

EXMOOR NATIONAL PARK AUTHORITY

PLANNING COMMITTEE

1 October 2013

LYNTON & LYNMOUTH NEIGHBOURHOOD PLAN (THE LYN PLAN) DECISION STATEMENT

Report of the Head of Planning & Sustainable Development

Purpose of the report: To seek approval of the Lynton & Lynmouth Neighbourhood Plan Decision Statement – this statement confirms that the modifications proposed by the examiner’s report are accepted and that the neighbourhood plan will proceed to a referendum.

Authority Priority:

Maintaining our core services –Working with the community and business

Supporting delivery of the Exmoor National Park Partnership Plan – Connecting people and places

Legal and Equality Implications: The National Park Authority is the sole Planning Authority for the National Park area and has powers to act under the Town & Country Planning Act 1990.

Town & Country Planning Act 1990 Schedule 4B paragraph 3 – “A local planning authority must give such advice or assistance to qualifying bodies as, in all the circumstances, they consider appropriate for the purpose of, or in connection with, facilitating the making of proposals for neighbourhood development orders in relation to neighbourhood areas within their area” .

This applies to neighbourhood development plans under S38A of the Planning and Compulsory Purchase Act 2004. There is no requirement to give financial assistance.

Town & Country Planning Act 1990 Schedule 4B paragraph 12 – Consideration by authority of recommendations made by examiner etc.

Neighbourhood Planning (General) Regulations 2012 – Regulation 19 Publication of examiner’s report and plan proposal decisions.

The Neighbourhood Planning (Referendums) Regulations 2012 – Schedule 1 – Question to be asked in a referendum.

The equality impact of the recommendations of this report has been assessed as follows: No implications.

Consideration has been given to the provisions of the Human Rights Act 1998 and an assessment of the implications of the recommendations of this report is as follows: No implications.

Financial and Risk Implications: The financial and risk implications of the recommendations of this report have been assessed as follows: Following a successful examination the Authority is able to claim £20,000 from the Department of Communities and Local Government in relation to charges for examination, referendum and costs incurred through supporting the neighbourhood plan process.

RECOMMENDATIONS: The Committee is recommended to:

- (1) APPROVE the Decision Statement for publication to ensure that the Lynton & Lynmouth Neighbourhood Plan can proceed to a referendum
- (2) AUTHORISE the Head of Planning and Sustainable Development to proceed with arrangements for the neighbourhood plan referendum

1. BACKGROUND

- 1.1 Once in place, a Neighbourhood Plan is a statutory planning document which the planning authority is required to make decisions in accordance with, and has the same status as a Local Plan. In this case the Neighbourhood Plan was prepared by the qualifying body Lynton & Lynmouth Town Council through a community-led process and they have promoted it throughout its preparation until the last stages where the Local Planning Authority has a checking and organisational role.
- 1.2 An application was made to the National Park Authority by the Town Council to formally designate the Neighbourhood Plan Area in September 2012. The Authority resolved to designate the Neighbourhood Plan Area on 2 October 2012.
- 1.3 The Town Council then formally consulted on The Draft Lyn Plan from the 15 November 2012 to 11 January 2013 (pre-submission consultation). Following some minor changes to the plan, the Town Council submitted the plan to the Authority in April 2013.
- 1.4 The Authority invited responses on the plan over an eight week period from 15th May to 12 July 2013.

2. INTRODUCTION

- 2.1 Following the consultation period the Authority appointed Mr Graham Self MA MSc FRTPI as the independent examiner for the Lynton & Lynmouth Neighbourhood Plan (The Lyn Plan) in July 2013. The consultation responses received were submitted to the examiner together with the neighbourhood plan and supporting documentation.
- 2.2 The Authority received the Examiner's Report on 29th August 2013. A copy was also sent to Lynton & Lynmouth Town Council as the 'qualifying body'. The report concludes that the Lynton & Lynmouth Neighbourhood Plan should be submitted to a referendum subject to the recommendations made to modify the plan to ensure that it meets the basic conditions.

3. DECISIONS AND REASONS

- 3.1 The recommendations (as listed in Table 1 below) made by the examiner have been considered by the Authority and it is therefore proposed that these modifications are

made to The Lyn Plan to ensure that the neighbourhood plan meets the basic conditions set out in legislation and can proceed to a referendum.

