



The Planning Inspectorate

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# **Report to East Devon District Council**

**by Mr Anthony Thickett BA(HONS) BTP MRTPI Dip RSA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date 15 January 2016**

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

## **REPORT ON THE EXAMINATION INTO THE NEW EAST DEVON LOCAL PLAN 2006 TO 2026**

Document submitted for examination on 2 August 2013

Examination hearings held between 11 February and 14 March 2014 and 7 and 8 July 2015.

File Ref: PINS/U1105/429/5

## **Non-Technical Summary**

This report concludes that the New East Devon Local Plan provides an appropriate basis for the planning of the District, providing a number of modifications are made to the plan. East Devon District Council requested me to recommend any modifications necessary to enable the plan to be adopted.

All of the modifications to address this were proposed by the Council but I have amended detailed wording and/or added consequential modifications where necessary and I have recommended their inclusion after considering the representations from other parties on these issues.

The principal Main Modifications can be summarised as follows:

- To accord with evidence submitted during the examination the plan period is amended to 2013 to 2031 and the housing requirement increased to 17,100
- Targets for plots and pitches to accommodate gypsies and travelling showpeople to be included in the Plan
- The safeguarding of land at the Intermodal Interchange is not recommended.
- At a late stage in the examination the Council proposed the deletion of the Sidford employment allocation. For the reasons given in this report I do not recommend that the Plan be modified to accommodate this proposed change.

## **Abbreviations Used in this Report**

AA	Appropriate Assessment
AONB	Area of Outstanding Natural Beauty
CPA	Coastal Protection Area
LDS	Local Development Scheme
MM	Main Modification
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
SANG	Suitable Alternative Natural Greenspace
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SPA	Special Protection Area
WHS	World Heritage Site

## Introduction

1. This report contains my assessment of East Devon District Council's New Local Plan 2006 - 2026 in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate and then considers whether the Plan is sound and whether it is compliant with the legal requirements. To be sound, a Local Plan should be positively prepared; justified; effective and consistent with national policy<sup>1</sup>.
2. The starting point for the examination is the assumption that the Council has submitted what it considers to be a sound plan. The basis for my examination is the Proposed Submission (Publication) version of the Plan as amended by the schedule of proposed minor publication changes approved by the Council on 18 July 2013<sup>2</sup>. The Plan was submitted for examination on 2 August 2013.
3. The Council were not proposing to consult on the minor changes but did so after I indicated that I considered that a number of proposed changes could not be described as minor<sup>3</sup>. The consultation ran from 23 August to 7 October 2013.
4. Hearings were held in February and March 2014. The examination was suspended at the end of March 2014 to enable the Council to, amongst other things, produce further evidence relating to housing need and gypsies and travellers<sup>4</sup>. This evidence was produced in March 2015. The new evidence along with the Council's proposed changes to the Plan were subject to consultation between 16 April and 12 June 2015.
5. Further hearings were held in July 2015 during which the need for more work on housing need and addressing impacts on European protected sites was identified. Comments were sought on the reports that followed and a final set of Main Modifications were consulted on in October and November 2015.
6. My report deals with the main modifications that are needed to make the Plan sound and legally compliant and they are identified in bold in the report (**MM**). In accordance with section 20(7C) of the 2004 Act the Council requested that I should make any modifications needed to rectify matters that make the Plan unsound/not legally compliant and thus incapable of being adopted. These main modifications are set out in the Appendix to this report.
7. The Main Modifications that are necessary for soundness and/or legal compliance all relate to matters that were discussed at the Examination hearings. I have considered all representations received at all the stages described above in coming to my conclusions in this report. I have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of these amendments significantly alters the content of the modifications as published for consultation or undermines the participatory

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<sup>1</sup> NPPF; paragraph 182

<sup>2</sup> CD/SD002

<sup>3</sup> Letter dated 15/8/13

<sup>4</sup> Letter from Inspector to the Council; 31/3/14

processes and sustainability appraisal that has been undertaken. Where necessary I have highlighted these amendments in the report.

8. The Council's approach to proposed allocations which now have planning permission is not consistent. In some cases it is proposed that the allocation be removed, in others retained. In my view, once planning permission has been granted for a development there is a reasonable expectation that it will be implemented within the prescribed period and there is no need for it to remain an allocation. However, I see no harm in retaining allocations on such sites and whilst it would be better to be consistent, I do not consider that the lack of consistency in this regard renders the Plan unsound. The Council is free to change to the Proposals Map or Key Diagram as required to reflect the main modifications.
9. This report does not comment on all the representations made whether orally at the hearings or in writing. This report focuses on the matters and issues I consider to be crucial to the soundness of the Plan.

## The Duty to Co-operate

10. Appendix 2 to the Council's statement for Hearing 1 lists the bodies engaged by the Council in the production of the Plan. These include neighbouring District and County Councils, statutory undertakers and other prescribed bodies<sup>5</sup>. The Exeter and East Devon Growth Point is a formal partnership between the Council, Exeter City, Teignbridge District and Devon County Councils and has been closely involved with the Plan's proposals for the West End. The Council engaged with Highways England with regard to the M5 and trunk roads which run through the District and worked with Natural England to produce a statement of common ground relating to ecological and biodiversity issues.
11. Dorset County Council's objection relates to concerns regarding the level of employment growth proposed rather than a failure to engage. West Dorset District Council considers that there should be a greater recognition of the housing needs of Lyme Regis but accepts that cross boundary issues have been fully investigated. Engagement has not led to complete agreement with regard to how any un-met need in Lyme Regis would be addressed but there is a willingness to work together. **MMs 67** and **68** are necessary to encourage further constructive engagement. Having considered the evidence base and the representations, I consider that the Council has satisfied the duty to co-operate as set out in Section 33A of the Localism Act 2011 with regard to the production of the Local Plan.

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<sup>5</sup> For a list of prescribed bodies see Reg 4 of the Town and Country Planning (Local Planning)(England) Regulations 2012

## Assessment of Soundness

### Main Issues

12. Taking account of all the representations, submissions and the discussions that took place at the hearings, I have identified 5 main issues on which the soundness of the plan depends.

