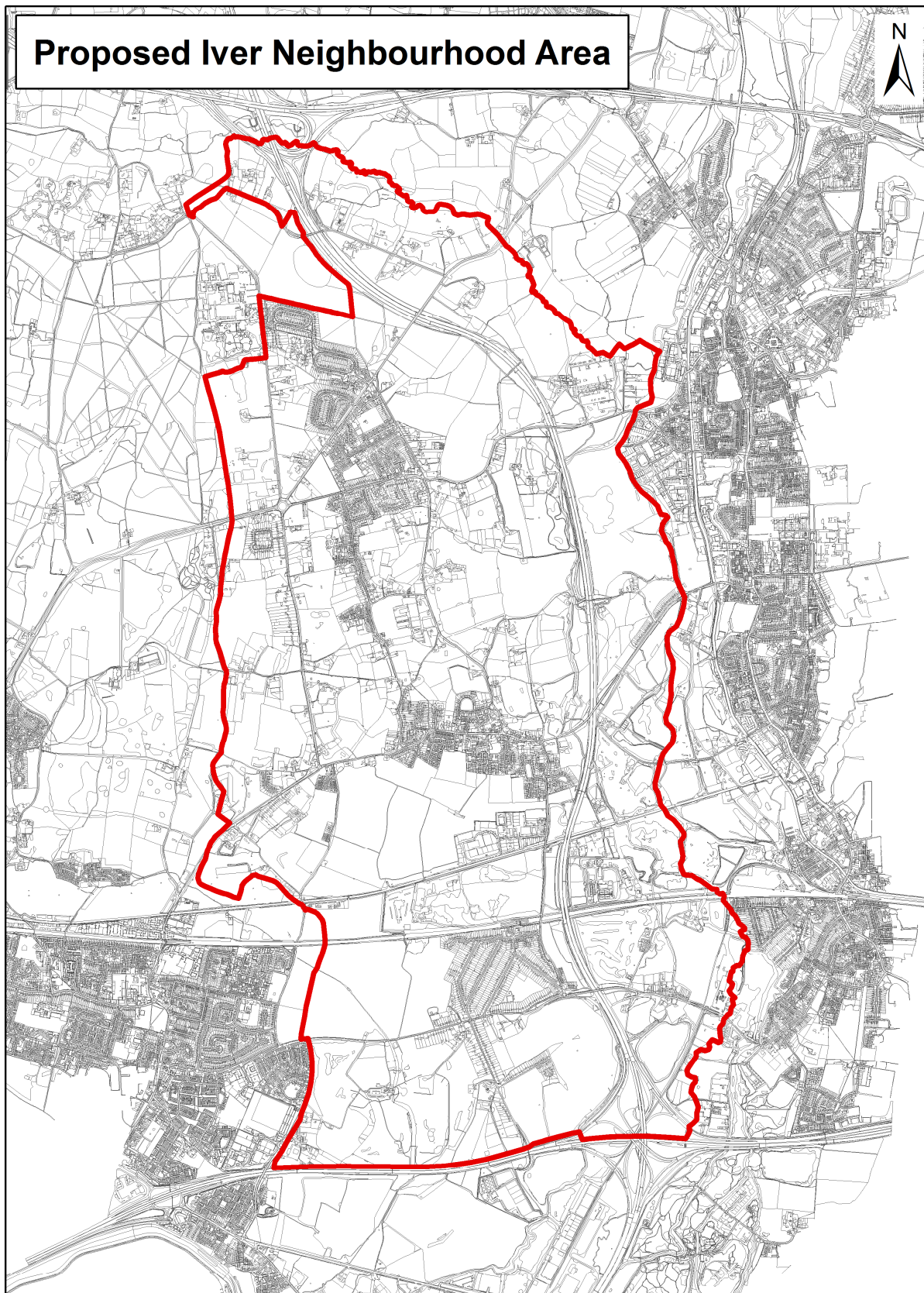
Unless I hear that the application is to be withdrawn by 10.00am on 21st December 2015, I will prepare a report to Peter Beckford as Head of Sustainable Development who has delegated authority to determine the neighbourhood area application in consultation with the Cabinet Member for Sustainable Development and local ward members.

Unless the application is withdrawn the options open to this Council are:

- a) to determine the application based on current information, whereby I am minded to make my officer recommendation to refuse the Neighbourhood Area application but to declare an Iver Neighbourhood Area excluding part of the Parish based on Pinewood Studios
- b) if the Parish Council submits further submissions or comments on the Pinewood Studio Ltd representations by 10.00am on 21st December to determine the application based on current information and these views [which may or may not result in the outcome set out in a) above].

Regards

Graham Winwright
Planning Policy Manager, Chiltern and South Bucks District Councils
Tel 01494 732269 (Chiltern)
Tel 01895 837298 (South Bucks)



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