

Agenda for Council

Thursday 28 January 2016; 6.30pm



To: [All elected Members of the Council](#); Honorary Aldermen

Venue: Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

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Dear Sir/Madam

Extra Ordinary meeting of the Council of the District of East Devon on Thursday 28 January 2016 at 6.30 pm

You are called upon to attend the above meeting to be held in the Council Chamber, Knowle, Sidmouth. It is proposed that the matters set out on the agenda below will be considered at the meeting and resolution or resolutions passed as the Council considers expedient.

Yours faithfully

A handwritten signature in black ink, appearing to read "Mark Williams".

Chief Executive

Note: This meeting is being audio recorded by EDDC for subsequent publication on the Council's website.

Under the Openness of Local Government Bodies Regulations 2014, any members of the public are now allowed to take photographs, film and audio record the proceedings and report on all public meetings (including on social media). No prior notification is needed but it would be helpful if you could let the democratic services team know you plan to film or record so that any necessary arrangements can be made to provide reasonable facilities for you to report on meetings. This permission does not extend to private meetings or parts of meetings which are not open to the public. You should take all recording and photography equipment with you if a public meeting moves into a session which is not open to the public.

If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Chairman has the power to control public recording and/or reporting so it does not disrupt the meeting.

Agenda:

- 1 [Public speaking](#)
- 2 Apologies
- 3 [Declarations of interest](#)
- 4 [Matters of urgency](#) – none identified
- 5 Confidential/exempt items – there are no items that officers recommend should be dealt with in this way.

- 6 **East Devon Local Plan and CIL Charging Schedule – Inspector’s Report and Proposed Adoption** (page 3 - 11)
Following receipt of the Local Plan Inspector’s final Local Plan Examination report, authority is sought from Members to agree to the Main Modifications proposed by the Inspector and to formally adopt the Plan.

- 7 **Heart of the South West Devolution – (Cabinet minute 133)**
The Leader to present Cabinet minute 133. This matter was held over from the December Council meeting.

Cabinet (2 December 2015) recommendation:

1. that clear objectives be set in preparation for negotiation if the bid proves successful in reaching Government discussion;
2. that an oversight group be set up of Portfolio Holders and appropriate members to follow the process of the bid;
3. that the work and the process to date be noted;
4. that the Leader be given delegated authority to sign the proposed Devolution Bid on behalf of EDDC subject to ratification of Council on 16 December 2015;
5. that an element of rural proofing is put forward for inclusion in the draft bid.

Background papers:

[The Devolution Debate for the Heart of the South West report \(page 41\)](#) – Cabinet, 2 December 2015
[Cabinet minutes 2 December 2015](#)

Please note that at this stage there are no new papers to circulate, although if received they will be sent to Members.

[Decision making and equalities](#)

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Report to: Council
Date of Meeting: 28 January 2016
Public Document: Yes
Exemption: None



Review date for release Not applicable

Agenda item: 6

Subject: **East Devon Local Plan and CIL Charging Schedule – Inspector’s Report and Proposed Adoption**

Purpose of report: This report:

1. advises members of the receipt of the Inspector’s Local Plan Examination report and of it’s contents; and
2. seeks authority for the District Council to agree to the main modifications proposed by the Inspector and to formally adopt the plan.
3. Identifies key issues and areas of work to ensure the delivery of the Local Plan
4. Advises Member’s of the Inspector’s findings on the Community Infrastructure Levy (CIL) charging schedule

The Local Plan Inspector has sent his final Local Plan report to the District Council. This report advises that subject to agreement with his proposed main modifications (that have already been consulted on as the plan has passed through examination) the Local Plan can be formally adopted. He has also advised that our CIL charging schedule is also ready to be approved.

Recommendation:

That Council;

- 1 Adopt the Local Plan 2013 – 2031 on the date of this Full Council meeting of 28 January 2016 incorporating all of the Inspector’s proposed main modifications;**
- 2 Formally recognise the need to attach some weight to the existing Local Plan Built-up Area Boundaries (as adopted in 2006) for those villages featuring under Strategy 27 of the new plan until such time as the Villages DPD can carry significant weight;**
- 3 Note that a further report will be brought to the Council meeting in February 2016 to address the adoption of the Community Infrastructure Levy charging schedule.**

