

CABINET

14 January 2015

DENMEAD NEIGHBOURHOOD PLAN - EXAMINER'S REPORT AND
RECOMMENDATIONS

REPORT OF HEAD OF STRATEGIC PLANNING

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RECENT REFERENCES

CAB2615 – 22 September 2014 – LPP2 Publication and Consultation

CAB2530 (LDF) – 27 November 2013 – LPP2 Update Report

CAB2427 (LDF) – 17 December 2012 – Denmead Neighbourhood Plan Funding

CAB2373 – 4 July 2012 - Designation of Neighbourhood Plan Area

EXECUTIVE SUMMARY

The purpose of this report is to consider the modifications to the Denmead Neighbourhood Plan (DNP) as recommended by the Independent Examiner who considered whether the DNP met the “basic conditions” for a neighbourhood plan, in order for it to proceed to a referendum.

The Localism Act 2011 introduced a mechanism for local communities to produce neighbourhood plans. Once brought into force, these planning documents will be used, alongside the National Planning Policy Framework and Local Plans, to determine planning applications.

The Council received the Examiner's report considering the submission version of the Denmead Neighbourhood Plan on 18 December 2014. The report comprehensively explores the issues raised through the 126 representations received on the DNP that was submitted for examination. The period for representations ran from 29 September to 11 November 2014.

The purpose of the Examination is for the Examiner to determine whether or not the Plan meets the “basic conditions” as set out in the legislation and to produce a report that states whether :

- the basic conditions are met and plan is submitted to referendum, or
- modifications specified in the report are necessary and the plan as modified is submitted to referendum, or
- the plan is refused as it does not meet the necessary legal requirements.

It is not the Examiner's role to re-interpret, restructure or re-write the plan or to produce an alternative plan. The Examiner's report only recommends modifications to the Plan where these are necessary to ensure that the basic conditions are met. The report covers all aspects of the neighbourhood plan and both documents can be viewed on the Council's website at <http://www.winchester.gov.uk/planning-policy/neighbourhood-plans/>.

After consideration of the submitted DNP and the written representations on it, the Examiner recommends five modifications to the plan :-

Recommended modification 1:

The project proposals should be transferred to a separate annex that is clearly identified as not forming part of the Neighbourhood Development Plan

Recommended modification 2:

In policy 2 insert "About" as the first word in sections i, ii, and iv; and replace "Up to" with "About" in section iii; and in part ig of the policy insert "20 space" before private

Recommended modification 3:

In policy 4 employment types better located in the village centre should be specified

Recommended modification 4:

Delete policy 8

Recommended modification 5:

Identified errors that are typographical in nature or arising from updates should be corrected.

The Examiner then concludes that the Denmead Neighbourhood Plan should, subject to the modifications recommended, be submitted to referendum based on the neighbourhood area.

The City Council is responsible for organising the referendum. For a neighbourhood plan to pass the referendum, it requires the majority of the votes received to be in favour (i.e. over 50% of the votes cast on the day).

If the majority of votes are in favour, the Council is required (unless the Council considers that this would breach, or be incompatible with, any EU obligation or any of the Convention Rights) to 'make' the neighbourhood plan as soon as possible. It is proposed that a report on the outcome of the referendum is made direct to Council on 1 April 2015, to comply with this requirement.

RECOMMENDATIONS

TO CABINET AND COUNCIL:

- 1 That a report on the outcome of the referendum be made to full Council on 1 April 2015, so as to allow the plan to be formally made and brought into force as soon as possible, in the event of there being a positive referendum vote in favour of the Denmead Neighbourhood Plan (over 50% of votes cast).

TO CABINET:

- 2 That the recommendations of the Examiner, and the subsequent further amendments proposed, all as set out in Table 1 at Appendix A to the report, be accepted and agreed.
- 3 That delegated authority be given to the Head of Strategic Planning, in consultation with the Portfolio Holder for the Built Environment and Denmead Parish Council, to make editorial amendments and updates to the Denmead Neighbourhood Plan, including those recommended by the Examiner, provided these changes will not alter the Plan's policy approach.
- 4 That the Examiner's recommendation that the Denmead Neighbourhood Plan, as modified in accordance with recommendations 2 and 3 above, proceeds to referendum, be agreed, on the basis that the Plan (as modified) meets the basic conditions, is compatible with the European Convention on Human Rights, complies with the statutory definition of a neighbourhood development plan and comprises provisions that can be made by such a document.
- 5 That in accordance with the Examiner's recommendation, the referendum be based on the neighbourhood area as defined by the Council on 17 September 2012 in the document entitled "Designation of Denmead Neighbourhood Area".

CABINET

14 JANUARY 2015

DENMEAD NEIGHBOURHOOD PLAN - EXAMINER'S REPORT AND RECOMMENDATIONS

DETAIL

1. Introduction

- 1.1 The purpose of this report is to consider the report of the Independent Examiner appointed to examine the Denmead Neighbourhood Plan (DNP). In particular, the Council needs to consider and respond to the modifications and other recommendations made by the Examiner who considered whether the DNP met the basic conditions in order to proceed to a referendum.
- 1.2 The Localism Act 2011 introduced a mechanism for local communities to produce neighbourhood plans. These planning documents, once brought into force, will be used alongside the National Planning Policy Framework and Local Plans to determine planning applications.
- 1.3 Denmead Parish Council commenced preparation of its neighbourhood plan in 2011 after successfully receiving 'front runner' status and funding as part of the Government's initiative to promote the preparation of community-led plans.
- 1.4 Neighbourhood Planning Regulations were published in April 2012 to clarify both the process and the role of the local planning authority. Both officers and Members of Winchester City Council have been actively involved in the preparation of the DNP through representation on the Denmead Neighbourhood Forum Steering Group. The Regulations require the City Council to undertake and fund certain aspects of plan preparation and these are set out in brief below.
- 1.5 The Winchester District Local Plan Part 2 (LPP2) - Development Management and Allocations (CAB 2615 refers) will also cover the area which is subject to the Denmead Neighbourhood Plan. LPP2 will provide development management policies for that area, whereas the DNP specifically allocates sites for development. LPP2 Section 4.9 provides a current summary of the status of the DNP (as at September 2014) and includes a brief description of the nature and level of development proposals as set out in the neighbourhood plan, which was submitted for examination in September 2014.