- 3.2 The Authority also proposes to make a series of minor modifications to correct grammatical and typographical errors; these are listed in Table 2.
- 3.3 The Town Council has also considered the examiner’s report and agrees with the modifications recommended by the examiner. A copy of the referendum version of the Lynton & Lynmouth Neighbourhood Plan which incorporates the modifications, listed in Table 1 and Table 2 below, is appended to this report.

Table 1: Recommendations by the Examiner

POLICY	RECOMMENDATION	REASON
P1	Delete “one or more” (since all the objectives are intended to apply as aspirations, not just any one or more). Delete “known”, since developers cannot be expected to meet unknown needs. Omit the redundant “which” and repetition of “new development” in the first paragraph. Insert suitable punctuation, plus the word “and” to make the objectives inclusive.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
ENV1	Insert punctuation. Insert “and” to make the criteria inclusive. Change “is not supported by the Plan” to “will not be permitted” to make the policy intention clearer. Change “should enhance....where possible” to “should preserve or enhance” to make the policy clearer and more precise.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal. Also in response to comments by English Heritage and Natural England.
E1	Insert punctuation. Insert “and” to make the criteria inclusive.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
E2	Insert “proposed” in the reference to “alternative use”, to be consistent with other tourism policies E3 and E5. Change “will” to “would” for consistency with other policies (and as it is more appropriate to use the future conditional tense when referring to future development proposals).	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.

POLICY	RECOMMENDATION	REASON
	Add punctuation. Add “or” to make the criteria exclusive. Re-cast the policy to remove two of the bullet points so that it reads more clearly.	
E3	Insert punctuation. Insert “or” to make the criteria exclusive. Re-draft the phrase “equal or greater benefitsthan” so that it reads properly. Change “will not be supported” to “will not be permitted” to clarify the policy intention.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
E4	Simplify the policy by omitting the bullet point and adjusting wording accordingly.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
E5	Add punctuation. Insert “or” to make the criteria exclusive. Re-draft the phrase “equal or greater benefitsthan” so that it reads properly. Change “will not be supported” to “will not be permitted” to clarify the policy intention.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
E6	Add punctuation. Simplify the policy by eliminating bullet points and repeated text.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
E7	Add punctuation. Change “criterion” to “criteria”. Insert “and” between the first two criteria to make them inclusive. Insert “or” between the second two criteria to make them exclusive. Change “will not be supported” to “will not be permitted” to clarify the policy intention.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
E8	Add punctuation. Change “criterion” to “criteria”. Delete repeated text. Change “will not be supported” to “will not be permitted” to clarify the policy intention. Insert “and” between the first two bullet points to make them inclusive. Insert “or” between the last two bullet points to make them exclusive.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.

POLICY	RECOMMENDATION	REASON
E9	Add punctuation. Insert “and” to make the criteria inclusive.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
E10	Add punctuation. Re-cast the policy to alter the layout of the last two bullet points so that they are not subsidiary paragraphs, so that the policy reads more clearly. Change “will not be supported” to “will not be permitted” to make the policy less neutral and clearer. Insert the reference to areas of informal parking (which in the examination draft appears immediately after the policy in italic text) into the policy itself so that this is more overtly part of the policy.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
E11	Add punctuation. Insert “and” to make the criteria inclusive. Change “should not” to “would not” to make the policy clearer.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
E12	Add punctuation. Delete “and financially viable”. Correct textual errors. Insert “and” to make the criteria inclusive.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
H1	Add punctuation. Insert “and” to make the criteria inclusive. Change “will” to “would”. Change “will be less than 90 square metres” to “would not exceed 90 square metres”, as the 90 square metres figure is intended to be a maximum.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
H2	Re-structure the policy layout so that it reads more clearly, as three of the bullet points in the examination draft should not be sub-paragraphs. Correct the punctuation. Make other minor adjustments to the wording for grammatical reasons.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.

