

Report to: Cabinet



Date of Meeting 3 February 2021

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Farringdon Neighbourhood Plan Examiner's Report

Report summary:

The purpose of the report is to provide feedback and set out proposed changes following the examination of the Farringdon Neighbourhood Plan. The independent examination of the Plan has now concluded and the final Examiner's report received. In accordance with the relevant legislation, the District Council must now consider its response to the Examiner's recommendations and also satisfy itself that the Plan meets the necessary 'basic conditions'. If the recommendation to accept the Examiner's recommendations in full is accepted, a decision notice will be published accordingly. This will confirm that the Plan can go forward for public vote in a local referendum as the penultimate stage in the plan-making process. An updated (Referendum Version) of the Neighbourhood Plan will also be published. Due to the Covid-19 pandemic, the referendum will be delayed until at least 6 May 2021. However, the publishing of the decision notice itself will give the Plan 'significant weight' in the determination of planning applications in the Farringdon parish area.

Recommendation:

- 1. That Members endorse the Examiner's recommendations on the Farringdon Neighbourhood Plan (the Plan).**
- 2. That Members agree that a 'referendum version' of the Plan (incorporating the Examiner's modifications) should proceed to referendum and a decision notice to this effect be published.**
- 3. That Members congratulate all involved, particularly the Neighbourhood Plan Steering Group, on their hard work in developing this Neighbourhood Plan.**

Reason for recommendation:

The legislation requires a decision notice to be produced at this stage in the process. The Plan is the product of extensive local consultation and has been recommended to proceed to referendum by the Examiner subject to modifications which are accepted by the Parish Council.

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Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets
- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

Central Government funding is available for Neighbourhood plans. This income covers not only examination fees but also all other associated costs such as employment and all other supplies and services. Any residual funds are placed into an earmarked reserve and utilised to cover funding gaps in subsequent years.

Legal implications:

As the report identifies, it is a formal requirement for the Council to consider the Examiner's recommendations and satisfy itself that the proposed plan, as modified, meets the prescribed 'Basic Conditions'. The purpose of the report is to satisfy this formal requirement. At this time, following the end of the transition period, the Regulations and NPPG in relation to the Basic Conditions have not been updated to reflect Great Britain's exit from the European Union therefore the Neighbourhood Plan has been assessed against the prevailing legislation. Assuming Members agree the proposed recommendations then the Council is obliged to publish a notice to this effect, pursuant to the applicable Regulations, and Recommendation 2 covers this aspect. The report also identifies that the District Council is responsible for organising the referendum and requires a resolution to progress this, at such time as the Council is permitted to arrange such referendums under Government Covid 19 guidance. At this stage there are no other legal observations arising.

Equalities impact Low Impact

Neighbourhood Planning is designed to be inclusive and extensive consultation is a fundamental requirement. The Neighbourhood Plan has gone through wide consultation with the community and has been advertised in a variety of formats to increase accessibility. All electors are invited to vote in the referendum.

Climate change Low Impact

Risk: Medium Risk; There is a risk that the Neighbourhood Plan could fail the referendum if a majority of the community vote against it, but it has been subject to extensive consultation

Links to background information [The Localism Act](#); [Plain English Guide to the Localism Act](#); [National Planning Policy Framework \(2019\)](#); [Neighbourhood Planning Regulations](#); ; [Neighbourhood Planning Roadmap Guide](#); [East Devon Neighbourhood Planning webpages](#).

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

Report in full

The Examination

- 1.1 The Farringdon Neighbourhood Plan has now been examined and, subject to modifications, it has been recommended that it proceed to referendum. The Examiner, David Hogger, was selected by East Devon District Council in consultation with Farringdon Parish Council.
- 1.2 The examination was undertaken on the basis of considering the written material which forms the Plan, its appendices and accompanying statements as well as representations received in response to the formal consultations. The Examiner did not consider it necessary to hold a public meeting. The [Plan \(as submitted for examination\)](#) and the [Examiner's report](#) are available to on our website.
- 1.3 The legislation, reflected in the Council's [Neighbourhood Planning Protocol](#), requires the Policy Team to notify Members of the findings and recommendations of the Examiner and how the Council proposes to respond to the recommendations. The agreed response will then be published as a decision notice.
- 1.4 The Examiner has recommended 16 textual modifications to the Plan. These are shown in Annex 1. The reasons for each of the amendments is also explained in full in the Examiner's report. The examiner concluded that the Farringdon Neighbourhood Plan, "has been duly prepared in compliance with the procedural requirements", including the "Basic Conditions and other legal requirements" and recommends that, "the Plan, once modified, proceeds to referendum".

Response to the Examiner's Recommendations

- 1.5 Under paragraph 12 of the Town and Country Planning Act it is for the Local Planning Authority (EDDC) to consider the recommendations made in the Examiner's report and the reasons for them and decide what action to take in response to each recommendation.
- 1.6 The District Council must also be satisfied that the Neighbourhood Plan:
 - i. meets the necessary 'Basic Conditions' by;
 - having regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contributing to the achievement of sustainable development;
 - being in general conformity with the strategic policies of the Development Plan for the area;
 - not breaching, and being compatible with European Union obligations
 - ii. is compatible with the European Convention of Human Rights, and;
 - iii. complies with the provisions under section 38A and 38B of the Planning And Compulsory Purchase Act,

(or that the draft Neighbourhood Plan would do so if modifications were made to it, whether or not recommended by the Examiner, before a referendum is held.)