2. Background - The Neighbourhood Plan Process

2.1 The Neighbourhood Planning Regulations set out key stages in the preparation of a plan. Below is a summary of how the DNP has progressed to date.

a) Definition of the neighbourhood area – the area to be covered by the DNP was formally designated in September 2012 following Cabinet’s agreement to publish the area proposed in July 2012, CAB2373 refers.

b) Pre-submission publicity and consultation – the pre-submission plan was published for a six week consultation period from 10 March to 21 April 2014. Denmead Parish Council has undertaken extensive consultation throughout the process and the results together with a range of background papers can be viewed on its website www.denmeadneighbourhoodplan.org.uk

c) Publication/submission of draft plan – the draft plan was amended following comments received to the pre-submission consultation. At this stage it is the responsibility of the City Council to hold a consultation on the submission version of the DNP, which was undertaken between 29 September and 11 November 2014. Some 126 comments were received and these were posted on the City Council’s website and sent directly to the independent Examiner appointed to examine whether the plan meets the ‘basic conditions’.

d) Examination – an independent examiner was appointed by the City Council (September 2014). The Examiner considers the submitted plan and representations received on it and then determines, whether the plan meets the ‘basic conditions’ and other relevant legal requirements. The Examiner may request further information to help in his consideration and may conduct the examination through written representations only, or call a public hearing to examine a particular issue in more depth. Further details on this element in relation to the DNP are set out in the following section.

e) Publication of the examiner’s report, - The City Council must publish the Examiner’s report as soon as possible after receipt. The Report is dated 17 December 2014 and was published on the Council’s web site on 19 December 2014. The City Council must consider each of the examiner’s recommendations and decide what action to take in response to each. It must also come to a formal view about whether the draft plan, as may be modified, meets the basic conditions and can proceed to a referendum. This is the purpose of this report (January 2015).

f) Referendum –this is the responsibility of the City Council. If the recommendations of this report are agreed it is expected that the referendum would be held in early March 2015. The provisional date proposed by the Counting Officer is 5 March 2015.

g) Adoption – subject to a positive vote in the referendum (at least 50% of votes cast) the neighbourhood plan is brought into force (“made”) and becomes part of the statutory development plan.

3. The Examination and Examiner’s Report

3.1 An independent examiner, Chris Collison, was appointed by the Council in September 2014 and all comments received to the submission version of the DNP were forwarded directly to him in addition to being uploaded onto the Council’s website. The Examiner has to report on whether or not the plan meets the “basic conditions” as set out in the legislation¹ and to make a report that states whether:

- the basic conditions are met and plan is submitted to referendum, or
- modifications specified in the report are necessary and the plan as modified is submitted to referendum, or
- the plan is refused as it does not meet the necessary legal requirements.

3.2 A Neighbourhood Plan will be considered to have met the ‘basic conditions’ if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,
- the making of the neighbourhood plan contributes to the achievement of sustainable development,
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations, and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

3.3 The Council received the Examiners report on 18 December 2014 and this can be viewed on the Council’s website at <http://www.winchester.gov.uk/planning-policy/neighbourhood-plans/> . The Examiner is also required² to check as part of his report whether:

¹ set out in paragraph 8(2) of Schedule 4B to the Town and Country **Planning Act 1990** as applied to **neighbourhood plans** by section 38A of the **Planning and Compulsory Purchase Act 2004**.

² Planning and Compulsory Purchase Act 2004 section 38A(2) and 38B(1)(a)&(b)

- the policies of the Neighbourhood Plan relate to the development and use of land for a designated neighbourhood area;
- the Neighbourhood Plan does not include provision about excluded development;
- the Neighbourhood Plan meets the requirement to specify the period to which it has effect.

3.4 The report is broken down into nine sections which detail how the examiner has considered whether the above Neighbourhood Plan and legal requirements have been met. The following sets out a summary of each section together with any modifications recommended:

Section 1 : Neighbourhood Planning

3.5 This section provides a summary of the neighbourhood planning process and how Denmead Parish Council established a Neighbourhood Forum and Steering Group to prepare the plan.

Section 2 : Independent Examination

3.6 This section sets out what the Examiner is required to check and have regard to during the Examination process, and includes the necessary references to legislation. The Examiner confirms that, subject to the contents of his report, he is satisfied that each of the requirements in paragraph 3.2 above has been met.

Section 3 : The Plan Area

3.7 The Neighbourhood Plan area was designated by the City Council on 17 September 2012 following consideration of a report by Cabinet on 4 July 2012 and a subsequent consultation period (CAB 2373 refers). The Examiner confirms all requirements relating to the Plan area have been met.

