

NFNPA 581/19

NEW FOREST NATIONAL PARK AUTHORITY

AUTHORITY MEETING – 29 AUGUST 2019

HYTHE AND DIBDEN NEIGHBOURHOOD PLAN - EXAMINER'S REPORT

Report by: David Illsley, Policy Manager

Summary:

Following the final period of consultation on the draft Hythe and Dibden Neighbourhood Plan held in Spring 2019, the draft Plan, supporting information and representations received were subject to independent examination. The examination was undertaken by a suitably qualified person and at the end of June 2019 the Examiner's Report was received. In this Report the Examiner concluded that subject to a number of modifications, the draft Plan meets the 'basic conditions' and should proceed to Referendum.

Under the relevant regulations, the full Authority must decide what action to take in response to the Examiner's Report and publish a 'Decision Statement'. Following endorsement at the Authority's Planning Committee meeting earlier this month, this report seeks approval of the 'Decision Statement' (Annex 1) and the subsequent amendments to the Neighbourhood Plan. New Forest District Council will be going through the same process in early September 2019 for the part of the parish within their jurisdiction and once both planning authorities have agreed their responses the revised Neighbourhood Plan will proceed to local Referendum.

Recommendation:

Members note the recommendations made in the Examiner's Report into the draft Hythe and Dibden Neighbourhood Plan; and endorse the 'Decision Statement' in Annex 1 to this report setting out the Authority's responses to the Examiner's Report.

1. Introduction

- 1.1 Neighbourhood Plans were introduced by the *Localism Act 2011* to give communities direct power to shape the development of their local area. Neighbourhood Plans are planning documents that, once adopted, form part of the statutory 'development plan'. In July 2015 Hythe and Dibden Parish Council applied to the National Park Authority and New Forest District Council for the whole of the parish to be designated as a 'Neighbourhood Area'. Around a third of the Parish lies within the National Park and the designation was confirmed in December 2015.
- 1.2 Work on the emerging Hythe and Dibden Neighbourhood Plan has been overseen by a steering group of parish councillors and community representatives. The Parish Council undertook an initial public consultation in 2016 to inform the preparation of the Plan. In Summer 2018 the Parish Council published their draft Neighbourhood Plan and this was considered at the Authority's July 2018 Planning Committee meeting (report NFNPA PC 270/18). In December 2018 the Parish Council published their revised draft Neighbourhood Plan which was similarly considered at the Authority's January 2019 Planning Committee (report NFNPA PC 282/19). Finally, following the submission of the draft Neighbourhood Plan to the two local planning authorities in early 2019, the Plan was subject to a final 6-week public consultation between March and April 2019.

2. Independent Examination and the Examiner's Report

- 2.1 During the final 6-week public consultation held on the draft Neighbourhood Plan, representations were received from 11 organisations and individuals. These included representations from the National Park Authority, based on matters identified in NFNPA PC 270/18 and NFNPA PC 282/19. In these representations the Authority raised objections to the publication of maps of potential development sites in the National Park; and sought clarification of the purpose of the proposed 'buffer zone' at Dibden Bay.
- 2.2 All of the representations made during this final consultation and various supporting documents (including a Consultation Statement and a Basic Conditions Statement) were submitted to the independent Examiner¹ for their consideration. The examination was dealt with by written representations. The Examiner is required to assess whether the Plan meets the Basic Conditions and legal tests. The Examiner is then required to produce a Report recommending either:
- (a) the Neighbourhood Plan proceeds to a referendum without modifications; or
 - (b) that modifications are made and that the modified Neighbourhood Plan then proceeds to referendum; or
 - (c) that the Neighbourhood Plan does not proceed to a referendum as it does not meet the necessary legal requirements.
- 2.3 The *Examiner's Report on the Hythe and Dibden Neighbourhood Development Plan 2018 - 2026* (June 2019) can be viewed [here](#). The main findings are set out in the 'Executive Summary' on page 3, with the key recommendation being that, once modified, the Plan proceeds to Referendum on the basis that it meets the Basic Conditions and the relevant legal requirements. This is a positive recommendation and reflects the hard work the Parish Council have put into the preparation of the draft Plan.
- 2.4 Where necessary the Examiner has recommended modifications to the Plan in order that it meets the Basic Conditions and other legal requirements. These are listed in the Appendix to the Examiner's Report (pages 26 – 28) and it is common for modifications to be required to draft Neighbourhood Plans following independent examination.