Reason for recommendation:	To ensure the District Council has an up to date adopted Local Plan upon which to direct development in the district and make sound planning decisions.
Officer:	Ed Freeman , Service Lead – Planning Strategy and Development Management, 01395 517519
Financial implications:	There are no financial implications arising from the recommendations. As stated, a report setting out the CIL charging schedule will be brought to February Council for adoption.
Legal implications:	The legal position is set out in the report. However to be clear the Council cannot adopt the plan unless all of the main modifications are incorporated. To not adopt the plan will place the Council in a very difficult position on a number of levels, particularly from the reputational point of view. So, while certain aspects of the Inspector’s reasoning and recommended main modifications may not be agreed with, the clear advice from officers is that the Local Plan (with main modifications) should be adopted for all reasons set out in the report. This recommendation is clearly sound from the legal perspective and indeed is commended to Members on the basis of the clear benefits that adoption will bring. It is noted that the issue of the Community Infrastructure Levy Charging Schedule will be reported to the Council at another time and legal comments in respect of that will be given at that time.
Equalities impact:	Low Impact Adoption of the Local Plan will not have specific equalities impacts and plan preparation has been supported by Equalities Impact Assessment.
Risk:	Medium Risk There is a risk that the adoption of the Local Plan, in part or full, could be subject to legal challenge. If Members resolve not to adopt the Local Plan then the ability of the Local Planning Authority to control development in the district would be seriously compromised with a risk that future changes in legislation would lead to government intervention to ensure the production of a sound Local Plan for East Devon with no guarantee that the Council will have a full say over its contents.
Links to background information:	In the body of the report there are links to background documents.
Link to Council Plan:	The Local Plan and its policies have links to the Council Plan and its objectives in their entirety.

1 Background and Summary of the Inspector's Report

1.1 Production of a Local Plan has to follow set procedures and of critical importance is the need to be found sound by a Planning Inspector appointed by the Secretary of State. The East Devon Local Plan has now been subject to Examination and the Council has received the Inspector's final report. In his overall conclusion and recommendations, at the end of his report (paragraph 124) and to which he attaches an appendix, the Inspector advises:

"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."

1.2 The Inspector's report and appendix, setting out main modifications, can be viewed at: <http://eastdevon.gov.uk/planning/planning-policy/emerging-plans-and-policies/the-new-local-plan/local-plan-adoption/>

1.3 Key matters highlighted in the Inspector's report, that relates to the plan as submitted for examination and including main modifications, include that:

- a) the plan should cover the 2013 to 2031 period;
- b) it is appropriate for the plan to provide for 17,100 new homes over this time period – this equates to 950 per year;
- c) the strategy for distribution of development, with a focus on the West End, is appropriate;
- d) the Council can show a five year housing land supply;
- e) the plan makes appropriate provision for affordable housing;
- f) the plan makes appropriate provision for jobs growth (noting links between job growth and housing provision);
- g) the plan provides for protection of the natural environment and highlights that habitat mitigation is critical in respect of accommodating housing growth;
- h) the Sidford employment land allocation should remain in the plan;
- i) Residential development at the Council offices site (at the Knowle) is appropriate as is the allocation boundary;
- j) the plan should provide for gypsies and travellers at Cranbrook;
- k) Chardstock and Dunkeswell should not feature in Strategy 27 of the plan; they should not be identified as villages to have a Built-up Area Boundary;
- l) Land should not be safeguarded for a rail head at the Intermodal Interchange site.

1.4 A new version of the Local Plan has been produced that includes all of the main modifications and minor further 'tidying-up' changes, this will be on the Council web site at: <http://eastdevon.gov.uk/planning/planning-policy/emerging-plans-and-policies/the-new-local-plan/local-plan-adoption/>. It should be noted that it is permissible to make these other minor changes (in addition to the main modifications) provided they do not materially affect the policies of the plan. These minor adjustments have no bearing on the content or effect of the policies and therefore do not affect plan soundness.

- 1.5 Those involved in and who have commented on plan preparation have been advised of receipt of the Inspector's report.

2 Legal and Procedural Considerations for Local Plan Adoption

- 2.1 At this point in the process and under planning legislation the Council has two options:

- a) **To accept the Inspector's recommendations and to adopt the Local Plan with all of main modifications incorporated; or**
- b) **To not adopt the Local Plan.**

- 2.2 As noted above, other minor modifications can be made which do not materially affect the plan policies, although it would be anticipated that these would be very minor in nature.

- 2.3 In his report at paragraph 123 the inspector advises:

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

- 2.4 As the Inspector has found the plan unsound as it stands, the law requires that it can now only be adopted with all of the main modifications which are necessary to make it sound incorporated. This reflects the Inspector's comments at paragraph 124 of his report (set out above). Accordingly, the clear officer recommendation to Council is that the Local Plan is adopted with the main modifications necessary to make the plan sound and which are appropriate, logical and fully reasoned. It is acknowledged that some Members may be disappointed by some of the Inspector's findings, however there is no opportunity to question or challenge the Inspector's findings on individual issues. It is clear in law and from his report that the main modifications are all required to make the plan sound.