Section 4: Basic Conditions

3.8 These are referred to in paragraph 3.2 above and the Examiner clarifies his role in this respect by stating that it is not within his remit to re-interpret, restructure or re-write the plan. He notes from some representations that the nature of a neighbourhood plan is not universally understood nor is the role of the independent examiner. He then reiterates that it is not within his role to produce an alternative plan, or a potentially more sustainable plan, and that the report only recommends modifications to the Plan where these are necessary to ensure that the basic conditions are met. He does however include a recommended schedule of corrections to minor errors. These are included in Table 1 at Appendix A.

Section 5: Unaccompanied visit and documents

- 3.9 The Examiner confirms that as part of the examination process he has visited the Denmead area unaccompanied. He also provides an extensive list of the documentation that he has referred to, to assist him in considering whether the DNP meets the basic conditions and is compatible with the Convention rights³.

Section 6 : Consultation

- 3.10 This section provides a brief summary of the consultation undertaken during plan preparation and specifically refers to the publicity period of 29 September to 11 November 2014 under Regulation 16, as it is this submission version of the plan that is being examined. The Examiner refers in general to the 126 representations properly submitted and confirms he has taken all of them into account in preparing his report, even though he does not necessarily refer to all of them individually in the report in whole or part.
- 3.11 Of the statutory consultees, Natural England has not raised any concerns. English Heritage has emphasised the importance of heritage in creating a sense of place and identity and made a number of detailed comments. The Examiner concludes that whilst these matters could represent improvements to the Neighbourhood Plan, they are not necessary to meet the basic conditions and therefore he has not recommended modification of the plan in this respect. Specifically referred to is a request from Southern Water for an additional policy relating to the provision of new or improved infrastructure over the plan period. The Examiner notes this matter is already covered elsewhere at District Plan level and, as it is not necessary to duplicate such detail, has not made any modifications in this respect.
- 3.12 The Examiner notes that several representations express general support for the plan. He clarifies, in response to a specific comment that refers to the status of the evidence base, that he is not examining the 'test of soundness' that apply to a Local Plan, and comments that the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the 'basic conditions' against which a neighbourhood plan is tested. He also specifically refers to the collaborative working of the City Council and the Parish Council in progressing the Local Plan Part 2 and Neighbourhood Plan in parallel, which has included the sharing of information, including that relating to potential housing allocation sites in the DNP.
- 3.13 A significant number of representations refer to the referendum process, but the Examiner comments that electoral arrangements are not open to local adjustment and he has no role in the administration of any referendum.
- 3.14 The Examiner makes reference to other representations which refer to such matters as adequacy of surveys and statements; accuracy of the evidence base; inadequate heeding of local opinion; alleged pre-determination in site

³ As in the Human Rights Act 1998

selection; composition of the Steering Group; and lack of openness and transparency. Others comment on matters of probity. These representations have been considered insofar as they are relevant to the examination of whether the DNP meets the basic conditions and Convention rights.

Section 7 : The Neighbourhood Plan – Taken as a whole

- 3.15 This section of the report considers whether the DNP taken as a whole: meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; contributes to the achievement of sustainable development; and is in general conformity with the strategic policies contained in the development plan for the area (Local Plan Part 1 and saved policies from the Winchester District Local Plan Review 2006).
- 3.16 This part of the report covers in some detail compliance matters and is broken down into three key sections:
- A. consideration of convention rights and EU obligations
 - B. consideration of whether the plan has regard to national policies and contributes to the achievement of sustainable development
 - C. consideration of whether the plan is in general conformity with the strategic policies in the development plan for the area.
- A. Consideration of convention rights and EU obligations
- 3.17 The Examiner firstly concludes that there is nothing in the submitted draft plan which breaches the European Convention on Human Rights. He comments that no equalities impact assessment was undertaken but acknowledges that the plan would appear to have neutral or positive impacts on groups with protected characteristics.
- 3.18 With regard to EU obligations, the Examiner refers to the Strategic Environmental Assessment (SEA) undertaken (dated July 2014) and states that the approach set out in the SEA is consistent with legislative requirements and is proportionate to the scale and nature of the Neighbourhood Plan. Wider sustainability attributes are considered in the Basic Conditions Statement in terms of the contribution of the Neighbourhood Plan to the achievement of sustainable development.
- 3.19 The SEA report demonstrates how environmental effects have been considered throughout the plan preparation process, not least through consultation with the statutory authorities on a scoping letter, and through preparation of a draft SEA report which was consulted on alongside the pre-submission Neighbourhood Plan. The Examiner comments that the use of tables to demonstrate how the environmental effects of each policy have been considered individually in turn, and the inclusion of a summary assessment of the plan as a whole, represents good practice.

- 3.20 The assessment of the impact of the Neighbourhood Plan policies includes an assessment of the alternative of having no policy. The consideration of the likely significant effects on the environment provides an understanding of the 'reasonable alternatives' that were assessed during plan preparation and the background to the development of the preferred approach for consultation. The SEA report sets out the process of identifying reasonable alternatives and explains the reasons for selecting the preferred approach.
- 3.21 The Examiner responds to specific representations on this matter and to the collaborative working and in particular sharing of information between the City Council and the Parish Council. He mentions that the Consultation Draft Local Plan Part 2 Sustainability Appraisal and Habitats Regulations Screening Assessment report includes a Sustainability Appraisal of Potential Site Allocations in Denmead. The Examiner notes, in response to a representation that refers to the need for the DNP to be supported by a sustainability appraisal, that this is not a requirement at neighbourhood plan level.
- 3.22 A key aspect of this matter is that guidance states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The City Council must therefore decide whether the draft neighbourhood plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive):
- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
 - when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force)
- 3.23 Given the detailed content of the SEA report, which has been an ongoing and iterative process, as well as the conclusions of the examiner, officers recommend that the City Council can be satisfied that it has complied with this element of plan preparation and is in a position to take the DNP forward to referendum.
- 3.24 The Examiner concludes this section by stating: *"I conclude that the neighbourhood plan:*
- *is compatible with the Convention rights*
 - *does not breach, and is otherwise compatible with, EU obligations*
 - *is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects."*

