

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 a 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.

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- 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.

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	Specific policy, Policy E2; “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: 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). Proposals for redevelopment or re-use of the studios will only be permitted where: 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	Included within the Green Belt and as such protected against inappropriate development.

	<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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