#### **Issue 1 – Whether the Local Plan makes adequate provision to meet the full, objectively assessed needs for market and affordable housing in the district.**

The overall need for new housing

13. As stated above the examination was suspended in March 2014 to enable the Council to produce further evidence relating to housing need. The Council commissioned new housing and employment projections and jointly commissioned the Exeter Strategic Housing Market Assessment 2014 (SHMA)<sup>6</sup>. As a result of the findings of these studies the Council proposed a number of modifications to the Plan, including amending the plan period from 2006 - 2026 to 2013 - 2031 and setting a new housing target of 17,100 new homes.
14. Changing the end date to 2031 accords with the National Planning Policy Framework (NPPF) which advises that a development plan should preferably have a 15 year time horizon. It would also bring the Plan into line with the latest evidence and projections relating to housing need. The SHMA has a 2013 base date and provided any un-met need between 2006 and 2013 is accounted for, I see no reason why the Plan should not have a new start date of 2013.
15. A properly formulated SHMA forms the starting point for establishing need at its base date. It takes account of un-met need within the existing population at the base date and factors that in to its estimates of need looking forward. The 2014 SHMA submitted to support the Plan analyses the current demographic structure of the District, household characteristics and uses future population and household and economic forecasts to determine the objectively assessed housing need for East Devon.
16. The SHMA uses the mid-point of the 2008 and 2011 headship rates in its calculation of need. The Planning Practice Guidance (PPG) advises that the starting point for assessing need should be the latest household projections published by the Department of Communities and Local Government (DCLG). The 2012 projections were released too late to inform the SHMA and the Council commissioned a further study which substituted the headship rates used to inform the SHMA with the 2012 rates. This resulted in the reduction of objectively assessed housing need over the plan period from 950 to 943 dwellings per annum (dpa). In my view, such a small difference (7 dpa, 126 overall) compared to the overall need of 17,100 does not warrant a change to the Plan's housing target.

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<sup>6</sup> Together with Exeter City, Teignbridge and Mid Devon District Councils

17. The Plan's housing target is designed to accommodate a projected increase in jobs in the District of around 549 net new jobs per year. A significant proportion of these jobs would be created at the West End. The Council's consultants recognise the inherent uncertainty in any set of projections but I am satisfied that the assumptions made with regard to economic activity, unemployment rates and commuting are reasonable. The findings have been compared to a study commissioned by the County Council which differed in approach and assumptions but produced similar results. The projected increase in jobs is seen as overly optimistic by many who argue, amongst other things, that the national and local economy will not improve as quickly as the Council hope and that assumptions for job densities are too high. These concerns are understandable and the Council should monitor the situation carefully. However, these large employment sites are primed and ready and it seems to me to be better to plan to match housing and job growth, particularly in the West End. Not to do so could lead to increased commuting which conflicts with the need to create sustainable development.
18. The SHMA estimates a need for 272<sup>7</sup> affordable homes per annum throughout the Plan period (4,896 over 18 years). Strategy 34 splits the District into high and low value areas (see paragraph 37 below) and requires schemes to provide affordable housing at a rate of 50% and 25% respectively. The SHMA acknowledges this but for the purpose of calculating the delivery of affordable houses assumes a requirement of 30% across the District.
19. Based on the delivery of 950 dwellings per year, this would provide 285 affordable dwellings per year (5,130 over 18 years). There would, therefore, appear to be no need to consider increasing the housing requirement to meet the District's requirement for affordable housing. The difference between the SHMA's estimate of need and potential delivery of affordable housing is 234 dwellings. Given that estimating housing need is not an exact science this seems to be an acceptable margin of error and does not justify lowering the overall target.
20. I am satisfied that the revised target of 17,100 is supported by evidence and would meet the objectively assessed housing needs for the District. The following main modifications are required to ensure that the adopted Plan is sound: **MMs 1, 2, 3, 5, 7, 8, 10, 11, 12, 13, 14, 15, 20, 75, 76, 148 and 150.**

#### Distribution

21. Around two thirds of East Devon lies within two Areas of Outstanding Natural Beauty (AONB)<sup>8</sup> and its coastline is part of the Jurassic Coast World Heritage Site (WHS). The AONBs roughly cover the east and southern parts of the District constraining significant expansion of the settlements in those areas. There are also two Special Protection Areas<sup>9</sup> (SPA) and numerous other designated sites.

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<sup>7</sup> Mid point of 2008 – 2011 projections, see SHMA table 11-3

<sup>8</sup> The East Devon AONB and Blackdown Hills AONB

<sup>9</sup> The East Devon Pebblebed Heaths SPA & the Exe Estuary SPA

22. The development of a new town at Cranbrook in the West End of the District has been a long term policy objective and a significant amount of development has taken place or has planning permission. The Plan supports the continued development of Cranbrook and growth at the West End. It lies outside any national landscape designations and provides an opportunity for the creation of a sustainable settlement combining housing, employment, schools, shops green space and other facilities. By directing the majority of new development to the West End the Plan respects the District's landscape constraints and builds on existing achievements and commitments. Cranbrook has expanded significantly since the start of this examination. The following modifications are necessary to reflect this and other developments in the West End: **MMs 28, 29, 30, 31, 32** and **33**.
23. To avoid any doubt, **MMs 21** and **26** move the requirement for all developments in the West End to contribute to transport and other infrastructure to a more logical place in Strategy 9. In 2014 the Council decided to produce a Masterplan for Cranbrook to review progress and refresh its vision and design guidance. Insofar as it relates to securing delivery of housing, I am not persuaded that this exercise is necessary or that it is necessary to modify the Plan to refer to it.
24. Development at the West End must make provision to mitigate any potential harm to the Exe Estuary and Pebblebed Heaths SPAs. Most of the housing forecast to be built in the next 5 years already has planning permission or a resolution to grant and so have or are committed to contributing to the provision of Suitable Alternative Natural Greenspace (SANG). Concern has been expressed by Natural England and others regarding the provision of SANGs keeping pace with the demands arising from existing and planned development. To address these concerns the Council has been working with the developers of Cranbrook and the National Trust. The developers of Cranbrook have identified land within and outside the Cranbrook development boundary which has the potential to provide SANGs. The National Trust owns the adjoining Killerton Estate and in August 2015 produced 'A Prospectus for Action'<sup>10</sup> which identifies the potential of the Estate and the willingness of the Trust to improve access to the Estate.
25. A lot remains to be done but I am satisfied that the Council and its partners are working together to ensure that SANGs will be provided in time to satisfactorily mitigate any impacts on the SPAs. **MMs 22, 23, 24** and **25** strengthen Strategy 10 and its reasoned justification and are necessary to ensure that this is the case. Related to this and necessary to ensuring a co-ordinated approach is the Council's commitment to produce a Green Infrastructure Strategy (**MMs 92** and **93**)<sup>11</sup>. However, the situation will need to be monitored carefully and the Plan's strategy revisited if delays to the provision of SANGs prevents development at the West End delivering the number of new homes required at the time required to meet the identified

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<sup>10</sup> Full title: The Killerton Estate: Opportunities arising from the Exeter and East Devon Growth Point, A Prospectus for Action

<sup>11</sup> This commitment was originally expressed in a policy (Strategy 42). However, the NPPF advises that only policies 'that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan'. Consequently, **MM93** deletes Strategy 42.

need.