B. Consideration of whether the plan has regard to national policies and contributes to the achievement of sustainable development

- 3.25 The Examiner refers to the basic condition that “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the ‘test of soundness’ provided for in respect of examinations of Local Plans which requires plans to be “*consistent with national policy*”.
- 3.26 The Examiner concludes that the vision and objectives of the DNP have regard to national policies and advice and illustrate how the Neighbourhood Plan aims to contribute to the achievement of sustainable development. The vision and objectives sit comfortably with the NPPF aims: of delivering a wide choice of high quality homes; of building a strong competitive economy; of conserving and enhancing the historic environment; of conserving and enhancing the natural environment; and promoting healthy communities.
- 3.27 The Examiner responds to a specific representation which refers to an alleged chronic shortfall of public open space in the village and comments there is no requirement for a Neighbourhood Plan to include policies of any particular type. The basic conditions require consideration of whether the making of the neighbourhood plan contributes to the achievement of sustainable development, but it is not a requirement to assess whether or not the plan makes a particular contribution in respect of public open space.
- 3.28 In relation to this element of compliance the Examiner concludes that the Neighbourhood Plan, taken as a whole, has regard to national policies and advice contained in guidance issued by the Secretary of State and contributes to the achievement of sustainable development.

C. Consideration of whether the plan is in general conformity with the strategic policies in the development plan for the area.

- 3.29 The report summarises this requirement as the ambition of the neighbourhood should support the strategic development needs set out in Local Plans. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan which in the case of Winchester District is Local Plan Part 1 adopted March 2013, and the saved policies of the Winchester District Local Plan Review 2006 (where these are not in conflict with the National Planning Policy Framework). In addition, neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them: neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies.
- 3.30 Once ‘made’, statutory weight is given to neighbourhood development plans that are in general conformity with the strategic policies of the development plan for the local area, and have appropriate regard to national policy. This

ensures neighbourhood plans cannot undermine the overall planning and development strategy set out in the development plan for the local area.

- 3.31 The Examiner notes that the Basic Conditions Statement provides commentary linking each of the policies of the Neighbourhood Plan to policies of the Development Plan. In particular, the Neighbourhood Plan will boost the supply of new homes by about 250 homes, which meets the level of provision set out in the up to date Development Plan for the area. He is satisfied the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area.
- 3.32 Furthermore, the emerging Local Plan Part 2 – Development Management and Site Allocations (LLP2) will provide more detailed guidance beyond the strategic policies and development allocations in LPP1. There is no requirement for a Neighbourhood Plan to conform to an emerging Local Plan, but the evidence base of the emerging Local Plan has been used to inform the Neighbourhood Plan and this represents good practice.
- 3.33 This section of the report ends with a brief commentary on the commitment to monitoring and review which the Examiner acknowledges will facilitate opportunities for plan flexibility and represents good practice.
- 3.34 This part of the Examiner's report set out to assess the DNP as a whole. One issue picked up by the Examiner is the inclusion of a series of 'project proposals' in the Plan. The DNP states that during plan preparation, a number of matters came to light that were important to the community, but are not related to land use planning or are matters beyond the scope of a neighbourhood plan. It therefore included a series of 'project proposals' to be implemented by the Parish Council and others in parallel with the formal policies of the DNP.
- 3.35 The Examiner has specifically commented on the status of these project proposals and advises that the term 'policy' should not be used in relation to them. The project proposals do not form part of the Denmead Neighbourhood Development Plan and as such have not been considered as part of this independent examination. The proposals would not be the subject of any referendum and would not become part of the Development Plan for the area. Consequently he recommends the plan be modified accordingly :

Recommended modification 1:

The project proposals should be transferred to a separate annex that is clearly identified as not forming part of the Neighbourhood Development Plan.

Section 8 The Neighbourhood Plan – Neighbourhood Development Plan Policies

- 3.36 The Submission Plan includes 8 policies:
1: A Spatial Plan for the Parish

- 2: Housing Site Allocations
- 3: Housing Design
- 4: Land at Parklands Business Park, Forest Road
- 5: Sports and Leisure Facilities
- 6: Public Car Park at Hambledon Road/Kidmore Lane
- 7: Burial Ground
- 8: Travellers Accommodation

- 3.37 The Examiner covers each policy in turn, although acknowledges that some are interlinked and representations received to one may also be relevant to others.