POLICY	RECOMMENDATION	REASON
H3	Add punctuation. Insert “and” to make the criteria inclusive. Change “and creating” to “by creating” so that the text makes sense. Change “is not supported by this plan” to “will not be permitted” to make the policy intention less neutral and clearer. Alter the reference to the viability assessment “as defined by this plan” so that it refers to guidance published by the planning authority. ¹	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
H4	Add punctuation. Insert “and” to make the criteria inclusive. Change the layout so that the last bullet point is not a bullet-pointed sub-paragraph, and substitute different text as discussed at the clarification meeting. Delete the redundant words “that”. Change “is” to “would be”.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
S1	Add punctuation. Change the layout to remove the bullet points so that the text makes sense. Make other minor changes including deleting the repeated word “the”. Change “will not be supported” to “will not be permitted” to clarify the policy intention.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.
S2	Simplify the layout so that it does not have a bullet-pointed sub-paragraph.	Simplify layout of the policy.
S3	Delete this policy, and the related text in paragraphs 5.3.5 and 5.3.6, since as was discussed at the clarification meeting, it is doubtful whether planning policies or conditions could validly control the ownership and financial matters referred to here; also the previous part of the plan deals sufficiently with services and community assets.	To provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency and give a clear indication of how a decision maker should react to a development proposal.

¹ This assumes that Appendix 1 of the examination draft plan is omitted in the final version. The wording of policy H3 (in the third bullet point) may need adjustment, perhaps to refer to supplementary planning guidance if that is how the information in Appendix 1 of the examination draft is published [extracted from the Examiner’s Report].

Table 2: Minor Modifications Proposed by Exmoor National Park Authority

REFERENCE	MINOR MODIFICATION
Para 1.1.1, last sentence	“a” should be deleted so it reads “This Neighbourhood Plan is...”
Footnote 2	Amend footnote reference to the development plan to exclude the Somerset & Exmoor National Park Joint Structure Plan Review. The Structure Plan was formally abolished on 20 th May 2013.
Para 1.3.1, lines 5-6:	“of the” is repeated. One of the repeats should be deleted.
Para 1.3.2, lines 5-6:	“...one of the main reasons of visitors and businesses come here...” suggest this should read “one of the main reasons why visitors and businesses come here”
Page 4, blue coloured text on right hand side of diagram:	“accomodation” is misspelt
Para 2.3.2, line 2:	“though” should be “through”
Para 3.1.2:	“The protection....are aspects” – the grammar is incorrect here as the sentence has a singular subject and plural verb - suggest: “The protection....is an aspect...”
Para 3.1.3, line 5:	“and” is repeated
Para 3.1.3, line 6:	“show” should read “shown”
Para 3.1.3 – reference to “maps below”	Maps should be numbered and should have a descriptive title. The text can then refer to the maps by number. “Maps of the important identified environmental features and around the settlements are shown on the maps below” to be replaced by “Important historic and environmental features are identified on Maps 1, 2 and 3 in the plan”.
Maps generally:	The key does not accurately relate to the maps. The key to the map on page 8 refers to a Site of Special Scientific Interest, Scheduled Monuments, two types of Special Areas of Conservation and Conservation Areas, but none of these are shown on the map. Maps to be updated accordingly.

REFERENCE	MINOR MODIFICATION
Para 3.1.3, line 7:	“of value to community” should read “of value to the community”.
Para 3.2.1	“were” should be “where”
Para 3.2.4, line 5	“or are not important...” change to “and are not important...” to reflect the insertion of “and” in the policy (see recommendation for policy ENV1 in Table 1).
Para 4.1.2, lines 3-4:	“the right sorts business” should read “the right sorts of business”.
Page 11:	Add a footnote explaining that terms such as “C1”, “A1”, “A2” etc refer to the Town and Country Planning (Use Classes) Order.
Paras 4.2.4 and 4.2.6:	There are statements in paragraph 4.2.4 which are not legally correct and could be regarded by some people as misleading. The changes of use mentioned involve development requiring planning permission (assuming the change is material) – but planning permission for such changes is normally granted by the General Permitted Development Order and Use Classes Order, so that it is not normally necessary for planning applications to be made; it may also be said that specific planning permission is not normally required. A similar point arises in the second sentence of paragraph 4.2.6 – this would be legally more correct if the word “specific” were inserted so that the sentence reads: “Their change of use....does not normally require specific planning permission”. (The word “normally” is to reflect the fact that planning conditions or Article 4 Directions can take away permitted development rights.)
Para 4.2.8, line 4:	“be be” – one of the repeated words should be deleted.
Para 4.3.3, line 4:	“is” should be “if”
Para 4.4.5, line 4:	“result the overall landscape”. This should read “...result in... ”
Para 4.6.3, lines 2 and 3:	a comma is needed after “Lynton”, and “or” should be inserted after “experience”
Para 4.6.4, last line	“asset” should be “assets”
Para 5.2.3:	“principal” should have a capital P