26. Turning to the rest of the District, I am concerned that too little growth is planned for the other main towns and larger villages. Axminster (the only Town Council attending the examination which welcomed growth) has an allocation for 650 dwellings but Exmouth, the largest town in the District has only one allocation of 350 dwellings, Honiton only 150 and Sidmouth 125<sup>12</sup>. I accept that dwellings have been built or granted planning permission in all these settlements since April 2013. I also acknowledge the environmental considerations referred to above and that the NPPF does not require the assessment of housing need to be broken down below the District level. Nevertheless, I have significant concerns regarding the impact of the Plan's strategy on satisfying the need of their indigenous populations, particularly for affordable housing.
27. The Plan at paragraph 16.23 states that the '*lack of affordable housing is a critical issue in East Devon and in order to retain younger people in our neighbourhoods and communities, as well as housing others in need, we need more affordable homes*'. The District has a high concentration of elderly people, particularly in the coastal towns of Budleigh Salterton, Sidmouth and Seaton. Budleigh Salterton and Sidmouth are in the area of highest market values (and therefore least affordable). Although the policy requirement for affordable housing is higher in these areas the Plan only makes provision for 870 houses in these three towns, 705 of which were built, under construction or had planning permission in September 2014<sup>13</sup>. The Plan's strategy risks the coastal towns becoming the preserve of affluent retirees which cannot be healthy or sustainable.
28. As submitted Strategy 27 assigned dwellings to the small towns and larger villages in the District. The number of dwellings assigned to each settlement was not based on a proper assessment of its ability to accommodate that number. The Council propose to amend Strategy 27 by listing settlements that may be able to accommodate growth but deleting any reference to numbers. The provision of new housing in the listed settlements will be left to Neighbourhood Plans. The table at Strategy 2 indicates that villages and rural areas will contribute 1,123 dwellings to the housing target. In order to be successful this approach depends on Town and Parish Council's producing a Neighbourhood Plan and for that plan to allocate land for housing.
29. Strategies 6 and 7 as modified by **MMs 18** and **19** would give local communities the flexibility to allocate land outside built up area boundaries. However, there is no requirement for communities to produce a Neighbourhood Plan and most of the Town and Parish Councils engaged in the examination resisted rather than welcomed new housing. As Strategy 27 (as proposed to be changed) no longer assigns housing numbers, it seems to me that a Neighbourhood Plan which did not allocate land for housing could not be said to conflict with the Local Plan.
30. The Council is confident that new housing will come forward through
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<sup>12</sup> Table at Strategy 2 of the Plan

<sup>13</sup> Strategy 2

Neighbourhood Plans but there is no guarantee that they will nor does this strategy give the Council any control over when or where they will be delivered. However, the table at Strategy 2 indicates 887 of the 1,123 dwellings allocated to small towns and villages had been built, were under construction or had planning permission in September 2014. The number remaining to be delivered through Strategy 27 is relatively small compared to the overall target and lack of delivery does not pose a significant threat to meeting the overall target.

31. For the reasons given above Strategy 27 of the submitted Plan is not sound. By no longer assigning numbers the new Strategy 27 avoids the problems of its predecessor and to that extent **MMs 6, 69, 70, 71, 72 73** and **63** are necessary to make the Plan sound. Chardstock and Dunkeswell have limited facilities and do not benefit from access to public transport. Their addition to Strategy 27 is not supported by the Council's Small Towns and Villages Development Suitability Assessment 2014 and I have removed them from Strategy 27.

#### 5 year housing land supply

32. Based on the Local Plan requirement of 17,100 new dwellings and a 20% buffer to take account of persistent past under delivery<sup>14</sup>, the 5 year requirement is 5,684 dwellings (1,137 dpa). In its 'Housing monitoring update to 31 March 2015' (dated August 2015)<sup>15</sup> the Council lists the number of dwellings with planning permission (including under construction), sites with a resolution to grant planning permission, strategic allocations and windfalls which added together provides a supply of 6,658 new dwellings. It also calculates numbers excluding windfalls and allocations (5,780) and excluding allocations but including windfalls (6,130).
33. All these scenarios provide a housing land supply in excess of 5 years (albeit only just if one excludes windfalls and allocations). Including allocated sites the District would have a 5.86 year housing land supply on adoption of the Plan. Without allocated sites that do not have planning permission it estimates a 5.39 year supply. The NPPF allows for windfall sites to be taken into account in calculating housing land supply provided there is evidence of a track record of consistent delivery and that they will provide a reliable source of supply. The Council's monitoring report indicates a healthy past delivery of windfalls and includes a conservative estimate looking forward. I am satisfied that it is appropriate to include windfalls in the 5 year land supply calculation.
34. Footnote 11 to paragraph 47 of the NPPF states that; '*Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years*'. The Council's monitoring report shows 4,897 dwellings with planning permission in September 2014. Given the heavy reliance on large sites in the West End the biggest threat, in my view, is the ability of these sites to deliver at the right pace.

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<sup>14</sup> The Council accepts in the monitoring report that the 20% should be applied.

<sup>15</sup> Appended to PPSD2015s

35. As stated above most of the housing forecast to be built in the West End in the next 5 years already has planning permission or a resolution to grant and so delivery should not be impeded by the need to provide SANGs. Cranbrook is being delivered by a consortium of developers most of whom, from my observations, are all building at the same time and offering a range of products. Other sites in the West End add to the choice on offer. From May 2012 (first starts) to February 2015, 938 new homes were completed in Cranbrook. The consortium is confident that it can build around 470 dwellings per year, which over 5 years would deliver around 40% of the 5 year land supply figure. Based on its proven track record of delivery so far, I consider that the evidence submitted to the examination shows that this is achievable.
36. Provided there is a realistic prospect of delivery within 5 years it is reasonable to include sites with a resolution to grant planning permission and allocations. The Council has discounted some sites with outstanding Section 106 agreements which appear unlikely to be completed. Based on the evidence before me, I consider that the Council has shown that the District would have a 5 year housing land supply on adoption of the Local Plan.

#### Affordable Housing

37. The Council's Affordable Housing Viability Study<sup>16</sup> identified two market value areas in the District. That study was carried out in 2011 but its findings were endorsed by the East Devon Community Infrastructure Levy (CIL) Viability Study which was published in 2013. Strategy 34 requires residential development in the West End, Axminster, Exmouth, Honiton, Ottery St Mary and Seaton to provide 25% affordable housing. In all other parts of the District, where values are higher, the requirement is 50%. The policy allows for these targets to be relaxed if it can be demonstrated that the required level of provision is not viable.
38. The affordable housing viability study assumes a nil grant for affordable housing, a planning obligation package of £10,000 per dwelling and homes built to level 4 of the Code for Sustainable Homes<sup>17</sup>. These assumptions were considered to be conservative, placing higher costs on development than may be usually expected. Sensitivity testing included factoring in additional development costs, growth in market values and changes in the affordable housing model (using social rent rather than affordable rent). The assumptions were challenged and I have no doubt that in some cases costs will be higher. However, the later CIL study took the 25% and 50% targets into account in assessing possible charging levels and found that, combined with CIL, they would not render development unviable. Further, as stated above, the policy allows for a reduction in provision if necessary and to accord with the evidence, **MM81** sets 25% as a target rather than a minimum.
39. Under Strategy 34 as submitted only developments in excess of 300 units in the West End would have been required to provide affordable housing. This was not meant and is rectified by **MM81**. As submitted Strategy 34 includes no minimum threshold below which a contribution for affordable housing would

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<sup>16</sup> HSG005

<sup>17</sup> The Code no longer applies which arguably reduces build costs

be sought. I am not persuaded that the evidence submitted demonstrates that a scheme which provides one net new dwelling could comply with Strategy 34 and remain viable. The changes to Strategy 34 and its reasoned justification contained in **MMs 80** and **81** address these concerns.

