

Report to:	Service Director – Planning and Sustainable Development	
Date:	24 May 2019	
Title:	Crowan Neighbourhood Development Plan: Plan Proposal Decision – Post Examination Report Modifications and Referendum	
Portfolio Area:	Planning and Economy	
Divisions Affected:	Crowan and Wendron	
Local Member(s) briefed:	Y	
Relevant Scrutiny Committee: Economic Growth and Development		
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Approval and clearance obtained:	Y	
For Cabinet and delegated executive decisions only		
Key decision?	N	
Published in advance on Cabinet Work Programme?	Y	
Urgency Procedure(s) used if 'N' to Work Programme?	N	
Date next steps can be taken	Upon publication	

Recommendation:

That the Crowan Neighbourhood Development Plan is modified according to the Examiner's recommendations, the Plan proposal decision is published and the Plan progresses to Referendum.

1. Executive Summary

The Crowan Neighbourhood Development Plan (the NDP) has been successful at Examination, with the Examiner recommending that the Plan should proceed to referendum, subject to a number of recommended modifications.

The NDP has been modified in line with the Examiner's recommendations and the Council can now proceed to referendum on the making of the NDP.

2. Purpose of Report and key information

The Council as Local Planning Authority (LPA) is responsible for deciding what action to take in response to the Examiner's recommendation. This report details the recommendations and the modifications made to the NDP, which have been made with the involvement of the NDP Steering Group (the Group).

Cornwall Council, with the agreement of Crowan Parish Council, appointed Mrs Barbara Maksymiw as Examiner. The Examination commenced on 26th February 2019, by means of written representations and by an initial assessment of the Neighbourhood Plan and accompanying documents. A site visit was carried out to the Neighbourhood Plan area.

Mrs Maksymiw supplied the final examination report on 9th May 2019. The report concluded that the Crowan NDP could proceed to Referendum, subject to some recommended modifications to make the wording of policies and their application clearer and to ensure that the NDP meets the basic conditions. The main recommendations concern:

- Delete and reword paragraphs in 3. NDP Sustainability Appraisal as the steering group carried out an assessment of the policies in the NDP against the three strands of sustainable development set out in the basic conditions statement
- A sentence is added as the text was confusing setting out how the housing requirement was calculated in section 7. Crowan Parish Housing Statement
- Redraw the settlement boundary on the south side of Crowan village as proposed in the Regulation 16 statutory consultation response
- Delete maps on pages 11 to 15 of the plan and replace with Figure 3-7 and reword the first sentence of Policy HT1 Development Boundaries as only one set of maps is required
- Some minor rewording of the supporting text to improve the clarity in Policy HT2 – Local Housing Need
- Delete wording in Policy HT3 – Conversion of Buildings in the Countryside as it is not necessary
- Delete paragraph in Policy HT4 – Design as the last paragraph deals with the same topic, but in more detail
- Replace first line of Policy HT5 to improve clarity in the policy
- Reword Policy HT6 – Housing for Elderly and Infirm People so it refers to people who require additional access arrangements.
- Add wording in Policy FAS1 – Recreational Areas – Open spaces, Playing Fields and sports to ensure the policy is clear

- Some minor amendments to the supporting text and the wording of the policy to improve clarity in Policy FAS2 – Community/Village – Rooms and Halls
- Some minor amendments to the wording of the policy is required to improve clarity for Policy FAS3 – Toilet Facilities
- Policy FAS5 – Retail, Hospitality and Consumer Services is deleted as this is not a land use planning policy and community assets is covered by Policy 4 of the Cornwall Local Plan
- A minor amendment to ensure the policy meets the basic conditions as satisfactory service levels for general infrastructure Policy FAS6 is not a planning matter
- Rewording of policy FAS12 – Education, Health and Social Care to encourage planning policy to be positively worded
- Employment and Tourism section needs to be amended to provide a clearer context for the policies which follow.
- Policy EP1 – Employment and Tourism – Brownfield Sites needs to be reworded to ensure that it complies with the strategic guidance in the Cornwall Local Plan
- A minor rewording of Policy EPE – Employment and Tourism – Diversification as reference to the EP2 settlements is not clear
- Amendment to Policy wording in Policy HLE1 – Heritage Landscape and Environment – Boundaries, Flora and Fauna to ensure it complies with the guidance in the National Planning Policy Framework and in response to a Regulation 16 Consultation representation
- Introductory text to explain the background of Policy HLE3 – Heritage Landscape and Environment – Flooding added to page 28
- Delete criteria RE1(iii) as it is not relevant to this area

The full schedule of modification recommendations is included in a table in Appendix 2 Schedule of Modification Recommendations.

