

CABINET



Report subject	Boscombe & Pokesdown Neighbourhood Plan Decision Statement
Meeting date	11 September 2019
Status	Public Report
Executive summary	<p>The draft Boscombe & Pokesdown Neighbourhood Plan has been examined by an independent Examiner who issued her report on 16 July 2019, attached as Appendix 2 to this report. The Examiner has recommended that, subject to modifications to the Plan, it may proceed to referendum. A Decision Statement is attached at Appendix 3, which sets out the Council's proposed response to the Examiner's recommendations. This Cabinet report asks Members to agree the Examiner's recommendations, as set out in the Decision Statement, to enable the Neighbourhood Plan to proceed to referendum.</p>
Recommendations	<p>It is RECOMMENDED that Cabinet recommend to Council to:</p> <ul style="list-style-type: none"> (a) Consider and accept the modifications to the Boscombe & Pokesdown Neighbourhood Plan recommended in the Examiner's Report 16 July 2019, attached as Appendix 2 to this report. (b) Agree with the Examiner's recommendation that the Boscombe & Pokesdown Neighbourhood Plan as modified meets Basic Conditions. (c) Agree that the Neighbourhood Plan as modified, attached as Appendix 4, can proceed to Referendum, and publish this decision through issuing the Decision Statement. (d) Agree with the Examiner's recommendation that the area for referendum will be the designated Boscombe & Pokesdown Neighbourhood area, as shown in the Plan at Appendix 1 (the combined area of Boscombe East and Boscombe West wards) (e) As competent authority under the Habitats Regulations, agree to adopt the Habitats Regulations Assessment of the Boscombe & Pokesdown Neighbourhood Plan, attached as

	Appendix 5 to this report. (f) That authority be delegated to the Director of Growth and Infrastructure in consultation with the Portfolio Holder for Strategic Planning to agree further minor changes to the Plan
Reason for recommendations	In line with the Council's obligations under the Localism Act to facilitate the production and adoption of Neighbourhood Plans and its duties as competent authority under the Habitats Regulations.
Portfolio Holder(s):	Councillor Margaret Phipps, Strategic Planning Portfolio Holder
Corporate Director	Bill Cotton
Contributors	Mark Axford, Interim Head of Planning Julia Mitchell, Planning Officer
Wards	Boscombe East and Boscombe West
Classification	For Decision

Background

1. The Localism Act 2011 introduced new powers for community groups to prepare Neighbourhood Plans for their local areas. A Neighbourhood Plan is a plan which sets out policies in relation to the development and use of land in the whole, or part of, a Neighbourhood Area. The policies or proposals will carry weight in the determination of planning applications.
2. An application to designate the Boscombe & Pokesdown Neighbourhood Forum and Neighbourhood Area was approved by the Council on 12 May 2016. The approved Boscombe & Pokesdown Neighbourhood Area follows the boundaries of the combined wards of Boscombe East and Boscombe West. The boundary is shown on a map in Appendix 1.
3. Boscombe & Pokesdown Neighbourhood Forum published a Draft Neighbourhood Plan for consultation and invited comments from 20th January – 3rd March 2018.
4. Boscombe & Pokesdown Neighbourhood Forum submitted their Neighbourhood Plan to Bournemouth Borough Council on 20th July 2018. The Council published the Submission Version of the Neighbourhood Plan and associated documents for consultation on 20th September 2018 for a 6-week consultation period expiring on 2nd November 2018.

