

Report to:	<b>Service Director – Planning and Sustainable Development</b>	
Date:	<b>17<sup>th</sup> September 2019</b>	
Title:	<b>Gwennap Neighbourhood Development Plan: Plan Proposal Decision – Post Examination Report Modifications and Referendum</b>	
Portfolio Area:	<b>Culture, Economy and Planning</b>	
Divisions Affected:	<b>Carharrack, Gwennap and St Day</b>	
Local Member(s) briefed:	<b>Y</b>	
Relevant Scrutiny Committee: <b>Economic Growth and Development</b>		
Authors, Roles and Contact Details:	<b>Emma Ball, Neighbourhood Planning Officer</b> E-mail <a href="mailto:emma.ball@cornwall.gov.uk">emma.ball@cornwall.gov.uk</a> Tel:01872 324807 <b>Hayley Jewels, Acting Head of Planning Policy</b> E-mail <a href="mailto:Hayley.Jewels@cornwall.gov.uk">Hayley.Jewels@cornwall.gov.uk</a> Tel:01872 224725	
Approval and clearance obtained:	<b>Y</b>	
<b>For Cabinet and delegated executive decisions only</b>		
Key decision?	<b>N</b>	
Published in advance on Cabinet Work Programme?	<b>Y</b>	
Urgency Procedure(s) used if 'N' to Work Programme?	<b>N</b>	
Date next steps can be taken	<b>Upon publication</b>	

**Recommendation:**

That the Gwennap 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

- 1.1 The Gwennap 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

- 2.1 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).
- 2.2 Cornwall Council, with the agreement of Gwennap Parish Council, appointed Mrs Liz Beth as Examiner. The Examination commenced on 13<sup>th</sup> June 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.
- 2.3 Mrs Beth supplied the final examination report on 20<sup>th</sup> August 2019. The report concluded that the Gwennap 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:
- The consultation statement and evidence base document to be amended to provide more information on the consultation process.
  - The policies in the plan are formatted and set out in a box
  - Policy H1 to be amended in order that it meets the basic conditions with regard to dealing with land-use issues
  - Policy H4 is amended to provide clarity and meet the basic conditions
  - The first paragraph of policy H5 to be amended and the last paragraph to be deleted to provide clarity.
  - Policy H6 second bullet point is amended as the parish council cannot approve decisions on development proposals.
  - Policies EJ1 – EJ4 abbreviations to be written in full for clarity purposes
  - Policy EJ6 to be amended as policy on extraction industries as an aspect of mineral planning is excluded development.
  - Policy RF2 to be deleted as requiring a development proposal to reduce flood-risk on and off site is contrary to government policy
  - Policy RF3 to be deleted as neighbourhood plans cannot impose technical standards
  - Policy RF4 and subsequent Reducing Flooding policies to be renumbered

- Policy CW1 is to be amended as it includes policy on community facilities which is not appropriate in a Local Green Space designation policy and an additional policy covering community facilities to be added under CW2.
  - The Justification for protected green space submitted during the examination covering policy CW1 to be added into the document as an appendix
  - Policy GQD1 to be amended to meet the basic conditions and provide clarity
  - Maps need to be amended as set out in the examination report for the development boundaries.
  - Policy GDQ3 to be deleted as it would only be relevant and proportionate for a major development. In order to meet the basic condition, it should be deleted.
  - Policy GOS1 to be amended as it cannot deal with Local Green Space (LGS), as the standard of protection of this designation does not allow for loss of the LGS and alternative provision and it would be contrary to the LGS policy in the National Planning Policy Framework.
  - Policy GOS2 to be deleted for clarity as it is not adding any clear requirement beyond the policy of the Local Planning Authority.
  - Policy GOS6 to be amended for clarity as it is not reasonable to expect all public views to be protected and the policy needs to acknowledge the work undertaken on key views within the local landscape character assessment.
  - Policy LL1 to be amended to comply with the basic conditions.
  - Policy LL2 to be deleted as it concerns employment development and not landscape and wildlife and for clarity has been incorporated into policy EJ6 in a modified form.
  - Policy SSC1 to be deleted as neighbourhood plans are not to set technical standards
- 2.4 Mrs Beth'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**

- 3.1 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.)
- 3.2 Residents of the Neighbourhood Plan Area, Gwennap 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.

- 3.3 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.

