

# Locality

## Neighbourhood Plan Health-Check Review

### Report

#### Summary of Recommendations

Generally a well written and concise policy document, that is breaking new ground in terms of solutions to perceived housing problems of second homes and affordability in the National Park.

I have made two points on process (paras 1.3 and 2.7), that I understand Exmoor National Park Authority (ENPA) will be following up on:-

1. The formal list of consultees did not include Somerset County Council, whose joint structure plan with the Exmoor National Park Authority (ENPA) has saved policies that are still part of the formal development plan. Due to the unusual situation of this part of the National Park, it is not clear whether Somerset County Council as well as Devon County Council should be considered a statutory consultee due to the adopted plan including the structure plan policies. The ENPA fulfils the county planning functions of waste and minerals authority.

It was agreed in discussion with ENPA that the Somerset County Council should in any case be consulted during the planning authority's formal publicity period for the plan in April/May of this year should that proceed as planned.

2. There is a need for the plan to designate the time period for which it applies, as specified in section 38B 1(a) of the Planning And Compulsory Purchase Act 2004, inserted by enactment of the Localism Act 2011, schedule 9, Part 2, section 7.

I also offer the following observations on a few policies (para 2.1); suggestions that I feel would give greater clarity from a planning point of view:-

**Policy P1:** The use of the qualifier "new" in front of "development" in this policy could weaken the generally accepted definition of "development", dating from the 1947 Act. I understand that possible confusion was the reason for the footnote to the policy stating that it including all types of development. You may wish to consider alternative phrases such as "development proposals" or "future development" to avoid confusion when the policy is being used?

**Policy E5:** The use of "other" in this policy is probably not necessary, and could cause confusion. Could the policy just refer to "Loss of Tourist Facilities" or "Loss of Tourist Service Facilities"?

**Policy H3:** I understand that the legal advice received regarding this policy has suggested that for consistency with legal decisions and other policy, the term "Principle Residence" should be used rather than "Primary Residence".

**Maps** on pages 7 and 8 could specify the green wash is woodland for greater clarity.

Finally I have made some suggestions concerning the reporting of consultation on the plan (para 1.4), as follows:

The work in the early part of 2012, written up as “Lyn Plan Phase 1 Results” is particularly wide-ranging and could usefully be formally referenced in the Consultation Statement. It is a significant part of the evidence of local needs and aspirations. The Consultation Statement should also be dated.

## Part 1 - Process

	Criteria	Source	Response/Comments
1.1	Have the necessary statutory requirements been met in terms of the designation of the neighbourhood area?	PAS Checklist and telephone conversation with LPA and QB.	Yes. This was formally approved by the Planning Authority, Exmoor National Park Planning Committee on the 2 <sup>nd</sup> October 2012.
1.2	If the area does not have a parish council, have the necessary statutory requirements been met in terms of the designation of the neighbourhood forum?	PAS Checklist and telephone conversation with LPA and QB.	There is a parish; Lynton and Lymouth Town Council is the qualifying body.
1.3	Has the plan been the subject of appropriate pre-submission consultation and publicity, as set out in the legislation, or is this underway?	Consultation Statement and PAS Checklist.	Appropriate consultation as required by legislation for the pre-submission stage of the Lyn Plan was undertaken. This stage ran from Thursday 15 <sup>th</sup> November 2012 until Friday 11 <sup>th</sup> January 2013. There was also an earlier wide-ranging 'issues and options' consultation exercise early in 2012, which informed the content and direction of the draft plan. Statutory Consultees included Devon County Council as the relevant County Council for the parish. <i>The formal list of consultees did not include Somerset County Council, whose joint structure plan with the Exmoor National Park Authority (ENPA) has saved policies that are still part of the formal development plan. Due to the unusual situation of this part of the National Park, it is not clear whether Somerset County Council as well as Devon County Council should be considered a statutory consultee due to the adopted plan including the structure plan policies. The ENPA fulfils the county planning functions of waste and minerals authority. It was agreed in discussion with ENPA that the Somerset County Council should in any case be consulted during the planning authority's formal publicity period for the plan in April/May of this year should that proceed as planned. I understand ENPA will be making an Initial contact with the County Council about this matter.</i>

1.4	Has there been a programme of community engagement proportionate to the scale and complexity of the plan?.	Consultation Statement and telephone conversation with LPA and QB.	Yes, running for most of 2012. The work in the early part of 2012, written up as “Lyn Plan Phase 1 Results” is particularly wide-ranging and could usefully be formally referenced in the Consultation Statement. It is a significant part of the evidence of local needs and aspirations. The Consultation Statement should also be dated.
1.5	Are arrangements in place for an independent examiner to be appointed?	Project Plan, Telephone conversation with LPA and QB.	The ENPA will be attending to this in April 2013 when the plan has formally been submitted to them by the Town Council. They are proposing to run a tender process for the work, using the RICS list.
1.6	Are discussions taking place with the electoral services team on holding the referendum?	Telephone conversation with LPA and/or elections unit.	Yes, the electoral authority is North Devon Council, and ENPA have obtained quotes from this authority for the costs of running the referendum. The timing for any referendum is currently proposed to be the end of 2013.
1.7	Is there a clear project plan for bringing the plan into force and does it take account of local authority committee cycles?	Project plan and telephone conversation with LPA and QB.	There is a timetable for the process from the end of the pre-submission consultation until the referendum proposed at the end of this year. The plan would then be brought into force by ENPA in January or February of 2014 ( <i>not “adopted” as stated in the ‘next steps’ item on the Town Council agenda</i> ).
1.8	Has an SEA screening been carried out by the LPA?	Paragraph 8 of Schedule 4b Statement and telephone conversation with LPA.	A screening and subsequent Sustainability Appraisal has been undertaken by consultants. Minor changes to the plan were made as a result of recommendations in this, leading to a revised appraisal that was much more positive. This was mostly achieved by making it clear that the adopted local plan has policies on the protection of the natural and historic environment and mitigation and adaptations for climate change that apply to the Lyn Plan. The Lyn Plan does not repeat these, but they do apply, as will any developments of this policy in the emerging local plan for Exmoor (draft plan proposed for consultation stage in Summer or Autumn 2013).