Policy 1: A Spatial Plan for the Parish

- 3.38 Policy 1 seeks to direct future development to the settlement of Denmead and adjusts the settlement boundary to facilitate this. The policy also defines the settlement gap between Denmead and Waterlooville where coalescence of the settlements will be prevented.
- 3.39 The Examiner's report refers to representations on these issues and other relevant representations and comments that, "The Neighbourhood Plan includes site allocations that will deliver 128 new homes which with completions and commitments will satisfy the Development Plan requirement of about 250 dwellings. This will boost significantly housing supply in the plan area. The site allocations do not represent all the housing development that will occur in the plan area over the plan period. The Neighbourhood Plan anticipates other development proposals will be made inside the settlement boundary, which policy 1 supports".
- 3.40 With respect to one representation that suggests the plan should also meet needs from elsewhere in the district if locations for growth fail to deliver, the Examiner confirms that this cannot reasonably be addressed in neighbourhood plans. He notes the that existence of a more than five year supply of deliverable housing sites in the district means that, "the LPP1 level of housing provision relating to Denmead should be considered an up to date policy."
- 3.41 Reference is made to the Denmead Gap where the Examiner acknowledges that the purpose of the settlement gap designated in policy 1 is stated to prevent the coalescence of Denmead and Waterlooville. He notes that, "Preventing two settlements from coalescing is not the same as preventing any development between them. Policy 1 applies development plan policy such that within this area only development that does not physically or visually diminish the gap will be allowed."
- 3.42 The Examiner also states that the site allocations clearly do not represent a cap on housing development or the amount of development that can take place within the settlement boundary and concludes that Policy 1 meets the Basic Conditions.

Policy 2: Housing Site Allocations

- 3.43 Policy 2 allocates land for housing development and establishes key principles for each scheme. The housing site allocations of policy 2 are the subject of the majority of the representations on the Neighbourhood Plan. This section of the report covers in some detail representations received, particularly the arguments for and against certain sites, and the concerns regarding flooding, sewerage, traffic and other factors.
- 3.44 The Examiner sought clarification from the City Council regarding evidence of the site selection process and was referred to pages 47-50 of the DNP, which provides a summary table of the site assessment analysis. The Examiner notes some discrepancies between the table and accompanying maps but concludes the “errors would not have changed the site selection”.
- 3.45 Adjustment to the settlement boundary and site selection is based on criteria relating to relative landscape sensitivity to development; proximity to existing village services; and flood risk. All four sites allocated for housing development lie wholly within flood zone 1 (with lowest probability of flooding). Policy 2 is consistent with the national guidance which aims to steer new development to areas with the lowest probability of flooding.
- 3.46 The Examiner comments regarding expressed community preferences relating to the scale and distribution of development, that Policy 2 requires a layout which subdivides the total site area into at least four distinct development parcels using the existing landscape features. He considers this is a satisfactory response to expressed community preference.
- 3.47 Three of the four site allocations state a precise number of dwellings to be accommodated and the fourth indicates an ‘up to’ figure. The Examiner acknowledges the need to ensure the total level of provision meets the requirements of the strategic planning context established by the Development Plan, but comments that the approach to policy formulation adopted could have the effect of preventing sustainable development proposals that vary from the number of dwellings specified. He therefore recommends the term ‘about’ is applied to the number of dwellings indicated in respect of all four sites.
- 3.48 The component of policy 2 relating to land east of the village centre includes the phrase “*provides a car park*”. This requirement could be met by very little provision. The Examiner therefore recommends that the figure referred to in the text – 20 spaces – should be included in the policy in order to achieve clarity.
- 3.49 The Examiner concludes policy 2 as modified will meet the basic conditions and comments that, “there are no consequential implications for adjustment to the settlement boundary established by policy 1 of the Neighbourhood Plan. Whilst representations have put forward alternative or other sites as being suitable for inclusion in the Neighbourhood Plan (as presented in my consideration of policy 1) I find that policy 2 which allocates housing sites meets the basic conditions and the existence of other sites, whether they are

suitable or not, is not a matter against which the Neighbourhood Plan is to be examined.”

Recommended modification 2:

In policy 2 insert “About” as the first word in sections i, ii, and iv; and replace “Up to” with “About” in section iii; and in part ig of the policy insert “20 space” before private.

Policy 3: Housing Design

- 3.50 This policy requires development proposals to reflect specified characteristics of surrounding buildings and landscape. This component of the policy sets out the nature and quality of development that will be expected for the plan area. It is based on the stated objective requiring respect for heritage and landscape character and an understanding and evaluation of its defining characteristics established in the Village Design Statement.
- 3.51 Representations received relate to the length and detail of the policy. The policy requires proposals to reflect local character but does not prevent or discourage appropriate innovation. English Heritage welcomes and supports the policy for its references to the architectural and historic character and scale of the surrounding buildings and landscape and for giving force to the adopted Village Design Statement in the planning process. English Heritage also welcomes and supports the design principles particularly that development in the village centre should sympathise with and match the earlier buildings.
- 3.52 The policy has regard to the part of the NPPF concerned with delivering a wide choice of high quality homes and in particular the need to plan for a mix of housing that meets the needs of different groups in the community such as older people. This component of the policy may be limited in effect as a result of Permitted Development rights, but the policy meets the basic conditions.

Policy 4: Land at Parklands Business Park, Forest Road

- 3.53 This policy establishes conditional support for the development of a residential care home; change of use of smaller employment premises; and creation of dedicated lorry parking spaces at the Parklands Business Park on Forest Road.
- 3.54 Representations include support for a lorry park and concern that the neighbourhood plan will not generate economic growth. There is also reference in the policy to avoiding development of a type that would be better located in the village centre. The Examiner advises this aspect of the policy is imprecise and does not offer a clear basis for decision making. If the intention is to exclude retail and service uses that generate high customer visits then this should be stated. In all other respects the policy meets the basic conditions.

Recommended modification 3:

In policy 4 employment types better located in the village centre should be specified.