40. On 28 November 2014 the Secretary of State issued a Written Ministerial Statement and made alterations to the PPG the effect of which was to exclude developments of 10 dwellings or less from planning obligations seeking affordable housing. That decision was successfully challenged<sup>18</sup>. The Secretary of State has been granted leave to appeal, the hearing for which is listed for March 2016. **MM81** introduces new text into Strategy 34 which would enable the policy to apply the 10 dwelling threshold if the Government is successful in its appeal.
41. Strategy 35 allows for exceptions to normal constraints on development outside settlements for schemes that provide at least 66% affordable housing. The target of 66% exceeds that currently shown to be viable. However, the policy applies in areas where, other than to support rural enterprises, housing is not normally permitted. In my view, the policy strikes an acceptable balance between the need to restrict development in the countryside and encouraging schemes which meet a local need for affordable housing. The inclusion of a market housing element is a realistic acceptance that in some cases an added incentive may be required. **MMs 82** and **83** are necessary to clarify that housing permitted under Strategy 34 will be an exception to normal countryside restraints.

#### Gypsies and traveller accommodation

42. Planning Policy for Traveller Sites (PPTS) requires local planning authorities to set pitch targets for gypsies and travellers and plot targets for travelling showpeople based on a robust assessment of need. Following concerns I expressed with regard to Policy H7, the Council, together with the County Council and other districts, commissioned the Devon Partnership Gypsy and Traveller Accommodation Assessment 2014. Policy H7 and its reasoned justification were subsequently revised, setting targets for gypsies and travellers and travelling showpeople. The Assessment was produced following good practice guidance, it was not meaningfully challenged and I have no reason to consider that the new targets to be included in the Plan are not based on robust and reliable evidence.
43. The Assessment identifies a need for 37 new gypsy and traveller pitches in East Devon up to 2034 and 3 for travelling showpeople. This includes a need for 22 pitches to be provided between 2014 and 2019. The targets in Policy H7 will, in part, be delivered by a Gypsy and Traveller Development Plan Document (DPD). The Council has started to produce this plan and promised that it would be ready for examination by the end of 2016 (and agreed to a modification requiring this). Assuming that the Gypsy and Traveller DPD is found sound and adopted in 2017 this leaves little time to provide 22 new pitches by 2019.

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<sup>18</sup> West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government [2015] EWHC 2222 (Admin).

44. However, **MM 29** modifies Strategy 12 to make provision in Cranbrook for up to 30 pitches and **MM156** requires 22 to be provided by 2019<sup>19</sup>. This should allow the Council to move swiftly to meet the immediate need identified in the Assessment. It is argued that this is far too many for one settlement and that they should be spread around the District. However, it accords with the Plan's strategy of directing the majority of new development away from the AONBs and WHS. There is nothing in the modified policy to require all 30 pitches to be in the same place and I have seen nor read anything to suggest that sites could not be developed in a way that would integrate satisfactorily with other development planned for Cranbrook.
45. **MMs 87, 155 and 156** bring all the proposed changes together and are necessary to ensure that the Local Plan meets the identified needs of gypsies and travellers and complies with national policy.

#### Other matters

46. Policy H2 requires sites of 15 dwellings/0.5ha or more to incorporate a mix of dwelling sizes. As submitted the policy also sought to require developers to make at least 10% of plots available for sale to small builders or for self-build. Making provision for a mix of suppliers of housing will help to meet the District's needs. However, I don't see how the planning system can make developers sell land to potential rivals (and at a reasonable price) and **MM151** amends the policy to encourage rather than require them to do so.
47. Policy H3 relates to the conversion of buildings within built up area boundaries to flats. The requirement for such buildings to be in areas well served by public transport is not repeated for new build proposals and this inconsistency is addressed by **MM152**. However, **MM116** introduces such a requirement for the residential re use of buildings outside settlements which is necessary in the interests of achieving sustainable development.
48. **MM167** deletes Policy E8 which largely repeats the provisions of Policy H4 which sets out the functional and financial tests necessary to justify a new dwelling for those employed in rural businesses. **MM153** makes it clear when a financial assessment will be required and that dwellings should be commensurate with the needs of the business. However, it is not necessary, in my view, for a proposal to replace an existing agricultural dwelling to be justified by an assessment of need. There is no such requirement in Policy H6 which relates to replacement dwellings in the countryside and I do not see why agricultural workers dwellings should be treated differently. Policy H6 requires replacement dwellings to be on or adjacent to the footprint of the original which could prevent the realisation of landscape or other benefits if the new building was sited elsewhere within the curtilage. **MM154** allows re siting where environmental benefits would be achieved.
49. A significant proportion of East Devon's population is elderly and Strategy 36 seeks to ensure that new homes are accessible and adaptable and to encourage the provision of specialist older persons' housing. As submitted Strategy 36 required all affordable housing and 20% of dwellings on sites of

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<sup>19</sup> And 1 pitch for travelling showpeople

more than 10 units to be built to Lifetime Homes Standards. **MMs 84, 85 and 86** update the policy in light of the changes to national housing standards. It also introduces flexibility with regard to the 20% requirement which is necessary to reflect that it may not always be appropriate or viable.

#### Allocations

##### Winslade Park

50. Winslade Park is a complex of former office buildings based around a former manor house (a listed building) at Clyst St Mary. Clyst St Mary is a small settlement and not one the Plan's strategy envisages accommodating a significant number of new dwellings. Further, the plan includes policies which seek to safeguard employment land. However, I have neither read nor heard anything to indicate that re use for employment is likely. Clyst St Mary is close to Exeter, the site adjoins a housing estate and, in my view, its conversion and redevelopment for housing is acceptable in principle. The proposal also provides an opportunity to safeguard the future of the listed buildings on the site. **MMs 64, 65 and 66** will help secure this.
51. The promoters of the site seek to incorporate more of the large green space to the north west of the buildings in the allocation. The Council's vision is for development to enable the sensitive conversion of the listed building within the high quality parkland which is a significant contributor to its setting. Having seen the site, I consider that the allocation boundary will enable this setting to be maintained.

##### Alternative sites

52. In assessing the soundness of the Plan I have considered whether the site allocations in the Plan are sound, having regard to; the district's context and needs; the relationship with other plans and strategies; national policy and the Government's objectives; and the evidence base and selection and preparatory processes that underpin the Plan. I have considered the merits of allocations proposed by the Council and conclude that the Plan is the most appropriate strategy when considered against reasonable alternatives. I, therefore, see no need to look further and consider alternative sites in this report.

##### Conclusion

53. For the reasons given above, I conclude that the Local Plan does make adequate provision to meet the full, objectively assessed needs for market and affordable housing in the district. However, delivery should be carefully monitored as should the impact of limiting growth outside the West End on the communities in the rest of the District. The Council should be prepared to conduct an early review if new homes are not delivered at the required rate and/or the strategy for distributing new housing is failing to meet the need for market housing and affordable housing outside the West End.