#### **4. Relevant Previous Decisions**

- 4.1 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 31<sup>st</sup> August 2016

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 25<sup>th</sup> March 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 [Gwennap Neighbourhood Development Plan](#).

#### **5. Consultation and Engagement**

- 5.1 The first statutory round of consultation occurs at area designation stage. Gwennap Parish Council submitted an application and map to designate their Neighbourhood Area on 30<sup>th</sup> June 2016. Cornwall Council consulted residents and other interested stakeholders on the designation between 7<sup>th</sup> July and 8<sup>th</sup> August 2016. 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 Cusgarne Community Primary School and The Cornish Arms during the six week consultation period. The Cornwall Council then formally designated the Neighbourhood Area.
- 5.2 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 Gwennap 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.

- 5.3 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 at this stage. The statutory pre-submission consultation was held from 23rd June until 6<sup>th</sup> August 2018 where the 'Consultation Bodies', as set out in Schedule 1 of the Regulations are 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.
- 5.4 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 at this stage. The statutory consultation by Cornwall Council was held from 4<sup>th</sup> April until 16<sup>th</sup> May 2019.
- 5.5 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, 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, a local landscape character assessment, a Delivery strategy, a Design guide, a housing needs analysis report and an Equality impact assessment. Copies of the documents were available to view on the website, or through the Planning Register (planning application number PA19/00010/NDP) and hard copies were available from Gwennap Parish Rooms and The Cornish Arms during the consultation period. The Council sent the Plan proposal and representations to the Independent Examiner on 13<sup>th</sup> June 2019 and on 20<sup>th</sup> August 2019 the Independent Examiner issued a report to the Council and the Gwennap Parish Council.

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

- 6.1 There are costs associated with the examination and referendum. The final cost for the Gwennap NDP Examination is £4,670 and the Referendum is estimated to cost £4,000.
- 6.2 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 the end of the financial year 2021/22 and will be used to fund the associated costs.
- 6.3 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 Gwennap Neighbourhood Development Plan costs.
- 6.4 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**

- 7.1 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
- 7.2 The Neighbourhood Planning (General) Regulations 2012 (as amended) requires in Regulation 18 for the Local Planning Authority to outline what action to take in response to the recommendations of an Examiner made in a report under paragraph 10 of Schedule 4B to the 1990 Act (as applied by Section 38A of the 2004 Act) in relation to the Neighbourhood Plan.
- 7.3 This report is 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.

- 7.4 Having considered each of the recommendations made in the Examiner's report and the reasons for them, the Council, with the consent of Gwennap 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.
- 7.5 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.
- 7.6 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 his 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**

- 8.1 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**

- 9.1 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 characteristic 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.
- 9.2 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.
- 9.3 The Cornwall Local Plan has been subject to 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.

- 9.4 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.
- 9.5 A Comprehensive Impact Assessment of the Gwennap 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 Gwennap 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.
- 9.6 The key positive impacts are promoting sustainable development by providing housing that meets local need including providing single level housing for the elderly and for people with a disability, employment opportunities through new business developments or increase retail floor space, sustainable transport, high quality design, protection and enhance of the natural built and historic environment and provision or enhancement of community facilities and services to meet local needs.
- 9.7 The Gwennap Parish Council completed an equality impact assessment during the development of the Gwennap NDP. The assessment confirmed that no identified groups would be affected more than others and it was clear that no groups were excluded from the consultations on the draft plan.

## **10. Options available**

- 10.1 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.
- 10.2 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 25<sup>th</sup> September 2019 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: Gwennap NDP Examination Report

Appendix 2: Gwennap NDP Recommended Modifications Table

Appendix 3: Gwennap Neighbourhood Development Plan modified after examination

Appendix 4: Gwennap NDP Consultation Statement and Evidence Base document with examination modifications

## 12. Background Papers

None.

## 13. Approval and clearance

### All reports:

<b>Final report sign offs</b>	<b>This report has been cleared by (or mark not required if appropriate)</b>	<b>Date</b>
Governance/Legal (Required for <b>all</b> reports)	Loretta Commons	24/09/19
Finance (Required for <b>all</b> reports)	Geraldine Baker	20/09/19
Equality and Diversity (If required)	N/A	
Service Director (Required for <b>all</b> reports)	Hayley Jewels	01/10/2019
Strategic Director (If required)		