REFERENCE	MINOR MODIFICATION
Para 5.2.6:	A comma is needed after “gardens”
Para 5.2.7, second sentence:	The sentence to be recast with the words “think” and “know” to be inserted so that the sentence reads: “Respondents know local people in housing need, know people who have moved away.... think that young people...., know that local wages...., and know about the number of second homes.” These points are more clearly made in two separate sentences with the “knows” in one sentence and the “thinks” in another.
Para 5.2 8, last sentence	“policies” should be “policies”
Page 20, Policy H1 footnote:	The normal term is “net”, of which “nett” is a variation. Change to ‘net’ which is the standard expression used in the UK i.e. “net present value” (Paragraphs 6, 9, 18 and 21 of Appendix 1 change ‘nett’ to ‘net’).
Para 5.2.16:	The text in italics in this paragraph has the appearance of being a direct quotation from the local plan, but it is only a partial quotation or summary of Policy H2 of that plan. This should be made clear to avoid readers thinking it is a direct quotation.
Para 5.2 18, line 6	Insert reference to Map 4
Para 5.2.20, line 7:	“principal” should have a capital P
Para 5.2.20, line 8:	as can live/work units” – the phrasing needs changing to read “principal residence homes for downsizing will be part of this, as will live/work units....”
Para 5.2.21:	Recast this paragraph to support the policy intention to read: “The occupancy of any dwellings permitted as principal residence housing will be controlled by a planning condition to prevent these homes being occupied as second homes or holiday homes”.
Para 5.3.2, line 1:	The statement “We need to protect all of this, and build upon it” is an unfortunate turn of phrase, which could be open to misinterpretation. The text here could simply say: “We need to protect all of this if we are to remain...”
Appendix 1, para 11, line 5:	delete “as”

REFERENCE	MINOR MODIFICATION
Appendix 1, para 13, line 1:	“The financing....need...” – should be “The financing....needs...”
Appendix 1	Following the examiner’s recommendation (policy H3) it is considered appropriate to remove Appendix 1 from the plan and publish it as a separate technical document to be read alongside the plan. This document can then be updated as necessary (with agreement from the Town Council). Para 2.2.7 will be amended to reflect this change
Throughout	Amend all bullet points in the policies with numbered bullets to aid future referencing etc.
Document	Change orientation to A4 portrait to enable the maps (in portrait format) to be shown at a larger scale more effectively.

4. REFERENDUM

- 4.1 The National Park Authority agrees with the examiner’s conclusion that there is no reason to extend the Neighbourhood Plan area for the purpose of holding a referendum. Therefore it is intended that the referendum will be held for those eligible to vote within the parish of Lynton & Lynmouth.
- 4.2 Arrangements will be made with North Devon Council for the referendum to be held on Thursday 21st November. Under the requirements of the Localism Act 2011 the question posed at the referendum will be:
- “Do you want Exmoor National Park Authority to use the Neighbourhood Plan for Lynton & Lynmouth to help it decide planning applications in the neighbourhood area?”*

5. CONCLUSION

- 5.1 The examiner has concluded that with the minor modifications made The Lyn Plan meets the basic conditions and other relevant legal requirements, and there is no reason to extend the Neighbourhood Plan area for the purpose of holding the referendum. The Authority agrees with this view.

Tessa Saunders
Planning Policy Officer
19 September 2013

Background papers on which this report, or an important part of it are based, constitute the list of background papers required by Section 100 D (1) of the Local Government Act 1972 to be open to members of the public comprise:

- The Lyn Plan Regulation 16 Consultation Responses
- Examiner’s Report on The Lyn Plan (Lynton & Lynmouth Neighbourhood Plan)
- Lynton & Lynmouth Neighbourhood Plan – Examination Version
- Lynton & Lynmouth Neighbourhood Plan – Referendum Version (appended to the report)