## **Issue 2 – Whether the Local Plan makes adequate provision to meet the employment needs in the district.**

### Need

54. The Plan, at paragraph 16.5, states that the Council's economic policies are designed to, amongst other things, deliver a wide range and type of employment land, support existing small and medium businesses and provide opportunities for young people to secure good jobs, training and education. As stated above the District has a high proportion of elderly residents and the District has a lower than average working age population<sup>20</sup>. It is argued that the Plan's employment target should be lowered to reflect the fact that East Devon has a high proportion of people of retirement age. However, this risks not providing the employment needed to attract and retain younger people.
55. As I have already explained the Plan's aims for new housing and new employment are closely aligned. It is worth repeating here that the Council's consultant's findings have been compared to a study commissioned by the County Council which differed in approach and assumptions but produced similar results. The Council's consultants accept that there is uncertainty and I have said that the Council should monitor the situation carefully. However, I am satisfied that the evidence submitted by the Council supports the employment allocations proposed in the Plan.
56. The Council's Housing and Employment Study concludes that 32.3 ha of land for Class B1, B2 and B8<sup>21</sup> uses will be needed between 2011 and 2031. The Plan makes provision for 112.5 ha of employment land. As with housing the majority is at the West End (66.4 ha including 18.4 ha at Cranbrook) which will add to the 65 ha of employment land already committed at the Science Park and Skypark. The amount of land allocated in the Plan exceeds that recommended in the Housing and Employment Study and I appreciate the concern that excess supply may lower land values and inhibit land release. However, not all the land allocated at the Science Park and Skypark may be developed within the Plan period. They are long term regional employment sites and there are limitations on the type of enterprise that may locate at the Science Park. Further, providing greater employment opportunities is necessary to achieve the Council's aspirations for the District.

### Distribution

57. Given the proximity of the West End to Exeter and the M5 it is not surprising that this is where most employment land is allocated. It also avoids the AONBs and is where most of the District's new housing will be built. The Plan also allocates land in Axminster (7.55 ha, including 1.05 ha through **MM41**<sup>22</sup>), Exmouth (14.7 ha) Honiton (18.2 ha) and smaller sites in Seaton, Ottery St Mary and Sidmouth. I address the proposals for Sidmouth in detail below but I have neither heard nor read anything to indicate that these allocations are not acceptable or deliverable.

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<sup>20</sup> 57% compared with 65% nationally; East Devon Housing and Employment Study 2011 (EMP001)

<sup>21</sup> Light Industry, General Industry and Storage and Distribution.

<sup>22</sup> Previously allocated under Policy E1

58. I am satisfied that the Economic Strategy for Cranbrook produced by the Council in 2015 provides the evidence to support the proposed increase in employment land from 15 to up to 18.4 ha (**MMs 9, 28 and 29**<sup>23</sup>). Both Exeter Science Park and Skypark have planning permission and the allocations are deleted by **MMs 36 and 40**.
59. The Rail Freight Group supports the proposed safeguarding of land for a railhead at the West End (Strategy 15) on the Exeter – Waterloo line. Devon County Council reports that it has been in discussions with Network Rail with regard to the proposal and major constraints have been identified including that freight movements operate primarily on the Paddington mainline and that significant gradients between Exeter St David's and Exeter Central would make the route unsuitable for freight movements. These conclusions are supported by a feasibility study commissioned by owners of land which would be affected by the proposed safeguarding<sup>24</sup>. Devon County Council proposed a compromise at the examination and I acknowledge the benefits of moving freight off road and onto rail. However, there seems to be no realistic prospect of a railhead being established at the site allocated in the Plan and safeguarding land for a railhead could blight the prospects of developing the remainder of the land allocated under Strategy 15 for warehouse and distribution uses. Consequently I do not recommend MMs 34 or 35.
60. Outside the West End and the main towns, Policy E4 encourages farm diversification. **MM163** removes an unduly onerous requirement for all new buildings permitted under this policy to provide nests for barn owls (**MM116** removes a similar requirement from Policy D8 which relates to the re use of rural buildings). As submitted Policy D7 required farmers to demonstrate a genuine agricultural need for any new agricultural buildings. In my view, this places an unduly onerous burden on farmers and subject to controls relating to landscape and amenity impacts is unnecessary. **MM115** rectifies this shortcoming.
61. **MM164** removes an arbitrary size limit on new small scale or expansions to existing small scale developments in rural areas. As modified the policy will require such development to be well related in scale and form to its surroundings. **MMs 165 and 166** introduce a similar requirement with regard to expanding existing employment sites outside built up area boundaries. It also modifies the policy such that it encourages rather than requires the provision of renewable energy facilities on site.
62. As submitted the Plan included a table in the Spatial Strategy chapter listing allocated sites, the same sites were allocated under each town's strategic policy and again in Policy E1. This unnecessary and potentially confusing duplication is rectified by **MMs 157, 158 and 159**.

#### Safeguarding employment

63. As well as providing new employment it is important, where appropriate, to

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<sup>23</sup> In order to be consistent with the evidence and **MM28** I have amended the Strategy 12 to require up to 18.4 ha rather than at least 18.4 ha.

<sup>24</sup> MDS Transmodal on behalf of and attached to representations made by the Church Commissioners

resist the loss of existing employment sites. As submitted the plan included two policies designed to do this which included slightly different requirements. **MMs 77, 78, 79, 160, 161 and 162** address this inconsistency and ensure that Strategy 32 is clear about the circumstances where the loss of an employment use may be acceptable.

64. Exeter Airport is a major employer and **MMs 37, 38, 39 and 178** strengthen the Plan's support for the airport and make clear that new development that would compromise air safety or prejudice future expansion will not be permitted. MM177 proposes a minor update and does not constitute a main modification.

#### Other matters

65. The Council's desire for local young people to benefit from employment opportunities is laudable. However, requiring businesses to recruit such people is unlikely to satisfy the tests of need for the imposition of conditions or what may be lawfully taken into account as a planning obligation. **MM 74** addresses this by encouraging rather than requiring such provision. Strategy 31, amongst other things, sought to require housing developments of 50 – 99 units to include 10% live work units. I have neither read nor heard anything to indicate that this is necessary or that it would be appropriate in all cases. **MM 76** modifies the policy to encourage rather than require the provision of live work units.

#### Conclusion

66. For the reasons given above and subject to the main modifications referred to I conclude that the Plan makes adequate provision to meet the employment needs in the district.