Policy 5: Sports and Leisure Facilities

- 3.55 This policy establishes conditional support for development proposals for sport and leisure facilities on land at Denmead Junior School. A representation states there is a shortfall of 20 acres of leisure land in the Parish which the plan does not adequately address and it is not clear whether the new facilities at the Junior School will add, replace or displace football use at weekends. The representation also states an all-weather pitch is required. Another representation states the Neighbourhood Plan should provide for expansion of the tennis club and additional green space for other existing sporting clubs to expand. Matters of residential amenity are also raised.
- 3.56 The Examiner considers the guidance offered by the policy in terms of avoiding harm to residential amenity is helpful and there is no requirement for a Neighbourhood Plan to contain specific categories of policy or levels of provision of facilities. The policy has regard to the component of the NPPF concerned with promoting healthy communities and meets the basic conditions.

Policy 6: Public Car Park at Hambledon Road/Kidmore Lane

- 3.57 This policy seeks to resist development proposals that will lead to the loss of any existing car parking spaces or of the toilet facilities in the public car park at Hambleton Road/Kidmore Lane. A representation supports the policy to retain the public car park to serve the village centre with its shops and facilities. Whilst no reasoned justification is stated in respect of the toilet facilities, the Examiner has treated these as ancillary to, and an integral part of, the car park. This policy meets the basic conditions.

Policy 7: Burial Ground

- 3.58 This policy allocates land off Cemetery Lane for a burial ground extension. A representation states that the owners do not object in principle to this allocation: however, it is stated this land will only become available in association with the development of the parcel of land to the east of housing site 2i.
- 3.59 The Examiner states that this policy has regard to the component of the NPPF requiring planning policies to plan positively for community facilities and to ensure an integrated approach to considering the location of housing, economic uses and community facilities and services. This policy meets the basic conditions.

Policy 8: Travellers Accommodation

- 3.60 This policy establishes conditional support for the development of new sites for settled travellers' accommodation. At present national policy remains that set out in the document 'Planning policy for traveller sites' published March 2012. This policy must be taken into account in the preparation of Neighbourhood Development Plans.
- 3.61 Policy 8 refers to pitches, whereas guidance on this matter differentiates between 'plots' and 'pitches' depending on the nature of the occupant (gypsies/travellers, travelling show people). On this basis this Examiner considers that if a policy relating to traveller sites were to be included in the Neighbourhood Plan it should expressly include plots as well as pitches, so that the policy relates to Travelling Showpeople as well as Gypsies and Travellers.
- 3.62 The Neighbourhood Plan policy relates to 'settled travellers accommodation' but this is not a term used in 'Planning policy for traveller sites'. For the purposes of national planning policy 'travellers' means gypsies and travellers and travelling showpeople. Local Plan Part 1 includes policy CP5 Sites for Gypsies, Travellers and Travelling Showpeople and the emerging Local Plan Part 2 includes policy DM4 Gypsies, Travellers and Travelling Showpersons.
- 3.63 Representations relate to the suitability or otherwise of a site in Old Mill Lane for such purposes. In respect to plan-making, 'Planning policy for traveller sites' states *"When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community."* The Examiner considers that the Neighbourhood Plan policy does not have regard to national policy in that it does not place any limit on the number of sites that could be achieved in open countryside locations during the plan period and could lead to multiple sites in total being disproportionate in size and dominating the nearest settled communities in the Old Mill Lane and Bunns Lane areas.
- 3.64 'Planning policy for traveller sites' makes extensive reference to Local Plans and to Local Planning Authorities. The Examiner considers it is the intention that issues relating to travellers sites should normally be addressed at that level and that, as set out in 'Planning policy for travellers sites', it is the responsibility of the City Council to identify the number of travellers' pitches and plots that will be required based on local needs assessments.
- 3.65 The emerging Local Plan Part 2 consultation draft policy DM4 sets out a quantification of need over the plan period and states that the City Council has jointly (with East Hampshire District Council and the South Downs National Park Authority) commissioned consultants to assess potential sites for traveller accommodation. The Examiner concludes that this co-ordinated approach over a wider than District area is appropriate in the context of national policy and that the Neighbourhood Plan policy represents undesirable duplication. He recommends that policy 8 should be deleted from the Neighbourhood Plan.

Recommended modification 4:

Delete policy 8

- 3.66 The Examiner concludes the report with a summary section listing all the modifications and also recommends a further modification in relation to typographical corrections required:

Recommended modification 5:

Identified errors that are typographical in nature or arising from updates should be corrected

- 3.67 The Examiner clearly states that he considers the Neighbourhood Plan establishes, subject to the modifications recommended, a realistic and achievable vision for development and change within the plan area, and is satisfied that the Neighbourhood Plan:
- is compatible with the Convention rights, and would remain compatible if modified in accordance with his recommendations;
 - meets all the statutory requirements, in particular those set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and, subject to the modifications I have identified meets the basic conditions:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,
 - the making of the neighbourhood plan contributes to the achievement of sustainable development,
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
 - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
 - the making of the neighbourhood plan is not be likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.
- 3.68 The Examiner further states:

I recommend to Winchester City Council that the Denmead Neighbourhood Development Plan for the plan period up to 2031 should,

subject to the modifications I have put forward, be submitted to referendum.

and that:

I recommend that the Neighbourhood Plan should proceed to a referendum based on the neighbourhood area defined by Winchester City Council on 17 September 2012.

