

Report to: Cabinet
Date of Meeting: 2 May 2018
Public Document: Yes
Exemption: None



Review date for release None

Agenda item: To be completed by Democratic Services.

Subject: **Response to Beer Neighbourhood Plan Submission**

Purpose of report: To agree the response by this Council to the current consultation for the Beer Neighbourhood Plan.

Recommendation :

- 1. That Members note the formal submission of the Beer Neighbourhood Plan and congratulate the producers of the plan on the dedicated hard work and commitment in producing the document.**
- 2. That this council make the proposed representation set out at paragraph 5.2 in this report in response to the consultation.**

Reason for recommendation: To ensure that the view of the District Council is recorded and informs the consideration of the Neighbourhood Plan by the Independent Examiner.

Officer: Phil Twamley, Neighbourhood Planning Officer,
[REDACTED]

Financial implications: No additional financial implications.

Legal implications:

Equalities impact: Low Impact

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

Risk: Low Risk

There is a risk that the Neighbourhood Plan could fail the examination if it is considered to conflict with the Basic Conditions.

Links to background information:

- Localism Act 2011
<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
- Neighbourhood Planning Regulations 2012
http://www.legislation.gov.uk/uksi/2012/637/pdfs/uksi_20120637_en.pdf
- Neighbourhood Planning Roadmap Guide
<http://locality.org.uk/wp-content/uploads/Roadmap-worksheets-map-May-13.pdf>

Link to Council Plan:

EDDC Local Plan 2013-2031
<http://eastdevon.gov.uk/media/1772841/local-plan-final-adopted-plan-2016.pdf>

1.0 Report Summary

- 1.1 Beer Parish Council submitted their Neighbourhood Plan to the District Council and publication of the submission commenced on the 23 March 2018. The District Council is required to formally consult on the Plan for 6 weeks before appointing an independent Examiner to inspect the plan against a series of conditions that the plan must meet in order for it to proceed to a referendum.
- 1.2 During this consultation the District Council has the opportunity to comment on the Neighbourhood Plan and this report is brought before members with a request that they endorse the Officers observations as the formal representation on the plan, which is set out at the end of this report.

2.0 Background to the Beer Neighbourhood Plan

- 2.1 Beer Parish Council commenced work on their Neighbourhood Plan following their Neighbourhood Area being designated on the 2 October 2013.
- 2.2 Since then, the Parish Council and volunteers from the local community have spent considerable time and effort consulting with residents of the parish and producing a plan which reflects the aspirations of the community with regards to the use of land until 2031.
- 2.3 The Beer Neighbourhood Plan is a sizeable plan containing 38 policies (split over 9 topics) designed to protect and enhance the special qualities of the Parish of Beer. The Plan aims to secure a sustainable future for the area in environmental, economic, and social terms. It proposes a Local Gap to prevent coalescence between Beer and Seaton and supports the retention and improvement of facilities and services in the village centre. The Plan makes one housing allocation (Land at Short Furlong for up to 31 dwellings) with an objective of providing additional affordable housing within the Parish.

2.4 Prior to submitting the Plan to East Devon District Council, Beer Parish Council have held their own 6 week public consultation on a draft version of the plan; a step which is also required by the neighbourhood planning regulations. The group took into account comments made during this stage and made various amendments to the version that has now been submitted to East Devon District Council.

3.0 Submission of the Beer Neighbourhood Plan

3.1 The District Council has received a Neighbourhood Plan from Beer Parish Council. The Plan and its supporting documents can be viewed at the following link:

<http://eastdevon.gov.uk/planning/neighbourhood-and-community-plans/neighbourhood-plans/neighbourhood-plans-being-produced-in-east-devon/beer>

3.2 This is the fourteenth completed (ready for final consultation) Neighbourhood Plan in the District. The Parish Council has received regular support from the District Council and additional financial support from DCLG (Now MHCLG).

3.3 The statutory regulations require that the District Council organise and undertake a consultation on a plan when it reaches this stage. This is commonly referred to as the submission or 'formal' 6 week consultation. The consultation period commenced on 23rd March and is due to finish on 4th May 2018. The Plan proposal has been publicised on notice boards within the Parish, notices on the EDDC and Parish Council websites and an email to all the bodies mentioned in the consultation statement, including adjoining authorities and the statutory consultees of Devon County Council, Natural England, Historic England and the Environment Agency.

3.4 One of the statutory roles of the District Council is to consider whether the plan meets, in production process terms, the legislative requirements. Cabinet has previously endorsed a protocol for District Council involvement into Neighbourhood Plans and in accordance with this protocol an officer review has been completed. Officer assessment is that legislative requirements are met.

3.5 Anyone may comment on a Neighbourhood Plan. It is particularly important that the District Council comments, given that the Neighbourhood Plan (if adopted) will form part of the Development Plan, and should conform to the strategic policies of the Local Plan. This report provides a summary overview of the Plan and recommends comments of this authority on the Plan to be submitted to the Examiner undertaking the Plan Examination.

4.0 Neighbourhood Plan Examination and Referendum

4.1 Following the consultation the District Council must appoint an 'appropriately qualified and independent Examiner' agreed with Beer Parish Council. All responses from the six week consultation (including any made by this council) will be forwarded to the Examiner who will consider them, either by written representations or at an oral hearing (if s/he decides one is necessary). The District Council is responsible for paying the costs of the examination although the District Council can recoup these expenses by claiming funding from Central Government of £20,000 once a date has been set up for referendum following a successful examination.