### **Issue 3 – Whether the Local Plan makes adequate provision to meet the retail and tourism needs in the district.**

#### Retail

67. The NPPF requires local planning authorities to use their evidence base to assess the need for land or floorspace to meet the qualitative and quantitative needs for, amongst other things, retail development. The East Devon Retail Study – Update 2011 outlines the capacity for new convenience and comparisons goods floorspace for the main towns excluding Cranbrook.
68. The study does not identify any significant shortfalls in provision. Exmouth is identified as having capacity for about 3000m<sup>2</sup> of convenience goods floorspace. Capacity for comparison goods floorspace is recorded in Exmouth (about 4,500m<sup>2</sup>) Honiton and Sidmouth (around 3000m<sup>2</sup> each). No specific provision is made for comparison goods floorspace in any of the towns where a need is identified. However, opportunities in all these small, historic market towns are limited and I am satisfied that the general encouragement of new investment contained in each town's strategy policy is appropriate in these circumstances.
69. Policies E9 and E10 seek to safeguard the vitality of town centres and primary shopping frontages by encouraging uses which would add variety, increase

activity and resist development which would undermine vitality. **MMs 168** and **169** are required to provide clarity with regard to the circumstances where the loss of such uses may be acceptable. Policy E11 sets out the circumstances in which new retail stores outside town centres will be permitted. **MM170** is necessary to make it clear that the policy relates to town centres.

70. Strategy 7 defines the countryside as all those parts of the District outside Built up Area Boundaries. Consequently, some villages will, in policy terms, be in the rural area. Policy E15 places strict controls on the source of goods sold in shops in rural areas. I consider that it is appropriate, in order to safeguard town centres and promote sustainable development, to prevent farm shops or garden centres in the open countryside selling goods not sourced locally such as cards, newspapers and other convenience goods. However, as submitted the policy would place the same restrictions on small convenience shops in villages. Village stores can be a valuable asset. Such a restriction is likely to prevent their provision or reintroduction and is removed by **MM171**.
71. **MM171** also proposes changes to Policy E15 designed to provide clarity with regard to how targets for the sale of locally sourced goods will be applied. However, to my mind, they do just the opposite and the policy as submitted is clearer and thus effective. Consequently, I only recommend the change to Policy E15 which relates to the removal of restrictions for sourcing goods on village shops.

#### Tourism

72. Tourism is a significant contributor to East Devon's economy and the Plan rightly seeks to encourage new tourism development which is sustainable and does not damage the environment on which its attraction is based. Policies E17 and E18 seek to prevent the loss of holiday accommodation and are necessary to safeguard the District's ability to accommodate the visitors that contribute to the area's economy. Both policies would permit conversion to other uses where tourism is no longer viable. **MMs 173** and **174** are necessary to provide clarity and certainty with regard to the amount of time a hotel or other form of holiday accommodation should be marketed as such in order to demonstrate a lack of interest. **MM172** proposed a minor change to Policy E16 and does not constitute a main modification.

#### Conclusion

73. For the reasons given above and subject to the main modifications referred to, I conclude that the Plan makes adequate provision to meet the retail and tourism needs of the district.

#### **Issue 4 - Whether the individual strategy policies for each town meets the needs of that settlement**

74. The towns of Axminster, Exmouth, Budleigh Salterton, Honiton, Ottery St Mary, Seaton and Sidmouth have their own strategy policy. I have addressed the quantum and distribution of housing and employment land above and already touched on proposals affecting some of these towns. In this section I will address matters specific to each settlement not discussed elsewhere.

### Axminster

75. **MM41** partly updates Strategy 20 to take account of changes since the examination began (including the grant of planning permission at Cloakham Lawns). Strategy 20 allocates land to the north east of the town for around 650 dwellings and 8ha of employment land. **MM41** includes the provision of a north south relief road to be delivered as part of this development. The Council is satisfied that it does not need to allocate any more land to fund this road and the County Council do not disagree.
76. The 8 ha of employment land includes 1.5 ha to provide a primary school. Although one would not class a school as an employment use it does provide employment. The Council is satisfied that the remaining 6.5 ha added to the 1.05 ha at Millwey Rise would be sufficient to support the vitality of the town and I have neither heard nor read anything to suggest that this allocation is not proportionate to the size and function of Axminster.
77. Finally, **MM41**, in order to safeguard ecological interests, includes a recognition that any development which proposes to discharge into the River Axe may need to be supported by a Nutrient Action Plan. Further, that the capacity of existing sewage treatment works will need to be monitored.

### Budleigh Salterton

78. **MM42** modifies Strategy 21 to reflect that the only allocation proposed in the town now has planning permission.

### Exmouth

79. Most of the changes to the Exmouth chapter address the need for new development to take account of and mitigate any impacts on the significant habitats close to the town (**MMs 43, 44, 45, 46, 47, 48, 49, 50 and 51**). **MMs 117 and 118** modify Policy EN2 to the same end.

### Honiton

80. **MMs 52 and 53** update the chapter and Strategy 23 to reflect the grant of planning permission for allocated sites.

### Ottery St Mary

81. **MMs 54, 55, 56 and 57** update the Ottery St Mary chapter and Strategy 23 to reflect the grant of planning permission for allocated sites.

### Seaton

82. In addition to updating the chapter and Strategy 25 to take account of developments since the start of the examination<sup>25</sup> **MMs 58, 59 and 60** delete a proposed reserve site at Harepath Road (housing and employment). The site was to be brought forward if other sites in the town failed to deliver. The

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<sup>25</sup> As does **MM58**

Council proposes to delete the site arguing that, in light of permissions granted, it is no longer necessary.

83. A proposal to develop a larger area which incorporated the reserve site was dismissed on appeal in 2014 on grounds of conflict with Green Wedge policy<sup>26</sup>. To my mind the reserve site would be a logical extension to Seaton and clearly the Council considered it suitable for development when the plan was submitted for examination. However, in light of the Council's contention that sufficient provision has been made for Seaton, I do not propose to retain the reserve allocation. Should the overall strategy fail and/or more housing is needed it would seem to me to be a suitable site to consider in any review.

#### Sidmouth

84. As with other modifications relating to the towns **MM61** incorporates a number of necessary updates. However, there are two allocations which need to be considered in detail.

#### The Knowle (Housing)

85. The boundaries of the proposed allocation roughly coincide with the footprint of the existing Council offices and car park, almost all the parkland within which the offices sit would remain. The decision to relocate the Council's offices is not a matter for this examination.
86. As a brownfield site within the confines of the town there are a number of uses for which the site could be re developed. However, the site is surrounded by housing and although neighbouring residents and the Council appear to have co-existed happily (with regard to the use of the site as offices at least) housing is, in my view, the most suitable use for the site.
87. The original building dates back to the 19<sup>th</sup> century and is looked on with some fondness but is not deemed worthy of statutory protection. I have neither seen nor heard anything to suggest that a well designed scheme could not complement its surroundings and safeguard the living conditions of neighbouring residents.

#### Sidford (Employment)

88. The Local Plan proposes the allocation of 5 ha of land on the northern edge of Sidford for employment use. At a meeting on 26 March 2015 the Council resolved to delete this allocation from the Local Plan. However, the allocation was part of the plan submitted for examination and following submission for examination the Council cannot make any further changes to the Local Plan. Any further changes can only come about through a recommendation made in this report. As stated above the starting point for the examination is the assumption that the Council has submitted what it considers to be a sound plan. The Council considered the allocation to be sound when the plan was submitted for examination and it defended the allocation at the Hearing in February 2014. No new evidence has been submitted by the Council to

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<sup>26</sup> APP/U1105/A/13/2202124

support its volte face.

