

Report to:	Service Director – Planning and Sustainable Development	
Date:	9th January 2020	
Title:	Ludgvan Parish Neighbourhood Development Plan: Plan Proposal Decision – Post Examination Report Modifications and Referendum	
Portfolio Area:	Culture, Economy and Planning	
Divisions Affected:	Ludgvan	
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 Ludgvan Parish 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 Ludgvan Parish 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 Ludgvan Parish Council, appointed Mr John Slater. The Examination commenced on 9th October 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 on 15th October 2019.
- 2.3 Mr Slater supplied the final examination report on 21st December 2019. The report concluded that the Ludgvan Parish 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:
- Policy LUD1 Protecting the Natural Environment will be amended to correct an error and to provide greater certainty to the policy.
 - Policy LUD3 Public Rights of Way will be amended to include mitigation, as this policy can balance benefits of increased public access into the countryside with wildlife interests.
 - Policy LUD4 Coastal Change Management Area will be deleted following discussions during the examination as set out in the report. This can be feed into the Climate Change development plan document currently being produced by Cornwall Council.
 - Policy LUD5 Heritage Assets will be deleted but the section of the plan can be retained, stating policy 24 of the local plan will be relied upon to assess proposals which affect heritage assets. The policy currently does not meet the basic conditions, in that it is inconsistent with the Secretary of State advice in respect of the assessment required of proposals affecting non-designated heritage assets.
 - Policy LUD6 Local Green Space will be amended to reflect the presumption against development on local green space, other than in exceptional circumstances.

- Policy LUD7 Settlement Area Boundaries map 6b Long Rock Proposed Settlement Area Boundary will be replaced with the regulation 14 version in the examination report.
- Policy LUD8 Development in the countryside wording and title will be amended so the policy reflects and deals with development in the open countryside.
- Policy LUD9 Sensitive Design and Sustainable Development will be amended in order to bring the policy in line with the National Planning Policy Framework and meets the basic conditions.
- Policy LUD10 Open Space will be retitled and the justification text amended to focus on site landscaping, rather than the quantity of new open space. Cornwall Council and Ludgvan Parish Council have agreed wording for the justification text as this was not provided by the examiner.
- Policy LUD11 Local Housing Needs will be amended to have regard to local housing need assessments that will be a component of influences of the mix of affordable and other specific housing types and sizes.
- Policy LUD12 Second Homes will be deleted as evidence has been presented at examination apart from the current levels of second homes are in the region of 4% or less which is low compared to other neighbourhood plans.
- Policy LUD16 Community Horticulture will be amended to make the policy wording clearer.
- Policy LUD17 Communications and Connectivity will be amended for clarity as the policy requires the necessary infrastructure to be installed to allow connection to high-speed broadband that serves the area.
- Policy LUD18 Traffic Management will be amended as improvements to traffic management measures fall under the responsibility of the Highway Authority.
- Policy LUD23 Business Development will be amended to provide clarity expected of a planning policy.

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

Ludgvan Parish Council agrees with Cornwall Council that all the modifications should be made to the Neighbourhood Plan.

- 2.4 Mr Slater'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, Ludgvan 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 30th April 2015

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 2nd August 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 [Ludgvan Parish Neighbourhood Development Plan](#)

5. Consultation and Engagement

- 5.1 The first statutory round of consultation occurs at area designation stage. Ludgvan Parish Council submitted an application and map to designate their Neighbourhood Area on 25th February 2015. Cornwall Council consulted residents and other interested stakeholders on the designation between 5th March 2015 and 16th April 2015. 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 the former Penzance One Stop Shop (St Clare Council office) 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 Ludgvan 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 1st April until 13th May 2019 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 15th August until 26th September 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 and a green space assessment report. Copies of the documents were available to view on the website, or through the Planning Register (planning application number PA19/00019/NDP) and hard copies were available from Ludgvan Community Centre, Murley Memorial Hall, Gilbert Hall, The Mexico Inn and The Watermill pub during the consultation period. The Council sent the Plan proposal and representations to the Independent Examiner on 9th October 2019 and on 21st December 2019 the

Independent Examiner issued a report to the Council and the Ludgvan 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 Ludgvan Parish NDP Examination is £7,657.48, and the estimated cost is in the region of £5,000 for the Referendum.
- 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 for the current financial year 2019/20 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 Ludgvan Parish 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 Ludgvan 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 Ludgvan Parish 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 Ludgvan Parish 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 Neighbourhood plan policies will have positive impacts on development proposals that contribute to meet local need and broaden the range of housing sizes and types in the area, providing affordable housing to meet the identified need will promote a sustainable and diverse community. The provision or extension of community and recreational facilities, open space, designated local green space and the extension of the footpath and the cycle network will promote, safeguard and improve social interaction and well-being in the community.
- 9.7 The plan has an emphasis on protecting the natural and historic environment, landscape character, heritage assets, local wildlife, habitats of local and national importance. Taking the impacts of the Plan into account, procedures have been followed and risks mitigated where possible. Cornwall Council has a duty to support communities who are preparing neighbourhood plans.

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 27th January 2020 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: Ludgvan Parish NDP Examination Report

Appendix 2: Ludgvan Parish NDP Recommended Modifications Table

Appendix 3: Ludgvan Parish 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)		
Finance (Required for all reports)		
Equality and Diversity (If required)	N/A	
Service Director (Required for all reports)		
Strategic Director (If required)		