

Portfolio holder decision – Portfolio holder for Planning and Economy – 21 May 2025

Lymington and Pennington Neighbourhood Plan Public Consultation Response

Purpose	For Decision
Classification	Public
Executive Summary	<p>Lymington and Pennington Town Council has submitted its draft Neighbourhood Plan for public consultation and subsequent examination. The consultation commenced on 17 April and closes on 30 May 2025.</p> <p>New Forest District Council has the opportunity to respond to the draft plan before it is appraised by an independent examiner.</p>
Recommendation	To agree the proposed response to the Lymington Neighbourhood Plan consultation provided as Annex B
Reasons for recommendation	To enable Lymington and Pennington Town Council to move forward with the examination of its Neighbourhood Plan.
Wards	Lymington / Pennington
Portfolio Holder	Councillor Derek Tipp – Planning and Economy
Strategic Director	James Carpenter – Place, Operations and Sustainability
Officer Contact	Andrew Herring Senior Policy Planner 023 8028 5471 andrew.herring@nfdc.gov.uk

Introduction and background

1. The purpose of this report is to agree the Council’s response to the Lymington and Pennington Neighbourhood Plan, for consideration by an independent examiner.
2. The main focus of the recommended response is to confirm whether the Lymington and Pennington Neighbourhood Plan is considered to fully meet the ‘basic conditions’. These are legal tests set out in

regulations that the examiner will assess the Lymington and Pennington Neighbourhood Plan against (these tests are reproduced in Annex A). Other comments are suggested where helpful, e.g. to improve clarity or to identify practical considerations. Annex B sets out the proposed response in full and the main points are summarised in the 'Commentary and Key Matters' section of this report below.

3. Lymington and Pennington Parish was designated a neighbourhood area in October 2015 by New Forest District Council (NFDC) and the National Park Authority (NFNPA). Part of the parish is in the planning jurisdiction of NFNPA.
4. After much preparation work including informal consultation and advisory discussions with NFDC and NFNPA planning officers, on 7 March 2025 the Lymington and Pennington Neighbourhood Plan was submitted for examination by Lymington and Pennington Town Council.
5. As the receiving authority, NFDC is required to organise the formal public consultation stage and the subsequent independent examination. The 6-week public consultation commenced on 17 April 2025 and closes on 30 May 2025.
6. Following consultation, the Lymington and Pennington Neighbourhood Plan and representations received during the public consultation will be considered by an independent examiner at a hearing. Subject to the examiner supporting the plan (including any changes they recommend), the plan will then be voted on in a parish referendum and adopted (by NFDC and NFNPA) if a majority are in support.
7. Once adopted (or 'made'), the Lymington and Pennington Neighbourhood Plan would become part of the NFDC and NFNPA development plans and used alongside the adopted local plans when determining planning applications in the Lymington and Pennington Parish area.

The Lymington and Pennington Neighbourhood Plan (LPNP) documents

8. The focus of the LPNP is to look to the future whilst respecting the past. The town council focus has been on ensuring that the younger generation and local families are prioritised when it comes to housing, digital infrastructure is improved, and commercial space is protected and enhanced. In addition, the LPNP seeks to support the role of the town centre, securing net zero carbon design, and creating a green infrastructure and local nature recovery strategy. The main document is the submission draft Lymington and

Pennington Neighbourhood Plan, including Policy Maps, plus appendices:

- Appendix A Vision for the Town Centre, setting out the key issues for the town centre such as the pedestrian environment, and connectivity. It then describes a spatial framework involving a series of projects and improvements to deliver the vision.
- Appendix B Post occupancy evaluation guidance, providing detailed guidance on the method to use to obtain feedback on a building's energy performance 'in use', in line with Policy LP11 (Net Zero Carbon Building Design).
- Appendix C Lymington Local Distinctiveness Supplementary Planning Document (SPD), which was adopted by NFDC in 2011. This document seeks to guide how new development is undertaken to ensure that it protects local character and contributes to the particular area's local distinctiveness.

9. The Lymington and Pennington Neighbourhood Plan has 13 policies, listed below, including the identification of key sites for regeneration opportunities in the town centre in Policy LP3.