89. The proposed allocation lies within the East Devon AONB. The NPPF states that great weight should be given to conserving the landscape and scenic beauty of AONBs. It goes on to say that planning permission for major development should be refused in AONBs except in exceptional circumstances and where it can be demonstrated that they are in the public interest. Matters to be considered when assessing such proposals include, amongst other things, the need for the development, the scope for developing elsewhere outside the AONB and any detrimental impact on the environment.
90. The Council's statement for Hearing 7 (Sidmouth) and Employment Topic Paper record that the town has seen a relatively high level of residential development in recent years but limited employment growth with some sites lost to residential. The Council's Employment Topic Paper states that; *'Failure to provide for future employment provision for the town, to provide scope to help diversify the local economy, could lead to adverse impacts for Sidmouth'*. It goes on to consider the consequences of not allocating a site and concludes that this would; *'entail travel through the East Devon AONB to arrive at job locations beyond boundaries (for example Exeter or other East Devon towns) and this would, in its own right, have impacts on the AONB through vehicle pressure on roads and emissions'*. The allocation of a site within or close to the town would accord with the Plan's strategy of matching jobs with housing and reducing the need for commuting. I consider that a need for a new employment site to serve Sidmouth has been demonstrated.
91. Turning to alternatives, the Alexandra Industrial Estate is constrained by a poor access (narrow and between houses) and a disjointed layout and differences in levels which are likely to make it unattractive to new users and limit its ability to realise its full potential. It is argued by some that a new access could be created from Station Road but I have seen no firm or deliverable proposals<sup>27</sup>. The Council's Manstone Depot is surrounded by housing and is proposed to be allocated for housing. No other sites within Sidmouth have been identified as being suitable or capable of accommodating new employment uses.
92. The boundaries of the East Devon AONB mainly coincide with the built up area of the town. Any site on the edge of the town will, therefore, fall within the AONB. Three alternative employment sites are being promoted and the Council's Landscape Architect appraised all these sites and the proposed allocation. All three alternative sites are on higher ground and were considered to be more prominent. The Council's assessment is criticised but having seen them all, the alternatives were, in my view, rightly discounted on landscape grounds.
93. The proposed allocation lies in a valley floor and whilst its development will inevitably have a significant impact, I agree with the Council that there is greater potential for mitigation. Although a much smaller development, the integration of the sewage works building (which lies just to the north) into the

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<sup>27</sup> In its submission to the Hearing the County Council identify significant land ownership issues and estimate that a new junction would cost around £1m excluding land costs.

landscape of the valley illustrates what can be achieved through sensitive design and landscaping.

94. The proposed allocation would be accessed directly from the A375. That road narrows between Brook Lane and the A3052 and heading north is restricted in places through Sidbury. However, the allocation is supported by a detailed traffic assessment and the Highway Authority is satisfied that any impacts can be safely accommodated. The site adjoins the River Sid. The Environment Agency has considered the flood risk appraisal commissioned by the site's promoters and is content that the risk of flooding downstream can be satisfactorily mitigated.
95. In my view, the evidence submitted to the examination demonstrates that a new employment site to serve Sidmouth would be in the public interest. Further, that it has been shown that there is neither a suitable site within Sidmouth nor a better one outside the town. I consider that any environmental impacts can be satisfactorily mitigated and agree with the Council's contention in its Topic Paper that; *'In the exceptional case of Sidmouth a AONB land allocation is warranted'*. **MM61** includes a number of changes to Strategy 26. I consider the proposed allocation to be sound and I do not recommend its deletion from Strategy 26. Nor do I recommend MM62 which shows the deletion of the allocation on the Sidmouth inset map.

#### Conclusion

96. For the reasons given above and subject to the main modifications referred to, I conclude that the Plan makes adequate provision to meet the needs of the towns in the district.

#### **Issue 5 - Whether the Local Plan makes adequate provision to protect the natural and historic environment**

97. The measures needed to ameliorate the impact of the new development at the West End are addressed above. This section considers the effectiveness of the Plan's general strategic and development management policies relating to the natural and historic environment.

#### Natural environment

##### *Ecology*

98. Strategy 47 sets out general principles regarding the need to conserve features with biodiversity and geodiversity value. **MM4** brings the plan up to date with regard to the latest Habitat Regulations Report. **MMs 104, 105** and **106** require the mitigation proposals contained in the South East Devon European Site Mitigation Strategy to be implemented alongside or ahead of development and are necessary to safeguard the integrity of European designated wildlife sites. **MM107** is necessary to modify Strategy 50 to require the loss of any significant amenity features on a development site to be offset by alternative facilities elsewhere of at least the same value. Policies EN4 and EN5 are adequate to protect local wildlife and habitats from harmful development. I do not consider that the minor change to Strategy MM16 is necessary to make the Plan sound.

### *Landscape*

99. Strategy 46 seeks to ensure that new development conserves and enhances the landscape of the AONBs in East Devon. As submitted Strategy 46 sought to prohibit all development in AONBs unless it could be demonstrated that it could not be accommodated outside an AONB. Such a provision is unduly onerous and unnecessary and conflicts with national policy which advises that the scope for developing elsewhere need only be explored for major development. This conflict is rectified by **MM103**.

### *Coast*

100. East Devon's coast forms part of the Jurassic Coast World Heritage Site (WHS) and the coastline between the seaside towns is largely undeveloped. Strategy 44 designates a Coastal Protection Area (CPA) within which development which would damage its undeveloped and open nature will not be permitted. The principles guiding the definition of the CPA boundaries are that the area should be largely unaffected by development and it should be generally visible from cliff top, beach or estuary or from significant lengths of an access road or right of way leading to the coast. The assessment methodology is set out in detail in the Council's hearing statement which explains that the Exe estuary is included to be consistent with the approach taken by Teignbridge District Council.
101. The extent and boundaries of the CPA in certain places is challenged. I don't doubt that some land included in the CPA does not conform exactly with the above guidelines. However, I am satisfied that the guidelines and assessment methodology are largely sound and see no need to modify the policy or the CPA boundaries.
102. The natural processes which helped create the WHS coastline also threaten the homes of people living adjacent to it, including the residents of Cliff Road in Sidmouth whose back gardens are being lost through the erosion of the cliffs. Strategy 45 seeks to balance the need to allow the natural processes which created the WHS coastline with the need to safeguard coastal communities. However, the policy lacks clarity and does not require the Council to take an active role in promoting measures to deal with coastal erosion. **MM102** addresses these failings and is necessary to ensure that Strategy 45 is effective. **MMs 146** and **147** delete Policy EN24 which did no more than repeat some of the provisions of Strategy 45.