Conclusion and Next Steps

- 4.1 The City Council is required to consider the examiner's report, in particular his recommendations, and whether the DNP should proceed to referendum, as recommended by the examiner. The Examiner has assessed the DNP and is satisfied that subject to the recommendations in his report it meets the 'basic conditions' and various legal requirements. Officers have also concluded that, subject to the modifications he proposes, this is the case. Denmead Parish Council will also consider the Examiner's report and recommendations at its meeting in the evening of 14 January 2015. City Council officers are working with the Parish Council and the Denmead Neighbourhood Forum Steering Group regarding the proposed modifications, including further consequential modifications, to reach consensus although it is for the City Council to make the final determination on whether the plan meets the basic conditions.
- 4.2 The examiner recommends that the DNP should go to referendum and that the referendum should relate to the area covered by the DNP. While some of the representations on the submitted neighbourhood plan questioned the level of public support for it, the proper way to test this is through the referendum process.
- 4.3 Therefore, this report seeks authority for the DNP, modified in line with the Examiner's recommendations as set out in Table 1 at Appendix A, to proceed to referendum. The City Council is responsible for undertaking the referendum process and initial planning for this has commenced. It is likely that this will be held during early March 2015 (provisional date 5 March 2015) to avoid any potential clash with the local and General elections in May 2015. The referendum process, including the question to be asked and the way in which the poll is undertaken, is governed by the Neighbourhood Planning (Referendum) Regulations 2012. For a neighbourhood plan to pass the referendum, it requires the majority of the votes received to be in favour (i.e. more than 50% of the votes cast on the day).
- 4.4 During the referendum period, the Council cannot publish any promotional material relating to the referendum – and is limited to the publication of factual information only, mainly on its website and by inspection at the offices – as permitted by Regs 4 and 5 of Statutory Instrument No 2031 of 2012.
- 4.5 Campaign organisers who wish to campaign for a particular result are subject to a statutory expenses limit of £2,362 plus £0.059 x number of electors on the register for the Plan area.

- 4.6 If the majority of votes are in favour the Council is required, with limited exceptions, to 'make' the neighbourhood plan as soon as possible. Officers do not consider that this would breach, or be incompatible with any EU obligation or any of the Convention Rights, and therefore if a majority of votes are in favour of the Plan, it should be made as soon as possible after the referendum. It is proposed that a report on the outcome of the referendum is made direct to full Council on 1 April 2015, to consider the result and take the appropriate action in respect of the Plan.
- 4.7 Under a scenario that the DNP is not supported at referendum, the City Council has a responsibility to plan for development in its area which includes Denmead. Local Plan Part 1 remains in place and sets a housing target and other policy requirements for Denmead which need to be met. Draft Local Plan Part 2 has recently concluded a six week consultation, prior to formal publication during summer 2015. Therefore, there is an opportunity, if the DNP cannot be made, to include proposals for meeting the housing and other requirements of LLP1 for Denmead within Local Plan Part 2, although this could have an impact on the timing of the intended publication of Local Plan Part 2.

OTHER CONSIDERATIONS

5. COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO)

- 5.1 Once formally 'made', the DNP will form part of the statutory development plan. As it is required to contribute to the achievement of sustainable development, it will contribute to achieving the Community Strategy and implementing several aspects of Portfolio Plans. In particular, the Deputy Leader's Portfolio Holder Plan 2014/15 includes supporting the Denmead Neighbourhood Plan.

6. RESOURCE IMPLICATIONS

- 6.1 The City Council has a duty to support the preparation of neighbourhood plans and to undertake key stages which are set out in legislation referred to above. The Government has now recognised that extensive resources are required at key stages and has consequently established financial support through its Neighbourhood Planning Funding for Local Authorities. Specifically, it covers the neighbourhood planning duties in the Localism Act which are to provide advice or assistance; to hold an examination; and to make arrangements for a referendum. These funds are in addition to the 'front runner' grant applied for and received on behalf of Denmead Parish Council in 2011, CAB 2427(LDF) refers.
- 6.2 The level of funding (over and above 'front-runner' funds) is £30,000. The first payment of £5,000 has been made following designation of the area. The second payment of £5,000 has been claimed now that the final pre-examination version of the neighbourhood plan has been publicised by the LPA prior to examination. The third payment of £20,000 has also been claimed following the successful completion of the neighbourhood planning examination. Successful completion of the examination is determined as being when the

examiner makes a report recommending that the proposal (with or without modifications) proceeds to the referendum stage. The payment is not dependent on pursuing the referendum route if both parties agree on a different approach at that point (for example, if both parties agree, the neighbourhood plan could be taken forward as part of a local plan or as a supplementary planning document).

- 6.3 The City Council is responsible for meeting the costs of the referendum. These are estimated at £5,000 and can be covered within the Strategic Planning service budget provision for 2014/15.

7. BACKGROUND DOCUMENTS

- 7.1 Denmead Neighbourhood Plan - Submission Plan and associated documents:
<http://www.winchester.gov.uk/planning-policy/neighbourhood-plans/dnp-submission/>
- 7.2 Denmead Neighbourhood Plan – Examiner’s Report:
<http://www.winchester.gov.uk/planning-policy/neighbourhood-plans/denmead-neighbourhood-plan-examiner-39-s-report/>

8. APPENDICES

Appendix A: Schedule of Modifications to Denmead Neighbourhood Plan -
Table 1: Modifications in line with Examiner’s Recommendations

Schedule of Modifications to Denmead Neighbourhood Plan

Table 1: Modifications in line with Examiner’s Recommendations

Policy/ section of Plan	Modification	Reason	Action
Project Proposals paragraphs 5.5 – 5.23	Recommended modification 1: The project proposals should be transferred to a separate annex that is clearly identified as not forming part of the Neighbourhood Development Plan.	A neighbourhood plan sets out policies in relation to the development and use of land. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non land use matters should be clearly identifiable and set out in a companion document or annex. The Project Proposals do not relate to the development and use of land, do not form part of the plan and would not be the subject of any referendum.	Move Project Proposals section to Annex as recommended.
Policy 2	Recommended modification 2: In policy 2 insert “About” as the first word in sections i, ii, and iv; and replace “Up to” with “About” in section iii;	Three of the four site allocations state a precise number of dwellings to be accommodated and the fourth indicates an ‘up to’ figure. This approach to policy formulation could have the effect of preventing sustainable development proposals that vary from the number of dwellings specified. The term ‘about’ applied to the number of dwellings indicated in respect of all four sites is therefore recommended.	To provide flexibility while ensuring general conformity with the development plan, insert and replace words as recommended.