Crowan Parish Council agrees with Cornwall Council that all the modifications should be made to the Neighbourhood Plan and supporting documents.

Mrs Maksymiw's overall Recommendation is that the Neighbourhood Plan, as amended following the recommendations set out in the examination report, be submitted to a Referendum and that the referendum area should be the same as, and not extend beyond, the NDP area. The full Examination report is attached as Appendix 1.

3. Benefits for Customers/Residents

The Neighbourhood Plan is an opportunity for the local community to influence placemaking and planning decisions in their local area. The Cornwall Local Plan supports the production of neighbourhood plans and the spatial strategy requires development proposals to 'assist the creation of resilient and cohesive communities' and as part of this 'Support[ing] the delivery of made Neighbourhood Plans and other community based initiatives that help to make communities more resilient.' (Cornwall Local Plan, Policy 2 – Spatial Strategy.)

Residents of the Neighbourhood Plan Area, Crowan Parish, have had the opportunity to be involved in the research for and writing of the NDP and through the consultation and engagement associated with the NDP's development have been able to contribute their ideas and views.

For applicants, agents and developers wishing to submit proposals in the area, the NDP adds extra detail to the strategic policies for the area, so that applicants will have information about community expectations when preparing an application and can tailor their proposal accordingly.

A Comprehensive Impact Assessment of the Crowan NDP was carried out as part of the Legal Compliance Check and has been updated following the examination of the Plan. The CIA concluded that the Crowan NDP provides a strategy for the development of the Neighbourhood Area and a range of policies, which will result in positive benefits for the local community. The key positive impacts are promoting sustainable development, providing housing to meet local need and affordable self-build dwellings, supporting proposals for development of new or enhanced community facilities and new business opportunities including, agricultural enterprises for employment and tourism. The Environment and landscape will be protected by preserving the heritage characteristics, improving biodiversity, wildlife corridors, retaining trees, Cornish hedgerows and protecting recreational areas through promoting community engagement and involvement in planning.

4. Relevant Previous Decisions

The preparation and making of a Neighbourhood Development Plan is governed by Schedule 4B to the Town and Country Planning Act 1990 as amended and The Neighbourhood Planning (General) Regulations 2012 as amended (2012 Regulations) as follows

NDP Area Designation – Portfolio Holder Decision 25th April 2014

The first regulatory stage of the NDPs – the Parish Council submit an application and a map to notify of their intention to produce a neighbourhood plan.

Legal Compliance: Portfolio Holder Decision 11th January 2019

After the Parish Council submit their plan, the LPA carries out a legal compliance check and publishes the plan for Regulation 16 'publication' consultation

All previous reports and versions of the Plan are available on the Cornwall Council website on a page dedicated to [Crowan Neighbourhood Development Plan](#)

5. Consultation and Engagement

The first statutory round of consultation occurs at area designation stage. Crowan Parish Council submitted an application and map to designate their Neighbourhood Area. Cornwall Council consulted residents and other interested

stakeholders on the designation between 6th February and 20th March 2014. Copies of the application letter and statement that explains how the Parish Council and Neighbourhood Area met the conditions of Section 61G(2) of the Town and Country Planning Act 1990 (the 1990 Act), were made available to view at Helston One Stop Shop during the six week consultation period. The Cornwall Council then formally designated the Neighbourhood Area.

After this notification that a Parish Council is preparing a NDP and until the point that the NDP is submitted to Cornwall Council the responsibility for consultation and engagement on the NDP falls to the qualifying body, which is Crowan Parish Council. This process is tested for compliance at the independent examination and the Qualifying Body is required to submit a Consultation Statement, which evidences that the Regulations have been complied with.

