

Report to:	<b>Service Director – Planning and Sustainable Development</b>	
Date:	<b>28 February 2020</b>	
Title:	<b>Fowey Parish Neighbourhood Development Plan: Making of Plan</b>	
Portfolio Area:	<b>Culture, Economy and Planning</b>	
Divisions Affected:	<b>Fowey and Tywardreath</b>	
Local Member(s) briefed:	<b>Y</b>	
Relevant Scrutiny Committee: <b>Economic Growth and Development</b>		
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Approval and clearance obtained:	<b>Y</b>	
<b>For Cabinet and delegated executive decisions only</b>		
Key decision? (≥£500k in value or significant effect on communities in two or more electoral divisions)	<b>N</b>	
Published in advance on Cabinet Work Programme?	<b>Y</b>	
Urgency Procedure(s) used if 'N' to Work Programme?	<b>N/A</b>	
Date next steps can be taken	<b>On publication (NB. Decision is required to be made by 24 April 2020)</b>	

**Recommendation:**

That the Fowey Parish Neighbourhood Development Plan, having been approved by more than half of those voting at referendum held on 27 February 2020, is made and is used, as part of the development plan for Cornwall, in development management decisions in the parish of Fowey, pursuant to section 38A (4) of the Planning and Compulsory Purchase Act 2004.

## **1 Executive Summary**

- 1.1 The Fowey Parish Neighbourhood Development Plan (the NDP) was successful at Examination on 25 September 2019 and referendum on 27 February 2020. A simple majority is required for an NDP to progress. In this case there were 570 'yes' votes and 63 'no' votes: 90% in favour.
- 1.2 The NDP can now formally be made, which means it is adopted and forms part of the development plan for Cornwall and is used in decision making in the NDP area, Fowey Parish.

## **2 Purpose of Report and key information**

- 2.1 The Council has a statutory duty to assist communities in the preparation of Neighbourhood Development Plans and to take plans through a process of Examination and Referendum.
- 2.2 The Fowey Parish NDP has been through the statutory stages of neighbourhood plan making in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) (the Regulations):
  - a) Area designation
  - b) Pre-submission consultation
  - c) Legal Compliance check
  - d) Publication consultation
  - e) Examination
  - f) Plan Proposal decision
  - g) Referendum

With relevant Council decisions taken as detailed in section 5 below.

- 2.3 The next stage is to 'make' the Plan – i.e. adopt it as part of the planning policy framework. The Regulations state that this must take place within 8 weeks of the day following the date on which the referendum was held. The referendum was held on 27 February 2020, so the NDP must be 'made' by 24 April 2020.

### **3 Benefits for Customers/Residents**

- 3.1 The Neighbourhood Plan is an opportunity for the local community to influence place making 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, Fowey 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.
- 3.2 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 Fowey Parish Neighbourhood Development Plan Proceed to Referendum Decision Notice – 21 October 2019.

The final version of the Plan, incorporating the Examiner’s recommended amendments, published alongside the Notice of Referendum.

- 4.2 Fowey Parish Neighbourhood Development Plan Legal Compliance Decision Notice – 8 March 2019.

The Submission draft plan, following pre-submission consultation carried out by the qualifying body. The LPA carries out a legal compliance check and publishes the Plan for Regulation 16 ‘publication’ consultation.

- 4.3 Fowey Parish Neighbourhood Development Plan Area Designation – 24 February 2015.

At the start of the process the Town Council applied to designate their parish as an NDP Area.

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

## 5 Consultation and Engagement

- 5.1 The first statutory round of consultation occurs at area designation stage. Fowey Town Council submitted an application and map to designate their Neighbourhood Area. Cornwall Council consulted residents and other interested stakeholders on the designation between 7 January 2015 until 18 February 2015. Copies of the application letter and statement that explains how the Town 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 Fowey Library and One Stop Shop (this has since closed) during the six-week consultation period. The Cornwall Council then formally designated the Neighbourhood Area.
- 5.2 After this notification that a Town Council is preparing an 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 Fowey Town 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 a number of questionnaires being distributed for businesses, residents and to find out the housing need, discussions with landowners, a number of public meetings were held through the neighbourhood plan process and a newsletter was distributed to residents.
  - (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 Town 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 3 November 2018 until 15 November 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 7 March 2019 until 18 April 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, two documents setting out the Consultation Statement appendices A – V, 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).
- 5.6 Copies of the documents were available to view on the website, or through the Planning Register (planning application number PA19/00009/NDP) and hard copies were available to view at Fowey Library (this has since closed), Fowey River Practice and Squires Field Community Centre during the consultation period. The Council sent the Plan proposal and representations to the Independent Examiner on 7 May 2019 and on 25 September 2019 the Independent Examiner issued a report to Cornwall Council and Fowey Town Council.
- 5.7 On 21 October 2019 the Council published the report, considered it and took the decision to send the draft NDP to referendum.
- 5.8 An information statement was issued by the Council on 20 January 2020. The referendum took place on 27 February 2020 and the results were declared on 28 February 2020.

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

- 6.1 There are no further major costs to Cornwall Council.

## **7 Legal/Governance Implications of the proposed course of action/decision**

- 7.1 This is the final regulatory stage of the NDP process for the Fowey Parish Neighbourhood Development Plan. The Council has to be satisfied that the making of the NDP does not breach any EU obligations or the European Convention on Human Rights as enacted in the Human Rights Act 1998.
- 7.2 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 and Post Examination stages. The Council is satisfied that the making of the NDP does not breach any EU obligations or the European Convention on Human Rights as enacted in the Human Rights Act 1998.
- 7.3 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 There is a right to challenge the Council's decision to 'make' a Neighbourhood Development Plan pursuant to section 61E (4) or (8) of the 1990 Act and in accordance with Section 61N (1) of the 1990 Act the proceedings must be by way of judicial review brought within 6 weeks of the day after the day of publication of the decision to make.

## **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 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.
- 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 for the elderly and disabled through supported accommodation.
- 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 CIA of the NDP was carried out as part of the Legal Compliance Check and Post Examination Stages. The CIA concluded that the Fowey 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 key positive impacts are promoting sustainable development by supporting proposals to enhance the existing infrastructure including the cycle and footpath network. The natural and historic environment is safeguarded and enhanced, with specific reference to open spaces, the area of outstanding natural beauty and the special character and landscape. The plan supports development proposals to meet local need in the Parish through affordable housing and sets out a principal residence condition on new builds. There were no identified groups that 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 Regulations detail the Council's responsibilities. The NDP has been independently examined and found to meet the Basic Conditions; it has been endorsed by the community at referendum and has otherwise complied with all the legal requirements of plan production.
- 10.2 It is considered that the NDP meets European legislation and is compatible with the European Convention on Human Rights within the meaning of the Human Rights Act 1998. The NDP should therefore be 'made.' Failure to take

the Plan forward to referendum would risk customer dissatisfaction and would be a failure of the Council's duty.

## **11 Supporting Information (Appendices)**

11.1 Appendix 1 – Fowey Parish Neighbourhood Plan

11.2 Appendix 2 – Declaration of Referendum Result

## **12 Background Papers**

12.1 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)	Lyndsey Miller	03/03/2020
Finance (Required for <b>all</b> reports)	Geraldine Baker	03/03/2020
Equality and Diversity (If required)		
On Behalf of the Service Director (Required for <b>all</b> reports)	Hayley Jewels	06/03/2020
Strategic Director (If required)		