- LP1 A spatial strategy for the town
- LP2 Lymington Town Centre
- LP3 Key regeneration opportunities in the town centre
- LP4 Pennington Shopping Parades
- LP5 Walkable Neighbourhoods
- LP6 High Quality design
- LP7 Providing a balanced mix of dwellings to meet local needs
- LP8 Green infrastructure and nature recovery network
- LP9 Safer lanes network
- LP10 Active and healthy travel
- LP11 Net zero carbon building design
- LP12 Urban greening and canopy cover
- LP13 Digital communication infrastructure

10. LPTC has also submitted:

- A Consultation Statement, summarising engagement and feedback to date.
- A Basic Conditions Statement setting out how, in the Town Council's view, the Lymington and Pennington Neighbourhood Plan meets the 'basic conditions' for a neighbourhood plan to be found sound, having regard to national policies and advice contained in guidance issued by the Secretary of State.

- A Sustainability Appraisal which considers the likely effects of the plan, with a view to avoiding and mitigating potential negative effects and maximising potential positive effects.
- A Habitats Regulations Assessment which identifies any aspects of the LPNP that would result in likely significant effects on any habitats sites, and whether the plan would have adverse effects on the integrity of internationally protected sites/species.
- A range of [evidence base documents](#) that informed the Lymington and Pennington Neighbourhood Plan.

Commentary and Key Matters

11. The Lymington and Pennington Neighbourhood Plan is a well-structured document that for the most part is supported. However, in places it goes beyond the provisions of this Council's Development Plan, and some of the policies may not be in general conformity with the Development Plan. The examiner will need to take a view on these matters.
12. There are therefore a number of policies that it is appropriate to make comments on, summarised below. The full proposed response is provided at Annex B, including a number of additional comments on points of minor detail not summarised here.
13. Policy LP5 (Walkable Neighbourhoods) - The policy is split into a number of clauses, and the wording of some of these appears to contradict others, leading to some internal inconsistency. These points would benefit from some editing to aid clarification.
14. Policy LP6 (High Quality Design) – The original Regulation 14 Neighbourhood Plan, published in August 2024, included the adopted Lymington Local Distinctiveness SPD but also included a newer AECOM Design Code commissioned by Lymington and Pennington Town Council (finalised in 2024). After a decision was made by the town council to remove the AECOM design code, advice was sought from NFDC on the wording of a revised design policy. NFDC supports the decision and will work with the Town Council so that it can contribute to NFDCs emerging district wide Design Code. Further detail can be found in Annex B.
15. Policy LP7 (Providing Balanced Mix of Dwellings) (clause C) – NFDC agrees that the delivery of smaller units – both affordable and market – is important. And indeed this policy reflects the approach taken in the adopted [Ringwood Neighbourhood Plan](#) (Policy R5) in seeking more than 50% to be smaller homes. However, for Ringwood development proposals this has created a tension between Policy

HOU2 and figure 6.1 of the Local Plan and the adopted Neighbourhood Plan. Neither Local Plan Policy HOU1 nor Policy HOU2 set out a prescriptive approach to housing mix. Consequently, Local Plan Policy HOU1 gives the district council scope to make a professional judgement on the most appropriate housing mix on a site-by-site basis.

16. Policy LP10 (Active and Healthy Travel) - It would be useful to refer in the supporting text to the emerging New Forest LCWIP (Local Cycling and Walking Infrastructure Plan). The LCWIP has been prepared by Hampshire County Council in partnership with New Forest District Council (NFDC), New Forest National Park Authority (NFNPA) and Forestry England (FE). Those authorities are committed to improving the roads and paths in the New Forest and share a desire to invest in sustainable transport measures, including walking and cycling infrastructure. The LCWIP provides a network plan for preferred routes and core zones, a programme of improvements for future investment with associated narrative to explain the identified improvements.
17. Policy LP11 (Net Zero Carbon Building Design) – NFDC is supportive of policy LP11 in principle and applauds the ambition to see energy efficiency standards that go beyond building regulations. However, the policy also needs to be in compliance with the Written Ministerial Statement of December 2023. In addition, as drafted, NFDC is unsure how Development Management officers would be expected to assess a planning application against the criteria contained in the policy.

Corporate plan priorities

18. The draft policy content of the Neighbourhood Plan will deliver across many key elements of the three key priorities of the Corporate Plan and the district council is supportive of the vision for the strategy.

