

# **Examination of the East Devon Villages Plan Legal Compliance, Scope of the East Devon Villages Plan (EDVP) and Duty to Co-operate**

**East Devon District Council Written Statement for  
Tuesday 7 November 2017**

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This paper forms the response of East Devon District Council in respect of questions raised by the Inspector for the above Examination Hearing Session. The Inspectors Questions are reproduced in bold and the response of the Council is set out below each question. All documents referred to are available on the Council's web site and paper copies may be viewed at the Council Offices, Knowle, Sidmouth.

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## **Issue 1: Legal Compliance**

### **Question 1.1**

**Does the EDVP meet all its legal requirements in relation to the Local Development Scheme (LDS), Statement of Community Involvement, East Devon Local Plan (EDLP), Sustainability Appraisal (SA), Habitats Regulations, Public Sector Equality Duty and the Town and Country Planning (Local Planning) (England) Regulations 2012?**

#### **1.1.1 Local Development Scheme (LDS)**

Section 19 (1) of the Planning and Compensation Act 2004 requires that local development documents are prepared in accordance with the local development scheme. Section 15(2) of the same Act requires that, prior to starting work on a DPD, it must be referenced in the LDS. The EDVP was first included in the East Devon LDS in May 2012 <http://eastdevon.gov.uk/media/1167558/combined-sp-dmc-agenda-080512.pdf> and initial consultation on the EDVP commenced in August 2012 <http://eastdevon.gov.uk/planning-libraries/villages-plan-document-library/chapter4.3/vil010-email-inviting-preliminary-comments.pdf>. The LDS has needed to be updated during the course of production to take account of delays in producing the EDLP [Section 2 of VP07A], but the scope of the EDVP set out in the LDS has remained consistent, with the exception of the allocation of land for development, which was removed in 2015 following proposed changes to the EDLP.

The latest update of the LDS in July 2017 includes a programme for the EDVP production and sets out the scope of the EDVP [VP31]. Key changes to the EDVP part of the LDS are set out in the table below.

<b>LDS date</b>	<b>EDVP reference</b>
2012	<b>Village Development Document</b> – this second document will be specifically concerned with development boundaries around villages, <u>allocations of land for development at these villages</u> and other spatially defined policies that may be applicable at or for villages.
2015	<b>Village Development Document</b> – this plan will be specifically concerned with development issues and boundaries in and around the main villages of East Devon and Colyton.
2016	<b>Village Development Document</b> – this plan will be specifically concerned with development issues and boundaries in and around the main villages of East Devon and Colyton.
2017	<b>Village Development Document</b> – this plan will be specifically concerned with development issues and boundaries in and around key villages of East Devon and town of Colyton it will also address Greendale and Hill Barton Business Parks.

#### 1.1.2 Statement of Community Involvement (SCI)

Section 19(3) of the Planning and Compulsory Purchase Act 2004 states that local development documents (other than the SCI) must be prepared in accordance with any adopted SCI. The East Devon SCI (adopted 2013) sets out the consultation requirements at formal stages of plan preparation and includes notifying interested parties and making documents available on the Council’s web site, at local libraries and at the Council offices <http://eastdevon.gov.uk/media/344008/statement-of-community-involvement-2013.pdf>. All of the steps set out in the SCI have been complied with as detailed in Section 4 of VP07A.

#### 1.1.3 East Devon Local Plan (EDLP)

See response to Question 2.2 below.

#### 1.1.4 Sustainability Appraisal (SA)

SA is a statutory requirement of the Planning and Compulsory Purchase Act 2004 to maximise the contribution a plan makes to sustainable development, whilst minimising any potential adverse impacts. Strategic Environmental Assessment (SEA) is also a statutory assessment process that requires an assessment of plans that are

likely to have significant effects on the environment. The Governments' Planning Practice Guidance advocates undertaking a joint SA/SEA process, and presenting the findings in an SA report that incorporates the requirements of the SEA Regulations.

SA should only focus on what is needed to assess the likely significant effects of the Plan, focussing on the environmental, social and economic impacts that are likely to be significant. It does not need to be done in any more detail, or using more resources, than is considered appropriate for the content and level of detail in the Plan.

The SA of the EDVP is entirely consistent with the legal requirements and accompanying guidance. Table 1 in the SA report (from page 5) sets out how the legal requirements have been met [VP02].

#### 1.1.5 Habitats Regulations

The Habitats Regulations require a formal assessment of the implications of any new plans or projects which are capable of affecting the designated interest features of European Sites before deciding whether to undertake, permit or authorise such a plan or project (Section 61 of The Conservation of Habitats and Species Regulations 2010). A screening report was undertaken to assess whether the EDVP may lead to significant effects on any European site [VP06]. It concludes that the potential for adverse impacts can be screened out and that a full Appropriate Assessment of the plan is not necessary (paragraph 1.3 of VP06). Natural England, in their response to the publication plan, noted changes made to the Habitat Regulations Assessment and considered the plan to be legally compliant, sound and compliant with the DtC <http://eastdevon.gov.uk/planning-libraries/villages-plan-consultation-may2017/3743-naturalengland.pdf>.