5. The Council appointed an independent Examiner – Deborah McCann BSc MRICS MRTPI Dip Arch Con Dip LD – in September 2018 to carry out the examination of the submission plan.
6. In November 2018, after the consultation period had expired, the Council submitted the Submission Plan, all associated documents and all representations received to the Examiner. An objection from Natural England resulted in the Council being required to commission a Habitats Regulations Assessment (HRA), to assess the potential impacts of the site allocations in the plan on protected habitats. The examination was suspended whilst this work was being undertaken. The HRA, attached as Appendix 5, concluded that a Suitable Alternative Natural Greenspace (SANG) at Hicks Farm or an alternative site needs to be provided. The HRA was forwarded to the Examiner on 15 May 2019 as a further submission document for consideration. The examination was then conducted by written representations.
7. The Examiner's Report was received on 16 July 2019, and concluded that the Boscombe & Pokesdown Neighbourhood Plan and the policies within it, subject to the recommended modifications, meets the Basic Conditions and can proceed to Referendum. The Examiner also concluded that the Referendum Area should be the same of the Neighbourhood Plan Area, should it go to Referendum.
8. Following the receipt of the Examiner's Report, the LPA is required to consider each of the recommendations made in the Examiner's report and decide what action to take. Under Regulation 17A of the 2012 Regulations, the timescale in which the LPA is required to decide what action to take is 5 weeks from the date of receipt of the Examiner's Report, or an alternative date agreed with the Neighbourhood Forum. As it was not possible to take a report to an earlier Cabinet meeting, the Neighbourhood Forum have agreed that the report should be taken to Cabinet on 11 September 2019.
9. If the LPA is satisfied that the Neighbourhood Plan meets the Basic Conditions, is compatible with the Convention Rights, complies with the definition of a NP and the provisions that can be made by an NP or can do so if modified, then a referendum must be held.
10. Under Regulation 18, as soon as possible after making a decision on what action to take, the LPA must publish a "Decision Statement", details of where it can be inspected and the Examiner's report on their website and in such other manner as they consider it likely to bring the Decision Statement to the attention of people who live, work or carry on business in the neighbourhood area.

Examiner's Report

11. The Examiner's Report is attached as Appendix 2. It concludes that the Neighbourhood Plan meets the Basic Conditions required by legislation, and that subject to the modifications proposed in the report, the Neighbourhood Plan should proceed to a referendum to be held within the Neighbourhood Area.

12. The Examiner has to determine whether the Boscombe & Pokesdown Neighbourhood Plan meets Basic Conditions, which are as follows:

- Has regard to national policies and advice;
- Contributes to sustainable development;
- Is in general conformity with the strategic policies in the appropriate Development Plan;
- Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (an additional basic condition added on 28 December 2018).

The Plan must also not breach, and otherwise be compatible with EU obligations and Human Rights requirements.

13. Table 1 of Appendix 3 sets out the proposed modifications to policies recommended by the Examiner. These include where:

- Some policies have sought to introduce controls outside of the planning system or where existing policy already sets out the scope of control.
- It has been necessary to replace “permitted” with “supported” as the power to determine planning applications lies with the Local Planning Authority.
- Additional text recommended by the Habitats Regulations Assessment to ensure that no adverse effects on European sites’ integrity (Dorset Heathlands) can be concluded.

14. Officers have considered all of the recommendations and the Examiner’s reasons for them and have set out the Council’s response as part of the Decision Statement attached as Appendix 3. It is recommended that all of the Examiner’s recommended modifications be made as set out in Table 1 of Appendix 3.

15. Subject to Cabinet’s agreement of the Decision Statement, the Neighbourhood Plan will be amended accordingly and can proceed to referendum.

Referendum

16. The Examiner’s Report confirms that the referendum area should be the same as the Neighbourhood Area designated by the Council, which is the combined area of Boscombe East and Boscombe West wards. The Neighbourhood Planning (Referendum) Regulations 2012 as amended require the LPA to hold the referendum within 56 days of the date that a decision to hold one has been made. This decision will be made on 17 September 2019 and assuming that Cabinet approve the recommendations in this report, the referendum will have to be held on or before 28 November 2019. The proposed date for the referendum is 31 October 2019, which is within the 56-day period.

17. If a Neighbourhood Plan is submitted to a referendum, 28 working days' notice must be given of the referendum procedure and Neighbourhood Plan details. If a neighbourhood plan proceeds to referendum and is supported by a majority of those voting, the Council must 'make' (i.e. adopt) the Plan and it becomes part of the development plan for the area, alongside the Council's own adopted development plans.

Decisions on Planning Applications

18. As the Plan is now at an advanced stage, its policies where relevant have legal weight in decision making with regard to any planning applications to be determined within the Boscombe & Pokesdown Neighbourhood Area. This is reflected in the Neighbourhood Planning Act 2017 which recognises that, when determining an application, a LPA must have regard to "a post examination draft neighbourhood plan as far as material to the application". If a LPA make a decision to allow a draft neighbourhood plan with modifications to proceed to referendum, then the modifications recommended must also be taken into account. National Planning Policy Guidance (NPPG) May 2019 advises that "Where the local planning authority publishes notice of a referendum, the emerging neighbourhood plan should be given more weight, while also taking account of the extent of unresolved objections to the plan and its degree of consistency with NPPF."