- 4.2 Discussions with the Parish Council have indicated that they have no particular preference as to who to appoint to conduct the examination. Previous examinations in East Devon have been conducted by a variety of Examiners, all very experienced and well qualified and, whilst a decision has yet to be made, it is likely that we will use one of these Examiners again.
- 4.3 The Neighbourhood Plan Examination is different to a Local Plan Examination. The Examiner is only testing whether the plan meets the Basic Conditions and other relevant legal requirements – they are not testing the soundness of the plan or looking at other material considerations. The Examiner will be considering whether the plan:
- has appropriate regard to national policy and advice contained in guidance issued by the Secretary of State
 - contributes to the achievement of sustainable development.
 - is in general conformity with the strategic policies in the development plan for the local area.
 - is compatible with human rights requirements.
 - is compatible with EU obligations.
- 4.4 As part of the Development Plan used in future planning decisions, it is in the interests of the District and Parish Councils to produce a high quality Neighbourhood Development Plan.
- 4.5 Following the examination the Examiner's report will set out the extent to which the draft plan proposal meets the Basic Conditions and what modifications (if any) are needed to ensure it meets the Basic Conditions. The Examiner has 3 options for recommendation:
- A. That the Plan proceeds to referendum as submitted.
 - B. The Plan is modified by the District Council to meet Basic Conditions and then the modified version proceeds to referendum.
 - C. That the Plan/ does not proceed to referendum.

If the Examiner chooses A or B above they must also consider whether the referendum area should be extended beyond the boundaries of the Plan area (this could be applicable if plan proposals could impact on a larger area). The report must give reasons for each recommendation and contain a summary of its findings. It is the responsibility of the District Council to accept or decline the modifications suggested by the Examiner.

- 4.6 Once the Plan has been modified it will be subject to a referendum where everyone on the electoral roll (for the defined area) will have a right to vote for or against it. If at least half of votes cast support the Plan then it can be brought into legal force.

5.0 The Beer Neighbourhood Plan Response

5.1 During the current 6 weeks consultation the District Council can comment on the Plan. In terms of meeting the Basic Conditions, the Parish Council has produced a statement setting out how the Plan complies with the conditions which the Examiner will assess.

5.2 **After reviewing the Neighbourhood Plan contents, it is recommended that the following representation of East Devon District Council be submitted to the Neighbourhood Plan consultation. It should be noted that comments we make at this stage are primarily restricted to land use planning policy matters rather than background text/reasoned justification or the community policies and are made on the basis of:**

- **Does a Beer Neighbourhood Plan policy comply with strategic policies in our adopted Local Plan and have appropriate regard to National Planning Policy?**
- **Do we have concerns about policy given wider objectives of the council?**
- **Are the policies workable and enforceable - could they be reasonably applied through the Development Management process? and**
- **Are they otherwise appropriate or desirable?**

EDDC Cmmt No.	Policy / Plan Reference	Comment
1	Policy HBE4	We suggest an amendment to include a definition of 'large scale' and 'small scale' renewable provision. Policy does not support 'large scale' renewable and low carbon technologies. Policy is not in accordance with Strategy 39 of the Local Plan where 'renewable of low-carbon energy projects in either domestic or commercial development will in principle be supported' subject to criteria specified within the strategy. Proposals should be judged on identified merits and not ruled out simply because of scale. Criteria i) seems unnecessary as the whole Plan is considered by default.
2	Policy H1	From discussions with the NPSG the 40% minimum threshold was justified primarily for the allocation of the land at Short Furlong outlined in Policy H3. Whilst we support the ambition for the 40% minimum threshold within the BUAB as a whole, we feel this may be difficult to justify and manage in practice outside of Short Furlong.
3	Policy H3	<p>The steering group expressed an ambition to extend the BUAB to include the land at Short Furlong to encourage development including affordable housing to come forward. The landowners, Clinton Devon Estates, indicated in a prior application that 43% affordable housing was achievable. This application was refused in accordance with Strategy 35 of the Local Plan.</p> <p>The BUAB shown on p49 of the Neighbourhood Plan does not include the land at Short Furlong. As such the site would continue to require 66% affordable provision in accordance with Strategy 35 of the Local plan and policy H1 in the Neighbourhood Plan.</p> <p>We suggest updating the BUAB plan on p49 to include the land at Short Furlong as suggested by the landowner and agreed with the</p>

EDDC Cmmt No.	Policy / Plan Reference	Comment
		<p>Steering Group. This change would supersede the Built-up Area Boundary shown in the Villages Plan.</p> <p>We agree with the NPSG that development below 40% undermines support for the site allocation and BUAB extension to meet the local need identified by the Neighbourhood Plan. The minimum 40% threshold of affordable housing indicated in policy H1 should be contained in the main text of policy H3 to support the approach at Short Furlong.</p>
4	Policy TP2	<p>We suggest further definition of an 'on-street' car parking space. Is this a designated painted space or just an unregulated (i.e. non-yellow line) section of road? Does the 'equivalent or increase capacity' to be provided have to be publicly useable? For instance, if someone put in a drive to their house they would probably take away an on-road space but provide another for their own use. Does this meet this policy? Needs clarification.</p>
5	Policy CFS1	<p>First criterion – What is 'within the area'? Should there perhaps be some requirement to be able to serve the same spatial demand for that asset? Needs clarification.</p>
6	Policy T3	<p>Might this result in quite large/numerous developments? Whilst the environmental policies would likely restrict some development, T3 seems to leave significant opportunity for development. Not clear if each criterion should be met or just one, we suggest updating with and / or to i) and ii).</p>
7	Policy T4	<p>We suggest adding more detail on viability/market testing to avoid abuse by firstly getting permission for holiday units under policy T3 and then removing holiday occupancy restrictions under policy T4, resulting in dwellings where you would not have permitted them in the first place. We would suggest adding some market testing to assess potential viability as per LP policy E18.</p>