

Cornwall Council

Report to: **Service Director – Planning and Sustainable Development**

Date: **26 April 2017**

Title: **Lanreath Parish Neighbourhood Development Plan - 2016 to 2030- Legal Compliance and Examination Stage**

Portfolio Area: **Planning**

Divisions Affected: **Trelawny**

Relevant Scrutiny Committee: **Scrutiny Management Committee**

Key Decision: **N** Approval and clearance obtained: **Y**

Urgent Decision: **N** Date next steps can be taken: **TBC**

Appropriate pre-decision notification given where an executive Decision? **N/A**

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Recommendations to Service Director – Planning and Sustainable Development:

1. The Lanreath Parish Neighbourhood Development Plan be agreed as Legally Compliant and publicised and taken forward to Examination.

1. Executive summary

Under the Town and Country Planning Act 1990 (as amended), the Council has a statutory duty to assist communities in the preparation of neighbourhood development plans and orders and to take plans through a process of examination and referendum.

The Localism Act 2011 (Part 6 chapter 3) sets out the Local Planning Authority (LPA) responsibilities as:

1. Designating the area of the Neighbourhood Development Plan (NDP)

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2. Advising or assisting communities in the preparation of a neighbourhood plan
3. Checking a submitted plan meets the legal requirements
4. Arranging for the independent examination of the plan
5. Determining whether the neighbourhood plan meets the basic conditions and other legal requirements
6. Subject to the results of the referendum/s bringing the plan into force

This report deals with stage 3 of the process – checking that a submitted plan meets the legal requirements.

Lanreath Parish Neighbourhood Development Plan (Lanreath Parish NDP) was submitted to Cornwall Council, with the endorsement of Lanreath Parish Council, on 27th April 2017. The Plan was accompanied by a Basic Conditions Statement and a Consultation Statement with evidence of compliance with European Environmental legislation, as required by the Neighbourhood Planning (General) Regulations 2012.

The Plan has been checked against the Neighbourhood Planning (General) Regulations 2012 (hereafter referred to as 'the Regulations') and found to be legally compliant. Appendix 1 is a table which details each stage of plan preparation, the relevant regulations and legislation at each stage, how the Plan has met the Regulations and whether or not it is compliant. Having carried out the checks, officer opinion is that the Lanreath Parish NDP is legally compliant.

2. Background

The Council has a statutory duty to assist communities in the preparation of neighbourhood development plans and orders and to take plans through a process of examination and referendum.

The Plan has been through the statutory stages of area designation and pre-submission draft consultation. The area designation application was correctly made by the Parish Council, publicised by Cornwall Council and designated by portfolio holder decision on 13th April 2015.

Several stages of consultation and public engagement have been carried out during plan preparation (as detailed in the Consultation Statement) and the statutory pre-submission consultation as carried out from 1st March until 12th April 2016. It was publicised and the relevant consultation bodies were contacted in accordance with Regulation 14 of the 2012 Regulations. The Lanreath Parish NDP Steering Group have summarised the comments received and their responses in the Consultation Statement submitted with the Plan.

The current required stage is for the Local Planning Authority (LPA) to consider the Plan, determine whether it is legally compliant and, if so, notify the Lanreath Parish Council of its decision and progress the Plan by starting the 6 week consultation period and making arrangements

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for the examination. It was agreed at Environment and Heritage PAC in April 2014 that legal compliance checks would be agreed by Portfolio Holder Decision, to ensure Member endorsement of a neighbourhood plan prior to publication by Cornwall Council. The Service Director – Planning and Sustainable Development has delegated directly to him planning development control matters, including matters relating to local plans, and is therefore authorised to make this decision in addition to the Portfolio Holder for Planning.

The LPA must consider:

1. whether the Parish Council is authorised to act
2. whether the proposal and accompanying documents
 - a. comply with the rules for submission to the LPA
 - b. meet the 'definition of an NDP' and
 - c. meet the 'scope of NDP provisions', and
3. whether the Parish Council has undertaken the correct procedures in relation to consultation and publicity

1. The Lanreath Parish Council is the qualifying body authorised to progress a neighbourhood plan. They have made the correct application for the designation of their neighbourhood area and are authorised to act.

2a. The Plan proposal and accompanying documents comply with the rules for submission, in that they include a map identifying the area, a consultation statement, a basic conditions statement and information to enable appropriate environmental assessments. In this regard a screening opinion was sought from Cornwall Council based on the Steering Group submitting a draft emerging policies statement. Cornwall Council consulted the statutory bodies, English Heritage, Natural England and the Environment Agency. The consultation bodies concluded that a Strategic Environment Assessment (SEA) and Habitat Regulations Assessment (HRA) is not required. Cornwall Council issued a screening opinion to that effect on 18th October 2016.

2b. The 'definition of an NDP' 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" The Lanreath Parish NDP contains policies which relate to the development and use of land within Lanreath Parish and therefore meets the definition.

2c. The 'Scope of NDP provisions' are:

- The NDP must specify the period for which it is to have effect
- It cannot include provision about development that is 'excluded development'
- It cannot relate to more than one neighbourhood area or repeat an existing planning permission

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The Lanreath Parish NDP specifies the plan period as 2010 - 2030

It does not provide for any 'Excluded development' which is defined as

- a) A 'county matter' (schedule 1 of 1990 ACT) i.e. relating to Minerals
- b) Any operation or class of operation relating to waste development Development that falls within Annex 1 to Council Directive 85/337/EEC i.e. Oil refineries, power stations, radioactive waste Disposal, iron and steel smelting, asbestos operations, chemical installations, motorways, airports, ports and toxic and dangerous waste disposal.
- c) Development consisting wholly or partly of a national infrastructure project

It relates only to one neighbourhood area and does not repeat an existing planning permission.