The Consultation Statement contains:

(a) details of the persons and bodies who were consulted about the proposed Neighbourhood Development Plan;

(b) explains how they were consulted, which included the distribution of surveys for each household and a separate survey targeting young people. Open days and exhibition events were held to provide residents with an opportunity to speak to the steering group and statutory organisations were also consulted during the development of the plan.

(c) summarises the main issues and concerns raised by the persons consulted; and

(d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed Neighbourhood Development Plan.

The next statutory consultation stage is the pre-submission consultation on the draft Plan, (which was carried out by the Parish Council, in compliance with Regulation 14 of the 2012 Regulations); the representations on which have to be received not less than 6 weeks from the date on which the plan proposal is first publicised. The statutory pre-submission consultation was held from 14th July to 31st August 2018, where the 'Consultation Bodies,' as set out in Schedule 1 of the Regulations, were consulted. Any comments submitted during this consultation must be summarised and included in the Consultation Statement, with a note of what action was taken in response.

Once the Plan is submitted and judged to be legally compliant, Cornwall Council publicises the draft NDP in the next round of statutory consultation (in accordance with Regulation 16 of the 2012 Regulations); the representations on which have to be received not less than 6 weeks from the date on which the plan proposal is first publicised. The statutory consultation by Cornwall Council was held from 10th January to 21st February 2019.

The Plan proposal included a copy of a map and a statement which identifies the area to which the proposed Neighbourhood Development Plan relates; a Consultation Statement; the proposed Neighbourhood Development Plan and a statement explaining how the proposed Neighbourhood Development Plan meets

the requirements of paragraph 8 of Schedule 4B to the 1990 Act (the Basic Conditions Statement). Copies of the documents were available to view on the website, or through the Planning Register (planning application number PA19/00003/NDP) and hard copies were available from a number of locations during the consultation period. due to the parish covering a number of settlements. These included: St Crewenna's Church, Crowan Telephone Box, Crowan Parish Room, Nancegollan Village hall, Nancegollan Telephone Box, The Duke of Leeds Pub at Leedstown, Leedstown Community Primary School, Leedstown Village Hall, Praze Doctors Surgery, Praze Village Shop, Crowan Primary School, Townshend Village Hall and Townshend Telephone Box. The Council sent the Plan proposal and representations to the Independent Examiner on 26th February 2019 and on 9th May 2019 the Independent Examiner issued a report to the Council and the Crowan Parish Council.

6. Financial Implications of the proposed course of action/decision

There are costs associated with the examination and referendum. The final cost for the Crowan Parish NDP Examination is £3,899 and the estimated cost is in the region of £2,500 for the Referendum.

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 31st March 2022 and will be used to fund the associated costs.

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 occurred. 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 Crowan Neighbourhood Development Plan costs.

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.

7. Legal/Governance Implications of the proposed course of action/decision

The next stage of the Regulations requires the Council to:

- Decide what action to take in response to the recommendations of the Examiner
- Publish the decision and their reason for it
- Publish the Examiner's report

Regulation 18 of The Neighbourhood Planning (General) Regulations 2012 (as amended) requires the Local Planning Authority to outline what action to take, in response to the recommendations of an Examiner, who will have considered the Neighbourhood Plan. Such recommendations were made in a report, in

accordance with paragraph 10 of Schedule 4B to the 1990 Act (as applied by Section 38A of the 2004 Act).

This report details the Council's decision on how to incorporate the Examiner's recommendations. The power to decide whether the Examiner's modifications are incorporated, or not, lies with the Local Planning Authority. However, the Examiner's report has been discussed in detail with the NDP Steering Group and the Neighbourhood Plan and the proposed modifications to the Plan, in response to the Examiner's report, have been developed with the Group's involvement.

Having considered each of the recommendations made in the Examiner's report and the reasons for them, the Council, with the consent of Crowan Parish Council, has decided to accept the modifications to the draft Plan. Appendix 2 outlines the alterations made to the draft Plan under paragraph 12(6) of Schedule 4B to the 1990 Act (as applied by Section 38A of 2004 Act) in response to each of the Examiner's recommendations.