#### 1.1.6 Public Sector Equality Duty

The Public Sector Equality Duty is set out in Section 149 of the Equality Act 2010. A screening has been undertaken and has concluded that a full Equality Impact Assessment was not required [VP09].

#### 1.1.7 Town and Country Planning (Local Planning)(England) Regulations 2012

For ease of reference the legal requirements set out in the 2012 Regulations are shown in the table below together with links to the evidence that shows how they have been complied with.

<b>Regulation Reference</b>	<b>Requirement Summary</b>	<b>Evidence</b>
5 (1)(b)	Map to show how adopted policies map would be amended.	Maps included in EDVP for each settlement to show proposed BUAB and vitality and shopping areas in Beer/Colyton.
8 (2)	Reasoned justification for policies.	Paragraphs 2.4 and 5.3 respectively provide the reasoned justifications for the two policies contained in the EDVP.
9 (1)	OS based maps with key to illustrate geographically application of policies.	Inset maps of EDVP.
10 (1)	Additional matters to have regard to including policies of a local transport authority, preventing major accidents, maintaining safe distances between major transport routes and certain other uses, protecting areas of natural sensitivity and the national waste management plan.	All relevant matters were considered through consultation with the appropriate bodies (Devon County Council, Natural England and Highways England).
18(1)	Notification to any specific and general consultation bodies the LPA consider may be interested together with residents or businesses from the area.	Paragraph 4.2 of Consultation Statement [VP07A].
18(3)	Take account of any representations when preparing plan.	Section 5 of Consultation Statement [VP07A].
19(a)	Make a copy of proposed submission documents and statement of representation procedure available in accordance with Regulation 35.	Paragraph 4.6 of Consultation Statement [VP07A].
19(b)	Send statement of representation procedure and statement of fact to each general or specific body invited to make representations under Regulation 18(1).	Paragraph 4.6 of Consultation Statement [VP07A].

<b>Regulation Reference</b>	<b>Requirement Summary</b>	<b>Evidence</b>
22	Send all the prescribed documents to the Secretary of State.	Documents submitted shown on web site at <a href="#">Villages plan examination - East Devon</a>
24(1)(a)	Make name of Inspector, date, time and place of hearing available in accordance with Regulation 35.	Statement available at main Council Office reception and on web site <a href="#">Villages plan examination - East Devon</a>
24(1)(b)	Advise any 'Regulation 20' representor of name of Inspector, date, time and place of hearing.	Emails sent 31/08/17 <a href="http://eastdevon.gov.uk/media/2233641/email-to-representors-310817.pdf">http://eastdevon.gov.uk/media/2233641/email-to-representors-310817.pdf</a> and letters posted 01/09/17 <a href="http://eastdevon.gov.uk/media/2233644/intro-letter.pdf">http://eastdevon.gov.uk/media/2233644/intro-letter.pdf</a>

## **Issue 2: Scope of EDVP**

### **Question 2.1**

#### **Is the scope of the EDVP in line with the role for the Plan as set out in the LDS and the EDLP?**

- 2.1.1 The LDS states that ‘this plan will be specifically concerned with development issues and boundaries in and around key villages of East Devon and town of Colyton it will also address Greendale and Hill Barton Business Parks’. The development issues identified relate to the definition of vitality and shopping areas for Beer and Colyton. The business parks have been addressed through an assessment of their suitability for further expansion [VP12] which concludes that any economic benefits from expansion would be outweighed by environmental and social considerations [VP12 paragraph 3.39].
- 2.1.2 The EDLP includes a commitment to produce a **Village Development Plan Document** separately from the main local plan [VP27 Page 7]. Strategy 6 of the EDLP states that BUABs for villages will be defined in the Villages Development Plan Document. Strategy 27 lists the settlements for which BUAB’s will be defined in the Villages Plan. The vision for villages set out on page 89 of the EDLP is for moderate growth, particularly where this meets local needs for affordable housing, new jobs or sheltered homes, the scale of which should be informed by detailed local needs studies and village plans. Text on page 93 of the EDLP suggests that the approach to villages reflects the Government’s agenda to give neighbourhoods far more ability to determine the shape of the places in which their inhabitants live.