- 2.5 It is recommended that the plan is adopted at this Full Council meeting of 28 January 2016. On adoption the Local Plan will carry its full statutory weight and will form part of the Development Plan for East Devon.

- 2.6 Should the Council choose to not adopt the Local Plan then the plan will not be a statutory plan (it is not clear if it would or could have any real planning status) and the Council will be in a far weaker position to make reasoned and logical planning decisions and subsequently defend a decision at appeal. The very clear expectation, including from legislation and Government policy, is that local planning authorities should produce and adopt local plans. The following quote is taken from the Government's Planning Practice Guidance;

'While the local planning authority is not legally required to adopt its Local Plan following examination, it will have been through a significant process locally to engage communities and other interests in discussions about the future of the area, and it is to be expected that the authority will proceed quickly with adopting a plan that has been found sound'

- 2.7 Failure to have an adopted plan could, in the near future, also result in Government intervention leading to a third party being charged with producing a Local Plan for East Devon.
- 2.8 The lack of a local plan will have negative implications for the Council both from a reputational point of view and costs perspective for the reasons identified above.
- 2.9 Assuming the plan is to be adopted all those that have been involved in or commented on plan production will be notified.

3 Potential for Legal Challenge to Plan Adoption

- 3.1 After adoption a plan can be subject to legal challenge and the Courts can quash a plan in part or whole. Any proposal to challenge a plan would need to be lodged with the Courts within 6 weeks of the date of adoption.

4 Final Plan Production and Printing

- 4.1 If Members resolve to adopt the plan then the adopted plan and associated documents will be made available on-line in an interactive format and paper copies will be made available from the Council Offices. An adoption statement will be produced and sent to any person who has asked to be notified of the adoption of the local plan and the secretary of state to advise them of the plan adoption. The final text version of the Local Plan, with modifications incorporated but not highlighted, and also the final Proposals map (and Inset Maps) will also be on the Council web site at:

<http://eastdevon.gov.uk/planning/planning-policy/emerging-plans-and-policies/the-new-local-plan/local-plan-adoption/>

5 Sustainability Appraisal and Strategic Environmental Assessment

- 5.1 Production of a local Plan needs to be informed by Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA). This work has been ongoing through plan preparation and the final SA/SEA report will be made available prior to the Council meeting on the Council web site at:

<http://eastdevon.gov.uk/planning/planning-policy/emerging-plans-and-policies/the-new-local-plan/local-plan-adoption/> prior to the Council meeting.

6 Issues and Key Challenges Raised in the Report

- 6.1 Whilst the inspector's report now allows for the Local plan to be adopted there are challenges looking forward which his report highlights. Key matters that are addressed in the report, with commentary on some of the challenges, are highlighted below.

Five Year Land Supply and Housing Monitoring

- 6.2 Noting the 17,100 housing needs requirement the Inspector's report advises that the Council now has a five year land supply. Housing land supply is based on assessment of comparing future needs for housing against projected future delivery. In simplified terms it comes down to showing that there are housing sites and schemes that can be expected to be built over the next five years that equal or exceed the number of houses that the plan identifies as needed for this five year time period.
- 6.3 We can demonstrate a five year land supply at the present time. However in his report, at paragraph 53, the Inspector highlights concern around large strategic sites, in particular, providing a sufficient supply of new housing. It is vital to the successful delivery of the plan that the delivery of housing sites is closely monitored and decisions are made being mindful of the 5 year housing land supply position.
- 6.4 It should be noted that formal five year land supply assessment is currently carried out twice a year. It is a very time consuming exercise, involving a considerable amount of data interrogation. However, the Planning Policy team are working with Strata and Planning Administration/Development Management to improve IT systems and records to seek to automate many more parts of the work. Better information systems and data records should allow for quicker and more frequent monitoring of housing supply and provide a means to more fully understand factors impacting on housing delivery. Work of the Planning Policy team will also be complemented by work of the Council's newly appointed Development Enabling and Monitoring Officer who will be liaising with the development industry to gather intelligence on delivery rates and be working to deliver sites that are currently delayed or not coming forward quickly.
- 6.5 Should housing supply fall below need levels then it may necessitate making more land available for housing, for example through early plan review or additional plans. It will, however, also be appropriate to keep need for housing under review and especially the issue of need arising from job growth.