Options appraisal

19. Lymington and Pennington Town Council are the responsible body for the production of the Neighbourhood Plan. It has made the decision to proceed with the drafting of the LPNP. The alternative option would be to cease production and rely on national policies and the local development plan, and that was/is a decision for Lymington and Pennington Town Council to make.

Consultation undertaken

20. Extensive consultation was undertaken by Lymington and Pennington Town Council. This is set out in the Town Council's Consultation Statement (February 2025) and published as part of the current

public consultation. See Background Papers [Background Papers here](#).

21. Key milestones included the establishment of a number of working groups in 2016, informal consultations (exhibitions) in 2017 and 2023, full public consultation in 2024 (Regulation 14 plan), and a further round of public consultation on the final draft plan in 2025 (Regulation 16 plan). Additional meetings have been held throughout this period with officers from NFDC and the National Park Authority on the content and policy approaches contained in the draft plan.
22. The consultation statement sets out the methods used, the results, and how this was taken into account in the production of the Neighbourhood Plan. NFDC is satisfied that these arrangements comply with the relevant statutory regulations.

Financial and resource implications

23. The up-front cost of arranging the Lymington and Pennington Neighbourhood Plan examination and referendum falls to the district council. Once the Neighbourhood Plan reaches the point that a referendum can be arranged, NFDC is eligible to reclaim £20,000 administrative costs, a sum set by the government. This sum is insufficient to fully cover the costs of arranging the hearings and referendum. Any costs over and above this funding are expected to be capable of being met from existing budgets.
24. Communities that draw up a Neighbourhood Plan and secure the consent of local people in a referendum, will benefit from 25% of the Community Infrastructure Levy revenues arising from the development that takes place in their area (instead of the standard 15%).

Legal implications

25. The Neighbourhood Plan has been prepared in accordance with the:
 - Localism Act 2011
 - Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations)
 - Conservation of Habitats and Species Regulations 2017 (as amended), and
 - the Neighbourhood Planning (General) Regulations 2012 (as amended).
26. There are no direct legal implications arising from the recommendation, albeit the proposed Neighbourhood Plan being consulted upon will be, if carried forward to a final version and

adoption (via public referendum), a material consideration for all planning applications within the parish of Lymington and Pennington.

Risk assessment

27. The neighbourhood plan has been prepared over a prolonged period of time, and subject to several rounds of public consultation. The evidence base has been informed by a Sustainability Appraisal and Habitats Regulations Assessment. The draft plan will now proceed to examination stage, and it will be for the independent examiner to assess the preparation process, consultation undertaken, and policy content.
28. There is a risk that the draft plan could be found unsound by the examiner, but in most cases a series of modifications are recommended by the examiner, which in most instances can be relied upon to make the plan sound.

Environmental / Climate and Nature implications

29. The consideration of environmental impacts is an integral part of the Neighbourhood Plan preparation process, and the Sustainability Appraisal and Habitats Regulations Assessment have facilitated a full assessment of the effects. These have been sent to the relevant statutory bodies as part of the present public consultation period.

Equalities implications

30. None arising directly from this decision.

Crime and disorder implications

31. None arising directly from this decision.

Data protection/ Information governance/ ICT implications

32. None arising directly from this decision.

New Forest National Park / Cranborne Chase National Landscape implications

33. The statutory purposes of National Parks are:
 - conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas designated;
 - promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public

34. The Neighbourhood Plan will help to further these purposes by seeking to concentrate development within the built-up area and thereby avoiding direct harm to the National Park. The policies and project relating to walkable neighbourhoods, green infrastructure, and nature recovery will also help to ease pressure on the neighbouring National Park by facilitating local recreational enjoyment.
35. The Neighbourhood Plan does not affect land within the Cranborne Chase National Landscape.

Portfolio holder endorsement

36. I have agreed to the recommendation of this report.

Signed: Cllr Derek Tipp

Dated: 21 May 2025

Appendices:

Annex A – The 'Basic Conditions' tests for Neighbourhood Plans
Annex B – Proposed full consultation response

Background Papers:

Published documents.

<https://www.newforest.gov.uk/lymingtonandpenningtonplan>

Date on which notice given of this decision – 21 May 2025

Last date for call in – 29 May 2025

Annex A: The 'Basic Conditions' tests for Neighbourhood Plans

National Planning Practice Guidance, Paragraph: 065 Reference ID: 41-065-20140306

What are the basic conditions that a draft neighbourhood plan or Order must meet if it is to proceed to referendum?