### **Question 2.2**

#### **Are the policies of the EDVP consistent with the adopted development plan in accordance with Regulation 8(4) of the Town and Country Planning (Local Planning)(England) Regulations 2012?**

- 2.2.1 Regulation 8(4) requires that the policies contained in a local plan must be consistent with the adopted development plan, except where they are intended to supersede another policy when this must be stated. There are two policies in EDVP, relating to the town/village centres of Colyton and Beer respectively. There are no strategic town centre/retail policies in the EDLP, although Strategy 33 supports high quality tourism that promotes a year-round industry. There are several ‘development management’ policies relating to town centre uses and there is no conflict between these and those proposed in the EDVP; the EDVP does not include any policies intended to supersede another policy in the EDLP.

- 2.2.2 The adopted development plan also includes the Devon Minerals Plan (adopted February 2017) [Devon Minerals Plan | Planning](#) and the Devon Waste Plan (adopted December 2014) [Devon Waste Plan | Planning](#). There is no inconsistency between the policies of the EDVP and the Minerals or Waste Plans, although Devon County Council have made some detailed comments on the supporting text to Chapter 18 Land at and around Hill Barton Business Park (Representor number 6324 <http://eastdevon.gov.uk/planning-libraries/villages-plan-consultation-may2017/6324-devoncountycouncil.pdf>).
- 2.2.3 The development plan also includes any made neighbourhood plan. The made neighbourhood plans relevant to the EDVP are Lypstone, Bishops Clyst and East Budleigh [Neighbourhood plans being produced in East Devon - East Devon](#). The Uplyme Neighbourhood Plan is due to be considered at referendum on 26<sup>th</sup> October 2017. The EDVP is not superseding any of the policies in these neighbourhood plans and there are not considered to be any inconsistencies.

### **Question 2.3**

**Are there any valid issues which the EDVP has failed to address, given the role of the plan as set out in the LDS and the EDLP?**

- 2.3.1 The scope of the EDVP has been derived from the emerging and adopted EDLP [VP27] and the LDS [VP31]. Representations have been made at various stages of plan preparation as summarised in the relevant consultation statements set out in Chapter 5 of VP07A. The summary of main issues in Chapter 8 of VP07A sets out the key issues raised in response to the publication EDVP together with a Council response. There are not considered to be any outstanding issues raised that the EDVP had failed to address that are not adequately dealt with through the EDLP.

### **Issue 3: Duty to Co-operate**

#### **Question 3.1**

**To what extent is the Duty to Co-operate (DtC), which covers strategic matters, applicable to the EDVP and if so has the Council adequately discharged the DtC in preparing the EDVP?**

- 3.1.1 Section 9 of the Consultation Statement (VP07A) sets out the relevance of the DtC to the preparation of the EDVP. The EDVP does not make provision for development that could be considered to be a strategic matter.
- 3.1.2 All strategic matters have been dealt with in the adopted EDLP and work has already commenced on a joint strategic plan for the 'Greater Exeter' area ([The Greater Exeter Strategic Plan - A development plan for the future of the Greater Exeter area](#)). Although the DtC is of limited relevance to the EDVP, because it does not deal with strategic matters, the appropriate DtC bodies have been engaged constructively in the plans preparation as set out in the response to Question 3.2 below.

#### **Question 3.2**

**Has the Council engaged constructively, actively and on an on-going basis, in a way which is relevant and proportionate to the EDVP?**

- 3.2.1 The Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) requires local planning authorities and certain other bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters. Given the scope of the EDVP the most relevant of the 'prescribed' bodies to the preparation of the EDVP are Historic England, Natural England and the Environment Agency (Section 4(1) of the 2012 Local Plan Regulations).
- 3.2.2 Discussions with the Environment Agency, Historic England and Natural England have influenced the development of the EDVP and the accompanying SA and Habitat Regulations. Feedback from these bodies to the scoping report and how it was addressed is detailed in Appendix 1 to the SA [VP02 page 53]. The 2016 consultation responses from these bodies [Villages Plan 2016 consultation comments - Commented on more than one village or general comments - East Devon](#) resulted in discussion with Natural England and Historic England on how the plan could be improved. As a result a heritage Impact Review was prepared for Musbury [VP10] and additional work was undertaken on the SA and Habitat Regulations.
- 3.2.3 In terms of neighbouring Local Planning Authorities, West Dorset is the only one that adjoins one of the settlements concerned (Uplyme). West Dorset District Council



agree that the EDVP complies with the DtC and its representation relates to details of applying affordable housing tests across the county boundary (Representation Number 1242 <http://eastdevon.gov.uk/planning-libraries/villages-plan-consultation-may2017/1242-westdorsetdc.pdf>). At an officer meeting to discuss cross boundary issues in September 2017 it was agreed that the EDVP did not raise cross boundary issues, due to its limited scope <http://eastdevon.gov.uk/media/2245571/2017-08-09-meeting-w-dorset-e-devon.pdf>. It was also clarified that, in East Devon the local connection test is set out in Strategy 35 of the adopted Local Plan, whereas in West Dorset it is considered by the housing section on a case-by-case basis.