1.9	Has an HRA screening been carried out by the LPA?	Paragraph 8 of Schedule 4b Statement and telephone conversation with LPA.	Yes. The view of Natural England is that the Lyn Plan “does not appear likely to result in significant adverse effects on designated landscapes or on national or European protected sites.”
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## Part 2 – Content

	Criteria	Source	Response/Comments
2.1	Are policies appropriately justified with a clear rationale?	Draft Plan.	<p>The policies are generally clear and justified by the recent local consultation and other evidence. Discussion with ENPA confirmed that the intention on several policy wordings was to leave aspects of the policy open. For example in policies E1 and E7 “business use” is not further defined by use class, as some proposals may be sui-generis but still potentially acceptable. This is felt to be in broad conformity with adopted planning policy in the context of the overriding policies for rigorous protection of the built and natural environment in the National Park. Similarly “storage” is not defined as B8, and may often refer to small ancillary development for a home-based business.</p> <p>My reading of the text leads me to offer the following as possible clarity improvements:</p> <p><b>Policy P1:</b> The use of the qualifier “new” in front of “development” in this policy could weaken the generally accepted definition of “development”, dating from the 1947 Act. Hence the note about the phrase including all types of development. You may wish to consider alternative phrases such as “development proposals” or “future development”?</p> <p><b>Policy E5:</b> The use of “other” in this policy is probably not necessary, and could cause confusion. Could the policy just refer to “Loss of Tourist Facilities” or “Loss of Tourist Service Facilities”?</p> <p><b>Policy H3:</b> I understand that the legal advice received regarding this policy has suggested that for consistency with legal decisions and other policy, the term “Principle Residence” should be used rather than “Primary Residence”.</p> <p><b>Maps</b> on pages 7 and 8 could specify the green wash is woodland for greater clarity.</p>
2.2	Is it clear which parts of the draft plan form the ‘neighbourhood plan proposal’ (i.e. the neighbourhood	Draft Plan and telephone conversation with the QB.	The plan has one main purpose, which is to be a neighbourhood plan proposal and planning document.

	<i>development plan</i> ) under the Localism Act, subject to the independent examination, and which parts do not form part of the ' plan proposal', and would not be tested by the independent examination?		
2.3	Are there any obvious conflicts with the NPPF?	Draft Plan, NPPF and Paragraph 8 of Schedule 4b Statement.	There are no obvious conflicts with the NPPF, a view also held by the planning authority.
2.4	Is there a clear explanation of the ways the plan contributes to the achievement of sustainable development?	Draft Plan and Paragraph 8 of Schedule 4b Statement.	The plan clearly states that it has sustainable social and economic objectives, while making it clear that it is subject to the overarching policies about environmental protection and protection from climate change in the adopted planning policy.
2.5	Are there any issues around compatibility with human rights or EU obligations?	Paragraph 8 of Schedule 4b Statement and telephone conversation with LPA.	There are no issues of compatibility with human rights or EU obligations apparent, a view endorsed by the ENPA in their draft view of the Plan's conformity with Basic Conditions.
2.6	Does the plan avoid dealing with excluded development including nationally significant infrastructure, waste and minerals?	Draft Plan.	The plan does not deal with excluded development, and does not allocate sites for development generally.

2.7	Is there consensus between the local planning authority and the qualifying body over whether the plan meets the basic conditions including conformity with strategic development plan policy and, if not, what are the areas of disagreement?	Paragraph 8 of Schedule 4b Statement and telephone conversation with LPA and QB.	ENPA have issued a draft statement that the plan meets the basic conditions. This is agreed, with the proviso that there is a need for the plan to designate the time period for which it applies, as specified in section 38B 1(a) of the Planning And Compulsory Purchase Act 2004, inserted by enactment of the Localism Act 2011, schedule 9, Part 2, section 7. ENPA agreed that they would discuss this with the Town Council, and anticipated that suitable dates would be inserted into the document, either of 10 or 15 years duration.
2.8	Are there any obvious errors in the plan?	Draft Plan.	None, apart from the oversight that led to no time period specified for the Plan.
2.9	Are the plan's policies clear and unambiguous and do they reflect the community's aspirations?	Draft Plan, consultation statement.	Generally clear, and certainly reflect the expressed aspirations of the community. Some suggestions for greater clarity in a few policies are made at point 2.1 above.

**Notes:**

**Parts 1 and 2 of the template should be completed first. The box should be completed in as concise a way as possible. It should state whether the criterion has been met, with a brief explanation (1-3 sentences, preferably). Any recommendations for action should also be included (1-2 sentences preferable). These actions should also be transferred to the 'Summary of Recommendations' section at the beginning of the report, with criteria in brackets after.**

**The report is meant to help qualifying bodies by identifying any possible problems so that they can address them prior to submission. It should be written in clear, concise and accessible way. Recommendations should be practical and constructive.**