Only a draft neighbourhood Plan or Order that meets each of a set of basic conditions can be put to a referendum and be made. The basic conditions are 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. The basic conditions are:

- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan). Read more about [National policy and advice](#).
- b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders. Read more about [Listed buildings and conservation areas](#).
- c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders. Read more about [Listed buildings and conservation areas](#).
- d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development. Read more about [Sustainable development](#).
- e. the making of the order (or 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). Read more about [General conformity with the strategic policies contained in the development plan](#).
- f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations. Read more about [EU obligations](#).
- g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan). Read more about [Other basic conditions](#).

The EU obligations and other basic conditions under tests (f) and (g) seeks to ensure that the NP is consistent with EU Directives (transposed into UK law) relating to environmental impact, environmental assessment, the conservation of natural habitats and of wild fauna and flora, air and water quality.

Tests (b) and (c) apply only to Neighbourhood Development Orders and are not relevant to the Lyminster and Pennington Neighbourhood Plan.

Annex B: Proposed full consultation response

LYMINGTON AND PENNINGTON NEIGHBOURHOOD PLAN, MAIN DOCUMENT

Policy LP2 (Lymington Town Centre)

Part C requires development proposals to make a direct and proportionate contribution to projects and town centre improvements. NFDC is supportive of the intention but there may be potential conflict with regulations relating to planning obligations (which must be necessary, directly related to the development, and reasonably related in scale to the development – with particular reference to [Regulation 122](#)).

Policy LP3 (Regeneration Opportunities in Town Centre)

In the final sentence of Policy LP3 the reference to Bird Aware Solent, recreational mitigation, and nutrient neutrality could be considered superfluous and arguably does not add anything to the aims of Policy LP3. Consideration should be given to its deletion.

Policy LP4 (Pennington Shopping Parades)

NFDC broadly understands what the phrase “day-to-day needs” is referring to, but the plan could usefully set out what those needs are in order that the district council can appraise proposals against the policy. As currently worded it is not clear how the district council can decide if the loss of a unit is acceptable or not. This may benefit from a minor modification to aid clarity.

Policy LP5 (Walkable Neighbourhoods)

The policy is split into a number of clauses, and the wording of some of these appears to contradict others, leading to some internal inconsistency. The wording of Clause F appears to contradict the local community needs referred to in Clause B and would benefit from further clarification.

Policy LP6 (High Quality Design) and Paragraph 5.22

Local Distinctiveness SPD / Design Code

The original Regulation 14 Neighbourhood Plan, published in August 2024, included the adopted Local Distinctiveness SPD but also included the newer AECOM design code commissioned by Lymington and Pennington Town Council (finalised in 2024).

The two documents were considered by NFDC officers to be poorly aligned (indeed contradictory in some cases). The deficiencies in the AECOM

document were set out in NFDCs October 2024 response to the Reg 14 public consultation on the Lymington and Pennington Neighbourhood Plan (LPNP). Subsequent discussion between NFDC, the National Park Authority, Lymington and Pennington Town Council (LPTC) and its consultant ONH, took place in mid-February 2025 to discuss the outstanding issues.

A further meeting between the town council and the NFDC Environmental Design team took place later in February 2025 to discuss a revised, and much expanded, design policy put forward by the Town Council.

The decision was made by the town council to remove the AECOM design code, and it then sought NFDC advice on the wording of its expanded design policy. In discussing the design code and policy, NFDC pointed out two areas of comfort for the town council. Firstly, that retaining the existing Local Distinctiveness SPD as an appendix would ensure that the principles of local distinctiveness would remain. And secondly, that rather than seeing the AECOM work wasted (and recognising that it has had input from local voices), if LPTC wish to contribute to the NFDCs district wide Design Code, not only will NFDC be engaging them but if they wish to submit elements of the AECOM work as part of that engagement, the district could take it as core to LPTC's contribution and ensure that it's content is properly stitched into what NFDC produce. This would ensure that the district Design Code provides for what is locally distinctive, and accords with good urban design outcomes.

Conservation Area guidance

NFDC reiterates its recommendation in its Regulation 14 response that the Lymington Conservation Area appraisal should be referred to as guidance for development within and impacting on the Lymington Conservation Area. This provides detailed guidance on appropriate development, including details of scale, form, detailing and materials.