Policy/ section of Plan	Modification	Reason	Action
	and in part ig of the policy insert “20 space” before “private”.	The requirement of policy 2 relating to land east of the village centre to provide a car park could be met by very little provision. The figure of 20 spaces in paragraph 4.28 should be included in the policy in order to achieve clarity.	Insert as recommended.
Policy 4	Recommended modification 3: In policy 4 employment types better located in the village centre should be specified.	The policy refers to employment of a type that would not be better located in the village centre. This aspect of the policy is imprecise and does not offer a clear basis for decision making. If the intention is to exclude retail and service uses that generate high customer visits then this should be stated.	In Policy 4 ii.b. after “But that would not be better located in the village centre” add wording “i.e. not use classes A1-A5, C1, D1 and D2” for clarity.
Policy 8	Recommended modification 4: Delete policy 8.	The policy does not have regard to national policy in that it does not place any limit on the number of sites that could be achieved in open countryside locations during the plan period and could lead to multiple sites in total being disproportionate in size and dominating the nearest settled community in the Old Mill Lane and Bunns Lane areas.	Delete policy 8 as recommended.
	Recommended modification 5: Identified errors that are typographical in nature or arising from updates should be corrected.	The Neighbourhood Plan includes a small number of errors that are typographical in nature or arise from updates.	Amend plan text and maps to correct errors and make updates as recommended.

Policy/ section of Plan	Modification	Reason	Action
Paragraph 1.11	<ul style="list-style-type: none"> • “biodiversity” not “bio-diversity” 	To correct spelling.	Correct spelling.
Paragraph 1.16	<ul style="list-style-type: none"> • Correct plan period. 	A neighbourhood plan must specify the period for which it is to have effect. Paragraph 1.16 of the Submission Plan confirms the plan period will be 2011 - 2031.	Conflicting information regarding commencement of the plan period at paragraph 1.3 in the Basic Conditions Statement should be corrected.
Paragraph 4.15	<ul style="list-style-type: none"> • “about 130” not “128” (twice). 	For consistency with recommended change to wording of policy 2.	Amend explanatory text.
Paragraph 4.6 and Annex A Evidence Base	<ul style="list-style-type: none"> • Item 9 ‘Denmead Neighbourhood Plan Site Assessments (2014)’ listed in Annex A Evidence Base to the Neighbourhood Plan, and referred to in paragraph 4.6, should be adjusted to refer to the Summary Site Analysis presented in the plan document. 	To ensure reference to correct report for clarification.	Amend report titles in paragraph 4.6 and Annex A.
Landscape Sensitivity Map	<ul style="list-style-type: none"> • Site 313 should be shaded on the landscape sensitivity map in accordance with the Summary Site Analysis schedule. 	To resolve discrepancies between the table and accompanying maps. Shading omitted from site 313 on the landscape sensitivity map.	Add shading to Site 313 as per Summary Site Analysis schedule.
Summary Site Analysis schedule	<ul style="list-style-type: none"> • Site 310 and Site 378 should be rated good for the accessibility criterion in the Summary Site Analysis schedule. 	To resolve discrepancies between the table and accompanying maps. Site 310 is rated “good” on the Transport Accessibility Assessment map but recorded as “adequate” in the Summary Site Analysis schedule. Site	Amend accessibility rating for Site 310 in the Summary Site Analysis schedule to “good”.

Policy/ section of Plan	Modification	Reason	Action
		378 is split into parts “east” and “west” and their ratings are consistent between the map and the schedule.	
Summary Site Analysis schedule	<ul style="list-style-type: none"> Site 2469 should be rated good for the accessibility criterion in the Summary Site Analysis schedule in accordance with paragraph 4.37 of the Submission Plan. 	To resolve discrepancies between the table and accompanying maps. Site 2469 is rated “good” on the Transport Accessibility Assessment map, and in paragraph 4.37, but recorded as “poor” in the Summary Site Analysis schedule.	Amend accessibility rating for Site 2469 in the Summary Site Analysis schedule to “good”.
Denmead Flood Risk Map	<ul style="list-style-type: none"> SINC boundaries on the Denmead Flood Risk Map should be corrected. 	The Denmead Flood Risk Map which includes notation showing the areas of Sites of Importance for Nature Conservation is incorrect with respect to the area affecting Site 311 where SINC designation was removed.	Remove incorrect SINC notation from Denmead Flood Risk Map.
Paragraphs 5.5 to 5.23	<ul style="list-style-type: none"> Paragraphs 5.5 to 5.23 when referring to proposals should not use the term ‘policy’ 	As a consequence of recommended modification 1. The Project Proposals are not policies.	Replace the word “policy” with “proposal” in paragraphs 5.13 (1 st line), 5.17 (1 st line), 5.21 (1 st line) and 5.23 (6 th line).
	<ul style="list-style-type: none"> Additionally some of the recommended modifications in this report will necessitate consequential related adjustments to the Neighbourhood Plan document. 		