- 1.7 The Neighbourhood Plan regulations go on to state that if

a) the Local Planning Authority propose to make a decision which differs from that recommended by the Examiner, and
b) the reason for the difference is (wholly or partly) as a result of new evidence or a new fact or a different view taken by the authority as to a particular fact, then, the authority must notify prescribed persons of their proposed decision (and reason for it) and invite representations.

- 1.8 The legislation, which is reflected in our protocol, requires the Council to consider and respond to the Examiner's report. Officer assessment is that with the incorporation of the amendments suggested by the Examiner, the Council can be satisfied that the Plan meets the legal requirements. There are not considered to be any grounds to reject the findings of the report.
- 1.9 Members are therefore asked to agree to accept the recommendations of the Examiner's report and agree that a notice to this effect be published.

Next Steps

- 1.10 A revised version of the Plan (known as the 'Referendum Version'), incorporating the recommended changes, will be made available to view on the [Farringdon page](#) of the East Devon District Council website, together with the Decision Notice.
- 1.11 The District Council will be responsible for arranging a referendum where all electors within the Parish of Farringdon will be invited to vote on whether the Neighbourhood Plan should be used to make planning decisions in the Parish. If more than 50% of those who vote say 'yes', the Neighbourhood Plan will be made and will form part of the Development Plan for East Devon, where it will carry full weight in the planning decision making process.
- 1.12 It should be noted that due to the Coronavirus Act 2020 and the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 made in response to the coronavirus crisis, the referendum will not currently be able to take place until at least 6 May 2021. However, in recognition of the hard work undertaken in communities like Farringdon to progress plans to such an advanced stage, updated Government guidance has clarified that where the local planning authority has issued a decision statement detailing its intention to send a neighbourhood plan to referendum, that plan can be given significant weight as a material consideration in decision-making on planning applications. If accepted, this will be the effect therefore of the recommendation of this report.

Annex 1: Examiner's Proposed Modifications

The following sets out the modifications proposed by the Examiner, taken from the Examiner's Report. A full schedule of the Plan policies pre-modification is provided in Annex 2 for reference.

Proposed modification number (PM)	Page number/ other reference	Modification
PM1	Page 6	Insert a new paragraph (after paragraph 3.6) regarding the East Devon Local Plan Review to read: “It should be noted that EDDC are embarking on a review of the adopted EDLP. It is envisaged that a draft Plan could be submitted for examination by March 2023 and adopted by February 2024.”
PM2	Page 7	Up-date National Planning Policy Framework (NPPF) reference from 2018 to 2019
PM3	Page 15 Policy Farr1	In clause b and d, delete the caveat 'where / wherever possible'.
PM4	Page 15 Policy Farr1	In the last sentence, replace “unacceptable” with “significant” .
PM5	Page 15 Paragraph 7.12	Replace “community” with “public”
PM6	Page 17 Policy Farr2	Delete “Wherever relevant” from the last sentence of the policy.
PM7	Page 18 Policy Farr3 D	Add the following reference to clause D of the policy: “(see the Glossary for a definition of tree sizes).”
PM8	Page 22 Policy Farr4	Modify clause c) to replace “reflects and enhances” with “respects”, to read: Of a design which respects the character and appearance of the existing building.
PM9	Page 23 Policy Farr5	In the first sentence (below criteria k) delete the duplicate of the phrase, “shall be strongly supported.”
PM10	Page 27 Policy Farr6	Modify clause d) to read, by adding “on the living conditions of”, to read:

Proposed modification number (PM)	Page number/ other reference	Modification
		<p>d) Not have an adverse effect on the living conditions of its neighbours;</p> <p>Modify clause e) by deleting “reduce parking provision”, to read:</p> <p>e) not have an unacceptable adverse impact on the transport network or parking provision;</p>
PM11	Page 29 Policy Farr8	<p>To clarify that this policy does not apply to Crealy Park and to add reference to the glossary, modify the introductory sentence to read:</p> <p>“With the exception of Crealy Park (which is addressed in East Devon Local Plan policies E19 and E20), proposals for the development and expansion of tourism related businesses (see Glossary for definition of such businesses) will be supported providing that...”</p> <p>Modify clause a) of the policy to delete “(not included Crealy Park)” and clarify the meaning of existing use, to read,</p> <p>a) the scale of development is small and proportionate to the existing activity (where there is one); and the locality;</p>
PM12	Page 29 Paragraph 9.19	Replace “facilitate” with “ support ”.
PM13	Page 31 Policy Farr10	<p>Delete “and” at the end of clause a)</p> <p>Add two additional criteria, as follows:</p> <p>c) there is no significant visual harm; and</p> <p>d) an appropriate level of parking provision is provided.</p>
PM14	Page 32 Policy Farr11	<p>Modify clause c) to read:</p> <p>c) the local road network;</p>
PM15	Page 35 Policy Farr12	<p>Delete the ‘s’ on strengthens and modify the second part of the policy to read:</p> <p>“and strengthen links with the wider transport and public rights of way networks, will be supported.”</p>

Proposed modification number (PM)	Page number/ other reference	Modification
PM16	Page 36 Glossary	<p>Include two further definitions of Tree Sizes and Tourism Related Business:</p> <p>Tree Sizes – small tree <10m; medium tree 10m – 15m; and large tree 15m-25m+.</p> <p>Tourism Related Business – a business that offers sustainable accommodation or recreation space to visitors to the area, for example those who wish to enjoy the countryside and natural environment of the locality.</p> <p>Replace Footnote 27 with a weblink to the February 2019 NPPF.</p> <p>National Planning Policy Framework - GOV.UK (www.gov.uk)</p>