Paragraph 5.20

NFDC is not certain that an existing Supplementary Planning Document can be given the same weight as the adopted Local Plan; NFDC is content for the Examiner to appraise this and come to a conclusion.

Policy LP7 (Providing a Balanced Mix of Dwellings to meet Local Needs)

Clause B.) - NFDC fully appreciates the reasons behind the policy approach. The district council agrees that the delivery of smaller units – both affordable and market – is important. And indeed this policy reflects the approach taken in the adopted [Ringwood Neighbourhood Plan](#) (Policy R5) in seeking more than 50% to be smaller homes. However, for Ringwood development proposals this has created a tension between

Policy HOU2 and figure 6.1 of the Local Plan and the adopted Neighbourhood Plan. Neither Local Plan Policy HOU1 nor Policy HOU2 set out a prescriptive approach to housing mix, and it is worth noting that the details in Figure 6.1 are not included in the main policy wording. Local Plan Policy HOU1 gives the council scope to make a professional judgement on the most appropriate housing mix on a site-by-site basis.

In determining planning applications within the Ringwood parish, the Ringwood policy approach has resulted in question marks regarding what is strategic and non-strategic policy.

The threshold for 50% smaller homes is five units in the LPNP, as it is in Ringwood's case. But NFDC deems that this could potentially affect the deliverability of smaller sites (where affordable housing is not required) if there is a limited market for smaller units in Lymington and Pennington.

Clause C.) - NFDC is supportive of the principle of delivering affordable housing through a Community Land Trust, or equivalent body, with an appropriate lettings policy – NFDC reiterates its recommendation in its Regulation 14 response; that the Town Council enters discussion with NFDC to understand more around what this is seeking to address, and how this is intended to operate.

Policy LP8 (Green Infrastructure and Nature Recovery Network)

Part C.) requires "All development" to embed green infrastructure. NFDC questions whether that would be deliverable in all cases.

Part E.) is considered reasonable given that BNG is now mandatory and has a mitigation hierarchy. Indeed it is noted that mitigation credits (both BNG and nitrates) are now available through the [Aubrey Farm Keyhaven](#) scheme which is located immediately adjacent to the Lymington and Pennington parish area.

Policy LP10 (Active and Healthy Travel)

It would be useful to refer in the supporting text to the emerging New Forest LCWIP ([Local Cycling and Walking Infrastructure Plan](#)). The LCWIP has been prepared by Hampshire County Council in partnership with New Forest District Council (NFDC), New Forest National Park Authority (NFNPA) and Forestry England (FE). Those authorities are committed to improving the roads and paths in the New Forest and share a desire to invest in sustainable transport measures, including walking and cycling infrastructure.

The LCWIP provides a network plan for preferred routes and core zones, and a programme of improvements for future investment with associated narrative to explain the identified improvements.

Policy LP11 (Net Zero Carbon Building Design) – and Post Occupancy Evaluation (Neighbourhood Plan Appendix B)

NFDC is supportive of policy LP11 in principle and applauds the ambition to see energy efficiency standards that go beyond building regulations. However, the policy also needs to be in compliance with the Written Ministerial Statement of December 2023. It would be helpful for the Examiner to appraise this element and come to a conclusion.

In addition, as drafted, NFDC is unsure how Development Management officers would be expected to assess the criteria contained in Policy LP11. To expand on NFDCs Regulation 14 response and in the interest of improving the policy –

Criterion A.) requires “all development”, which would include changes of use, re-use of existing buildings, commercial and residential. In effect everything that requires a planning consent. NFDC suggests that householder applications be exempted.

Criterion B.) includes the caveat that a scheme should not have a ‘significant harmful’ effect on the character area suggests that a harmful effect that is not significant is something that the Local Planning Authority would then be expected to support. It therefore appears to support non-contextual development if a scheme maximises its Passivhaus potential, which might not be appropriate.

With respect to Criteria C.) – E.), again it is difficult to know how this would work in practice and what performance criteria NFDC officers will be expected/required to use to gauge building performance. The paragraphs of supporting text and Appendix B do provide references to various standards, but it would be helpful to set these out more clearly for planning officers in their deliberations and in setting any relevant conditions (i.e. a clear summary of which standard/method will be used for each criterion).

General Comments

NFDC would suggest that a glossary is added to aid clarity for the reader and for the benefit of those who are unfamiliar with some of the terms used.