Summary of financial implications

19. The production and costs associated with developing the Neighbourhood Plan have been met by Boscombe & Pokesdown Neighbourhood Forum. The costs of the examination and referendum stages are met by the Council. Financial support from the Ministry of Housing, Communities & Local Government (MHCLG) is available for LPAs. LPAs can claim £20,000 once they have a date for a referendum following a successful examination. The grant is not expected to cover the full cost of both the examination and the referendum. Any shortfall will need to be accommodated within existing budgets or the LDP earmarked reserves.
20. Once a Neighbourhood Plan is made (adopted), CIL Neighbourhood Portion rises from 15% to 25%. This will be retained by the Council and spent in consultation with the local community on infrastructure to support the development of the Neighbourhood Plan area.

Summary of legal implications

21. The Neighbourhood Planning (General) Regulations 2012 (as amended) set out the statutory requirements that the Council must meet. Regulation 17A requires the Council to decide what action should be taken in response to the recommendations made by the Independent Examiner. Regulation 18 requires the Council to publish a "Decision Statement" as soon as possible after making the decision. The procedures for Referendums are set out in the Neighbourhood

Planning (Referendums) (Amendment) Regulations 2016. Once adopted, the Neighbourhood Plan will form part of the development plan for BCP Council.

Summary of human resources implications

22. Work involved with progressing the various stages of the Neighbourhood Plan is carried out within existing Planning Policy team staffing. Regulations require local planning authorities to provide advice or assistance to neighbourhood forums that are producing neighbourhood plans. Managing a referendum will also need the resources of Electoral Services staff.

Summary of environmental impact

23. One of the Basic Conditions is to contribute to the achievement of sustainable development. The Examiner concluded that she was satisfied that the Neighbourhood Plan, subject to the recommended modifications, addresses the sustainability issues adequately.

Summary of public health implications

24. The Neighbourhood Plan's vision, aims and policies cover a range of issues which are relevant to public health. These are drawn out in the Basic Conditions Statement of the Plan. The vision is for a place which is well-connected, prosperous, healthy and safe. There are policies which address issues of impact of density on living conditions, improving the quality of new housing, promote family housing, enhancing open spaces, and providing safe routes, pedestrian routes and cycle connections.

Summary of equality implications

25. The Examiner has concluded that the Neighbourhood Plan meets the Basic Conditions (subject to recommended modifications). One of the conditions is that the plan must be compatible with the Human Rights requirements and other EU obligations. The Examiner is also satisfied that the consultation process undertaken by the Neighbourhood Forum was adequate, well conducted and recorded.

Summary of risk assessment

26. The recommendations in an Examination Report are not binding, but if the Council does not accept the recommendations without a compelling reason, there is a risk of legal challenge. Should members not agree to accept any of the modifications, there will be a delay in adopting the Plan, as a further consultation period will be required. Once adopted, Neighbourhood Plans can reduce risk in the development management process by providing support for the Council in determining planning applications and defending planning appeals.

Background papers

The Boscombe & Pokesdown Neighbourhood Plan Submission Plan July 2018 and supporting documents, submitted for Examination can be viewed at:-

<https://www.bournemouth.gov.uk/planningbuilding/PlanningPolicy/Other-Planning-Documents/boscombe-and-pokesdown-neighbourhood-plan.aspx>

The representations received in response to consultation on the Boscombe & Pokesdown Neighbourhood Plan submission version can be viewed at

<https://www.bournemouth.gov.uk/planningbuilding/PlanningPolicy/Other-Planning-Documents/boscombe-pokesdown-neighbourhood-plan-regulation-16-consultation-representations-received.aspx>

Appendices

Appendix 1: Map of Boscombe & Pokesdown Neighbourhood Plan Area

Appendix 2: Independent Examiner's Report of the Boscombe & Pokesdown Neighbourhood Plan 16 July 2019

Appendix 3: Boscombe & Pokesdown Neighbourhood Plan: Decision Statement

Appendix 4: Boscombe & Pokesdown Neighbourhood Plan: Post Examination Version, August 2019

Appendix 5: Habitats Regulations Assessment of the Boscombe and Pokesdown Neighbourhood Plan, Bournemouth, Footprint Ecology May 2019