Amendments to these Policies will allow them to meet the Basic Conditions and therefore be retained in the Plan. The Council is satisfied that the Plan, as modified, meets the Basic Conditions set out in paragraph 8(2) of Schedule 4B of the Town And Country Planning Act 1990 and is compatible with the European Convention on Human Rights obligations.

The Plan has been screened for Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) and the Screening Opinion was that SEA and HRA were not required. A Comprehensive Impact Assessment (CIA) was undertaken at the Legal Compliance Check stage.

The Examiner confirmed in her report that he was satisfied that the NDP was compliant with European and Human Rights Legislation.

8. Risk Implications of the proposed course of action/decision

Failure to take the Plan forward to referendum would risk customer dissatisfaction and would be a failure of the Council's duty to support communities in the production of neighbourhood plans.

9. Comprehensive Impact Assessment Implications

The Equality Act 2010 places a duty on all public authorities to have regard to the need to eliminate discrimination, to advance equality of opportunity and to foster good relations between persons who have a "protected characteristic" and those who do not. The protected characteristics are Age, Disability, Gender Re-assignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex, Sexual Orientation and, in Cornwall, an additional characteristic, Cornish Status.

The NDP has been developed to be in general conformity with the Cornwall Local Plan, which was subject to Examination in Public and found to be sound. The Cornwall Local Plan provides for the objectively assessed need for housing to meet the needs of all the community, against which the conformity of the NDP has been tested.

The Cornwall Local Plan has been subject to a Comprehensive Impact Assessment. This concluded that the current and future businesses and residents of, and visitors to, Cornwall will be affected by the land use policies in terms of provision of jobs, homes, infrastructure, access to services and the protection of the environment. The Policies' objectives are to plan for the needs of the whole community now and in the future, the Plan period is to 2030. In addition, where evidence demonstrates a need, a number of protected characteristic groups are positively planned for with specific provision made for older people and the disabled.

The housing and affordable housing targets aim to ensure appropriate housing is available to meet local needs over the Plan period. Failing to provide sufficient housing will impact most on disadvantaged groups.

A CIA of the NDP was carried out as part of the Legal Compliance Check and has been updated following the examination of the Plan. The CIA concluded that the Crowan NDP provides a strategy for the development of the Neighbourhood Area and a range of policies, which will result in positive benefits for the local community. The key positive impacts are promoting sustainable development, providing housing to meet local need and affordable self-build dwellings, supporting proposals for development of new or enhanced community facilities and new business opportunities including, agricultural enterprises for employment and tourism. The Environment and landscape will be protected by preserving the heritage characteristics, improving biodiversity, wildlife corridors, retaining trees, Cornish hedgerows and protecting recreational areas through promoting community engagement and involvement in planning.

10. Options available

Cornwall Council has a duty to support communities who are preparing neighbourhood plans. The 2012 Regulations detail the Council's responsibilities. The NDP has been independently examined and found to meet the Basic Conditions, subject to the recommended Modifications. The Examiner has recommended that the NDP should proceed to Referendum.

The Council is required to make a decision as to what action it proposes to take in response to each recommendation, as detailed in the Examiner's Report, by 14th June 2019; this being the date as prescribed in Regulation 17A of the 2012 Regulations. It is not clear as to what the outcome will be if that date is missed, but it is clear that the Council's reputation would be damaged.

Failure to take the NDP forward to referendum would risk customer dissatisfaction and would be a failure of the Council's duty as set out above.

11. Supporting Information (Appendices)

Appendix 1: Crowan NDP Examination Report

Appendix 2: Crowan NDP Recommended Modifications Table

Appendix 3: Crowan Neighbourhood Development Plan modified after examination

12. Background Papers

None.

13. Approval and clearance

All reports:

Final report sign offs	This report has been cleared by (or mark not required if appropriate)	Date
Governance/Legal (Required for all reports)	Ben Curnow	4 June 2019
Finance (Required for all reports)	Geraldine Baker	4 June 2019
Equality and Diversity (If required)	N/A	
Service Director (Required for all reports)	Hayley Jewels – Acting Head of Planning Policy	5 June 2019
Strategic Director (If required)		