

Prepared for 13 organisations listed below (the “Group”):

**ASCOT, SUNNINGHILL AND SUNNINGDALE NEIGHBOURHOOD PLAN DELIVERY GROUP**  
**BRAY PARISH COUNCIL**  
**BRAY NEIGHBOURHOOD PLAN STEERING GROUP**  
**BRAYWICK ACTION GROUP FOR MAIDENHEAD’S GREENBELT**  
**FISHERIES RESIDENTS ASSOCIATION**  
**HORTON PARISH COUNCIL**  
**OAKLEY GREEN AND FIFIELD RESIDENTS ASSOCIATION**  
**OLD WINDSOR PARISH COUNCIL**  
**OLD WINDSOR NEIGHBOURHOOD PLAN**  
**RBWM RESIDENTS ACTION GROUP**  
**RUSHINGTON AREA RESIDENTS ASSOCIATION**  
**SOCIETY FOR THE PROTECTION OF ASCOT AND ENVIRONS**  
**SPORTSABLE**

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD BOROUGH LOCAL PLAN**

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**ADVICE**

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1. The Royal Borough of Windsor & Maidenhead (RMWB) have prepared a Local Plan which has been submitted for examination. This is due to commence on 26th June 2018.
2. An initial matter which the Inspector will consider is whether, in preparing the Plan, RBWM have complied with the duty to cooperate.
3. This is a legal duty, set out in section 33A of the Planning and Compulsory Planning Act 2004. It provides that local planning authorities must engage constructively, actively and on an ongoing

basis with other authorities or prescribed bodies to maximise the effectiveness of local plan preparation. The Planning Practice Guidance Note (PPGN) explains that, while this is not a duty to agree, local planning authorities must make every effort to secure the necessary cooperation on strategic cross boundary matters *before they submit their Local Plans for examination*. The importance of the words emphasised is underlined by the PINS Guidance Note which confirms that any failure to fulfil the duty cannot be rectified after the plan has been submitted for examination. Where the duty has not been complied with, the Inspector has no choice but to discontinue the examination and recommend the non-adoption of the plan.<sup>1</sup>

4. The PPGN at paragraph 011 also states that local planning authorities should focus on producing effective policies on cross boundary strategic matters, and that effective cooperation is likely to require sustained joint working with concrete actions and outcomes, moreover it is unlikely to be met by an exchange of correspondence, conversations or consultations alone. Additionally, the PPGN states that cooperation should take place throughout the Local Plan's preparation (paragraph 012). Consequently it is clear that the duty is a substantive one, placing a serious obligation on authorities in the preparation of their local plans.
5. RBWM's attempts to demonstrate compliance with the duty are significantly flawed. A Compliance Statement was published in May 2017. This was however inadequate. It was withdrawn and superseded by a further Statement published in January 2018, together with the Submission version of the Local Plan. This Statement is also woefully inadequate for the reasons set out in detail in the Group's Regulation 19 Response.
6. RBWM's significant failings regarding the Duty to Cooperate can be summarised as follows:

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<sup>1</sup> Procedural Practice in the Examination of Local Plans, The Planning Inspectorate June 2106, p 4 #7 & p 48 #2.3.

**(1) Failure to engage effectively with other authorities and prescribed bodies, and maintain adequate records**

Admitted by RBWM in their Cabinet Report of 29<sup>th</sup> September 2016, which states *“incomplete record keeping, historically in the team has meant the compliance statement for duty to cooperate has had to be prepared retrospectively, which is a risk”* Numerous representations at Regulation 18 stage from neighbouring local authorities (notably South Bucks DEC and Slough BC) criticised RBWM for failing to keep them advised on changes to the Plan and Strategic policies over several years.

**(2) Inconsistencies between the DtC Compliance Statements (May 2017 and January 2018).**

Omission of meetings, retrospective addition of meetings and different descriptions of what took place.

**(3) Failure to take account of development proposals beyond RBWM boundaries**

The Local Plan has been prepared in a bubble without apparent discussion or analysis of major proposed developments close to the Borough boundaries, or the cumulative impacts of these, particularly relating to Runnymede and Bracknell Forest.

**(4) Failure to analyse and provide for cross boundary infrastructure needs.**

In particular relating to roads and traffic, e.g. lack of documented consultation throughout the process with neighbouring Highway Authorities, Buckinghamshire and Surrey County Councils.

**(5) Failure to engage in debate on issues raised by neighbours**

For example Slough BC's wish to enter into debate on affordable housing in 2014 which was not pursued by RBWM until October 2017 which was after publication and consultation on the Regulation 19 BLP.

**(6) Continued objection from major consultees**

Both Natural England and the Environment Agency maintain major objections (SPA/SANG flood risk): exemplifying failure to cooperate.

**(7) General retro-fitting of the evidence**

Consequently records prior to late 2016 cannot be relied upon.

7. It is accepted that the duty to cooperate is not a duty to agree. It is however incumbent on the authority owing the duty to engage seriously with other authorities and prescribed bodies. It is clear from the Group's detailed objection, and the above summary, that RBWM have failed to do this. They are therefore in breach of the duty to cooperate
8. The duty is a legal one. In the case of non-compliance the breach cannot be rectified after the submission of the Plan. It is therefore too late for correction of RBWM's many errors and the Local Plan cannot therefore lawfully be adopted.
9. As the PINS Procedural Practice explains, the Inspector has no power to recommend modifications in this regard. It also states "where the duty has not been complied with, the Inspector has no choice but to recommend non-adoption of the plan". The Inspector should be respectfully invited to do so in respect of the RBWM Borough Local Plan.

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