3. National Park Authority response to the Examiner's recommendations

- 3.1 Under Neighbourhood Planning (General) Regulations 2012 (as amended), it is the responsibility of the local planning authority to ensure the Plan meets the basic conditions and to determine whether it proceeds to referendum, with or without modifications. The local authority is also responsible for deciding whether the voting area should be the neighbourhood area or should include other areas too.
- 3.2 The National Park Authority must also: (i) decide what action to take in response to each recommendation made in the Examiner's Report; and (ii) publish their decision and the reasons for it in a 'Decision Statement'. National guidance indicates that if the local planning authority can make modifications to the Plan to meet the basic conditions and allow it to proceed to Referendum, they should do so. Modifications will normally follow the Examiner's recommendations and clear justification would be required for departing from the Examiner's recommendations.

¹ The independent Examiner was appointed by New Forest District Council and the National Park Authority, with the agreement of Hythe and Dibden Parish Council.

- 3.3 Officers from the National Park Authority, New Forest District Council and Hythe & Dibden Parish Council met in July 2019 to consider the recommendations made in the Examiner's Report. Ultimately it is the responsibility of the planning authorities to decide what modifications should be made to the Neighbourhood Plan. Having considered each of the modifications proposed by the Examiner, it is recommended that the Authority accepts in full the Examiner's modifications to the draft Plan. The Decision Statement set out in Annex 1 to this report therefore 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.
- 3.4 Key recommendations from the Examiner that it is proposed to accept include:
- The removal of Chapter 9 from the main body of the Neighbourhood Plan, to be included as an annex instead, with additional text to clarify that the actions listed deal with non-land use matters. The Examiner concluded that while wider community aspirations can be included in a Neighbourhood Plan, actions dealing with non-land use matters should be clearly identifiable.
 - Modifications to Report B – *Future Community Aspirations* – to rename the document and make it clear that it does not form part of the main Neighbourhood Plan and has no statutory effect. This modification is in accordance with the Authority's representations and has been accepted by the Parish Council.
 - The deletion of references to "sustainably managed economic growth" as part of the proposed Dibden Bay 'Buffer Zone' in Policy BZ2, objective 9.4 and paragraph 8.74. The Examiner shared the Authority's concerns as to the potential for conflict between environmental protection and the policy support for economic growth.
- 3.5 In accepting the modifications set out by the Examiner in full, the draft Hythe & Dibden Neighbourhood Plan has been altered; and it is this revised version of the Plan which may now proceed to local Referendum. A full text version of the amended Neighbourhood Plan - incorporating the Examiner's modifications - can be viewed [here](#). It should be noted that New Forest District Council are also going through the same approval process, with their response to the Examiner's Report being considered at a Cabinet meeting on 4 September; and then by the full Council on 9 September 2019.

4. Conclusions and the next stages

- 4.1 The Examiner's Report recognises and commends the hard work put into the production of the Plan by the Neighbourhood Planning Group and the Parish Council. The Authority echoes this recognition and is keen to support the final stages in the Plan-making process – as set out below. The Examiner's Report also supports the main representations made by the Authority on the draft Plan (relating to the status of Report B – *Future Community Aspirations*; and the purposes of the proposed buffer zone at Dibden Bay) and has recommended modifications accordingly.

(i) *Local Referendum*

- 4.2 The Examiner concluded that, once modified, the Neighbourhood Plan should proceed to Referendum. The Examiner considered whether the referendum area should extend beyond the designated area and concluded it should not. This conclusion is supported by the two planning authorities and the Parish Council.

4.3 As the 'relevant council' as defined in the Town and Country Planning Act 1990, it is the responsibility of New Forest District Council to make arrangements for the local referendum to take place. The Government's National Planning Practice Guidance (NPPG) resource provides coverage of the referendum process and confirms that a person is entitled to vote if, at the time of the referendum, they meet the eligibility criteria to vote in a local election for the area and if they live in the referendum area.

(ii) Adoption as part of the 'development plan' for the National Park

4.4 If the majority of those who vote in the Referendum are in favour of the draft Hythe and Dibden Neighbourhood Plan 2018 – 2026, then the Plan must be 'made' by the National Park Authority and District Council within eight weeks of the referendum.

4.5 The Neighbourhood Plan will then become part of the statutory 'development plan' for the part of the National Park within the parish of Hythe and Dibden; forming the basis of planning decisions in that area. The formal 'making' of the Neighbourhood Plan after the local referendum would be completed at a full National Park Authority meeting.

Recommendation:

Members note the recommendations made in the Examiner's Report into the draft Hythe and Dibden Neighbourhood Plan; and endorse the 'Decision Statement' in Annex 1 to this report setting out the Authority's responses to the Examiner's Report.

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Papers: **NFNPA 581/19** – cover paper
Annex 1 – Hythe & Dibden Neighbourhood Plan
Examiner's Report – NPA Decision Statement

Equality Impact Assessment: No impacts have been identified.