### *Historic Environment*

103. The Plan includes a suite of policies relating to the historic environment. Policies EN11 and EN12 largely repeat the provisions of Policy EN9 and are deleted by **MMs 125, 126, 127, 128** and **129**. **MMs 120, 121, 122, 123** and **124** provide useful guidance to applicants and decision makers with regard to the assessment of the significance of heritage assets and their setting. **MM119** is necessary to ensure that Policy EN7 which relates to sites of archaeological importance is effective. Subject to these modifications I am satisfied that the Council will have the tools necessary to preserve and enhance the historic environment in East Devon.
104. The National Trust expressed reasonable concerns with regard to the impact of

the Dinan Way extension on A la Ronde, a Grade I late 18<sup>th</sup> century house on the outskirts of Exmouth. **MM176**<sup>28</sup> modifies Policy TC8 and requires regard to be had to the setting of heritage assets in planning the route of the extension.

#### Conclusion

105. For the reasons given above and subject to the main modifications referred to I conclude that the Plan makes adequate provision to protect the district's natural and historic environment.

#### Other matters

##### Monitoring

106. As submitted the Plan did not include any indicators or targets for assessing whether the Plan's strategy and policies achieve its aims and objectives. **MMs 108 and 109** introduces a monitoring framework. It does not seek to measure success against every policy but will enable the Council to monitor the key deliverables and highlight when action is necessary.

##### Design

107. Policy D1 sets out general design principles for new development. As drafted the policy would require new development to reinforce the key characteristics of an area. This could stifle innovative design, examples of which are appended to the Council's hearing statement<sup>29</sup> and which demonstrate that modern buildings can enhance an area. **MM110** rectifies this by requiring new development to respect their surroundings.

108. **MMs 111 and 112** introduce flexibility into Policies D2 and D3 with regard to the protection and replacement of landscape features including trees and hedges. These changes will not undermine the Council's ability to protect important features but recognise that it is not always possible to protect every tree and hedge on a development site.

##### Advertisements

109. Advertisements are not subject to Section 38(6) of the 2004 Act and there is no need for a development plan to include policies relating to advertisements. **MMs 113 and 114** delete Policy D5 which relates to Areas of Special Control.

##### Renewable Energy

110. **MMs 89 and 90** modify Strategy 39 such that it reflects the Written Ministerial Statement of 18 June 2015 and subsequent amendment of the PPG in relation to wind turbines.

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<sup>28</sup> MM176 also updates the list of other access improvements by deleting those than have been completed since the start of the examination.

<sup>29</sup> Hearing Statement 8

## Decentralised Energy Networks

111. Strategy 40 encourages developments of 10 or more houses or in excess of 1000m<sup>2</sup> to connect to any existing or proposed decentralised energy network. Larger schemes (over 4 ha/200 houses) are required to evaluate the potential for such a system and implement them where viable. I see no harm in pursuing such a course provided it is viable and have amended **MM91** to ensure consistency with the remainder of the policy.

## Public Open Space

112. Strategy 43 (as proposed to be modified) sets out thresholds for the types of open space that may be required. For example, schemes of 10 to 49 dwellings will be required to provide amenity open space and schemes of 50 to 199 dwellings will be expected to provide amenity open space and play space. In all cases open space will only be required where there is a quantitative or qualitative need. Strategy 43 also includes a table which sets out recommended standards per 1000 population.

113. The Council has suggested significant modifications to the policy. As submitted the policy could be interpreted to require all types of open space on every development no matter its size. **MMs 94, 95, 96, 97, 98, 99, 100** and **101** address this and make other changes which are necessary to ensure that the policy is effective and applied fairly. The standards are criticised for being too generous but they are based on the Council's Open Space Study (2012) and I am satisfied that they have an evidential base.

## Development Management

114. It is right that the Council seek to protect the living conditions and health of those living and working in East Devon but Policy EN15 – Environmental Impacts, Nuisance and Detriment to Health largely duplicates Policy EN14 – Control of Pollution. This is unnecessary and **MMs 130, 131, 132, 133, 134, 135, 136** and **137** delete Policy EN15 and make associated consequential changes. Similarly, Policies EN19 and EN20 and EN22 and EN23 cover similar ground (sewage treatment and surface water run off) and **MMs 138, 139, 140, 141, 142, 143, 144, 145, 146** and **147** delete and consolidate as necessary to ensure that the Plan is clear and effective.

115. **MM88** deletes references to the Code for Sustainable Homes from Strategy 38 'Sustainable Design and Construction' to reflect the abolition of the Code in March 2015. The NPPF states that local planning authorities should not question the need for telecommunications systems and **MM175** removes such a requirement from Policy TC1.

## Neighbourhood Plans

116. Part 3 of the Plan is dedicated to providing advice on how to prepare a Neighbourhood Plan. The NPPF advises that only policies '*that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan*'. Part 3 does not do this and is deleted by **MM179**. There is no reason why the Council could not publish this guidance as a separate document.

117. The submitted plan had 4 appendices. The significant changes to the plan have led to the need to delete one, replace another and renumbering (**MMs 180, 181, 182 and 183**).

## Assessment of Legal Compliance

118. The NPPF says that in preparing local plans '*Early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses is essential*'<sup>30</sup>. The appendix to the Council's statement for Hearing 1 catalogues the measures taken to engage the communities in the District. These included workshops and meetings with Town and Parish Councils, and East Devon Business Forum together with exhibitions and leaflets to all households. Many disagree with the plan's policies and allocations but meaningful engagement does not require agreement as its end product. I am satisfied that the Council complied with its Statement of Community Involvement and conclude that the Authorities have complied with the relevant legislation<sup>31</sup> and national guidance with regard to engaging its communities in the preparation of the Local Plan.

119. The Local Plan is identified within the approved Local Development Scheme (LDS) of July 2013 which estimated adoption in early 2014. The Local Plan's content complies with the LDS but not its timing. However, given the urgent need for an up to date development plan to facilitate and guide the growth the District urgently needs it makes no sense, in my view, to find the Plan unsound on the basis that its progress does not accord with the LDS. Having said this, the LDS ought to be up dated as soon as possible.

120. The Sustainability Appraisal and Habitats Regulations Assessment (HRA) have been revisited and updated as the Plan has changed. I am satisfied that the sustainability appraisal supporting the Plan is adequate and complies with the regulations.

121. The HRA concludes that the majority of policies in the Plan are not likely to have a significant effect on any European site but that given the amount of development proposed and the proximity of European sites (to the West End) significant effects cannot be ruled out. The screening for likely significant effects has been re run as necessary and the appropriate assessment updated accordingly. I consider that the HRA meets the legal requirements but, as stated above, the impact of development at the West End on the SPAs will need to be kept under constant review.

122. The Local Plan complies the Regulations and with the Public Sector Equality Duty.

## Overall Conclusion and Recommendation

123. The Plan has a number of deficiencies in relation to soundness and/or legal compliance for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004

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<sup>30</sup> Paragraph 155

<sup>31</sup> Section s19(3) of the 2004 Act & Section 18 of the Town and Country Planning (Local Planning)(England) Regulations 2012

Act. These deficiencies have been explored in the main issues set out above.

124.I conclude that with the recommended main modifications set out in the Appendix the New Local Plan 2013 - 2031 satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*A Thickett*

Inspector

This report is accompanied by the Appendix containing the Main Modifications