3. The Parish Council has undertaken the correct procedure for pre-submission statutory consultation, but some statutory consultees appeared not to have been notified during this stage. This has now been corrected and we are satisfied that all statutory consultees have been notified. Lanreath Parish Council has also undertaken community consultation throughout the process, as detailed in the Consultation Statement.

The Lanreath Parish NDP is therefore considered to comply with the criteria and legislation for a neighbourhood plan and should be taken forward.

3. Outcomes/outputs

If the Lanreath Parish NDP is endorsed as compliant, Cornwall Council can commence the regulatory stages required to progress the Plan through examination and referendum and 'make' the Plan so that it forms part of the adopted policy framework for planning decision making in Cornwall.

This will further our objective to support Localism for our communities. The Lanreath Parish NDP and its process may also be used as a template which can help other communities in their plan preparation.

Production of neighbourhood plans is a stated objective in the Policy and Delivery Team Plan. It supports the objectives of the Cornwall Local Plan, which relies on Neighbourhood Plans to provide the policy framework for delivery of development, particularly in rural areas.

4. Options available and consideration of risk

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The Lanreath Parish NDP has been assessed against 'the Regulations' and is found to be legally compliant; the Council, therefore has a duty to support and progress the Plan.

In accordance with regulation 15 a further 6 week 'publication' consultation on the Lanreath Parish NDP will be carried out by the LPA, to add to the previous community and stakeholder consultation carried out by the NDP Steering Group, so the Plan will be well publicised.

The community has had an opportunity to comment on the Plan and influence its development. Statutory consultees were supportive of the Plan and where they have made suggestions for amendments to strengthen the Plan these have been made where possible. The consultation process has followed the Regulations and there will be opportunity for further comments to be made during the publication: any further comments will be forwarded directly to the examiner.

5. Proposed Way Forward

If the Lanreath Parish NDP proposal is found to be legally compliant, the next steps in the process of 'making' the Lanreath Parish Neighbourhood Development Plan are:

- LPA notify the Parish Council of their decision on the Plan's legal compliance.
- The LPA publicise the NDP proposal
- The LPA appoint an examiner, with the consent of the Parish Council
- Following successful examination the Local Authority hold a referendum
- Following successful referendum (simple majority) the Plan is 'made' –i.e. adopted by Cornwall Council and will become part of the statutory development plan as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Council has certain steps that it has to take in progressing a neighbourhood development plan. These are detailed in both the report and Legal Compliance Checklist. Relevant legislation: Town and Country Planning Act 1990 (as amended) Planning and Compulsory Purchase Act 2004 Localism Act 2011 Neighbourhood Planning (General) Regulations 2012.

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Financial	Y	<p>There are costs associated with the examination and referendum. The estimated costs for the Lanreath Parish NDP are £5,000 for examination and £2,800 for the referendum.</p> <p>Central Government provides a grant to the LPA of £5,000 at submission (limited to first five neighbourhood areas designated in total) and £20,000 once a date is set for a referendum following a successful examination. These grants are currently provided until 31 March 2018 and will be used to fund the associated costs.</p> <p>The value of the grant is fixed, irrelevant of the actual examination and referendum costs, so for smaller neighbourhood plans the grant is usually in excess of the costs incurred. This is retained by the Service to cover the cost of the larger towns, where the costs are higher. The current budget is sufficient to accommodate the Lanreath Parish NDP costs.</p> <p>During the financial year, if the accumulated costs for the neighbourhood plans exceed the grants received, then the Planning Service will have to identify funding from elsewhere within their approved budget to fund any deficit.</p>
Risk	Y	<p>Failure to progress the Plan proposal would risk customer dissatisfaction, given our commitment to support communities in the production of neighbourhood plans.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity	Y	<p>The plan has to contribute to sustainable development and be compliant with European Human Rights legislation.</p> <p>The NDP Group have carried out an Equality Impact Assessment, and identified positive or neutral impacts on the protected characteristics.</p>
Safeguarding	N	<p>No impacts identified.</p>
Information Management	Y	<p>Planning applications will be made and dealt with in the usual way. Systems are already set up to make</p>

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		NDPs available to planning officers and the public.
Community Safety, Crime and Disorder	Y	In response to comments from the Devon and Cornwall Police Architectural Liaison Officer Policy CO2 has been added to the plan, which seeks to design out crime.
Health, Safety and Wellbeing	Y	The Plan supports provision of housing, employment opportunities and infrastructure to meet local needs. The level of housing need has been properly considered and there is community support for further small developments of housing to meet local need.
Other implications		None

Supporting Information

Appendices:

1. Lanreath Parish Neighbourhood Development Plan Legal Compliance Checklist
2. Lanreath Parish Neighbourhood Development Plan Submission draft
3. Lanreath Parish Neighbourhood Development Plan Consultation Statement
4. Lanreath Parish Neighbourhood Development Plan Basic Conditions Statement
5. Lanreath Neighbourhood Plan Evidence Base Report
6. The Lanreath Plan Equality Impact Assessment

Background Papers:

None.

Approval and clearance of report

All reports:

Final report sign offs	This report has been cleared by OR not significant/not required	Date
Legal (if significant/required)	Elizabeth Dunstan Planning Policy and Special Projects Legal Consultant	03.05.2017
Finance Required for all reports	Leah Thomas	03.05.2017
Equality and Diversity	N/A	

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Cabinet/individual decision reports:

Final report sign offs	This report has been cleared by	Date
Service Director	Phil Mason	5/5/17
Strategic Director	John Betty	10/5/17