Distribution of Housing Development

- 6.6 In his report the inspector did have some concerns around the distribution of housing in the plan and specifically around what was seen as comparatively low levels of provision to the main towns, see for example Paragraph 26. Overall housing provision, as the Inspector notes in paragraph 27, also impacts on potential for affordable housing delivery.
- 6.7 It is, however, stressed that housing is proposed and expected across all of the towns of East Devon and in a number of locations much of what is projected to be built can be expected to come forward in the early years of the plan. Furthermore the concerns of the Inspector do not result in the plan being un-sound and therefore the inspector is satisfied with the robustness and appropriateness of overall housing distribution.
- 6.8 Looking forward it will be necessary to ensure that monitoring and assessment is undertaken to understand both supply and need considerations for housing across the whole of East Devon.

- 6.9 Members will be aware that there are a considerable number of Neighbourhood Plans in production in East Devon and they will be part of the future housing delivery means for rural areas in the years ahead. Through Local plan policy we are in the position of giving communities the choice about whether and where to have extra development in their parishes (or towns) and the opportunity to make these decisions for themselves. Neighbourhood Plans can promote development, for example through allocating additional sites, and this will be applicable to villages featuring in Strategy 27 and also to other villages where Neighbourhood Plan makers can show that further provision will add to or be complementary to objectives of sustainable development.
- 6.10 It is important that we continue to provide a high level of support for neighbourhood plans that are in production across the district and that where communities want additional housing development that are given advice about how this can best be achieved both in terms of delivering their aspirations in accordance with the Local Plan but also in terms of delivery mechanisms such as Community Land Trusts.

East Devon Villages Plan DPD and Built-up Area Boundaries

- 6.11 In addition to Neighbourhood Plan's the Council are also producing a Villages Plan. This plan will also be a DPD and it will define Built-up Area Boundaries at and around the 15 villages (including Colyton) defined in Strategy 27. With the expectation of Local Plan adoption, and clarity of policy, work will now continue with defining boundaries for villages. A draft report will be presented to Members later this year with a recommendation for consultation.
- 6.12 Until the point at which the villages plan has made further progress, probably at draft plan stage later in 2016, the boundaries of the existing Local plan should be seen as carrying some weight in the planning application decision making process. However this will only be in respect of the villages listed in Strategy 27 as all other villages (and hamlets) will fall, in planning policy terms, in the open countryside where countryside policies will apply.

Habitat Mitigation

- 6.13 The most important wildlife sites in East Devon are classified as Special Protection Areas (SPAs) and/or Special Areas of Conservation (SACs), there are five in East Devon. The Pebblebed heaths and the Exe Estuary are addressed specifically in the Inspector's report. Development should not occur if it could adversely impact on designated sites and the key means to ensure that there will not be adverse impacts will be to ensure that there is effective mitigation provided.
- 6.14 Part of the mitigation will be provided in the form of what are referred to as Suitable Alternative Natural Greenspaces (or SANGs). These SANGs are to be larger scale spaces that will attract people away from the important wildlife sites and therefore reduce adverse impacts on wildlife on the protected sites. In his report the Inspector raised concerns around provision of these SANGs and the possible impact of delivery on securing future house building. If SANG's are not provided to mitigate the impacts of housing development on the protected habitats then we may reach a point where further residential development

cannot be granted until SANG's are delivered. It is therefore vital to delivery of the plan and maintaining a 5 year housing land supply that SANG's delivery proceeds.

- 6.15 Considerable effort and upfront work is taking place in the West End to ensure delivery, specifically as Cranbrook expands and grows. The Growth Point Team's Green Infrastructure Officer and Habitats Officer are working hard in partnership with officers at Teignbridge and Exeter as well as Natural England to deliver SANG's in a co-ordinated way across the growth point area. In Exmouth, where SANGs are required, proposals are at an earlier stage. It is noted that work priorities will need to move to Exmouth to ensure effective delivery is secured. The Exmouth work will need to be seen within the context of wider Green Infrastructure provision and the need for an over-arching District wide Green Infrastructure strategy and specific proposals for each East Devon town.

Gypsy and Traveller Issues

- 6.16 The Inspector, at paragraph 43 of his report, notes the need for a further 37 gypsy and traveller pitches in East Devon. The Inspector endorses the principle of up to 30 pitches being provided at Cranbrook and also highlights the importance of work on the gypsy and traveller Development Plan Document (DPD). He also highlights that there is little time to provide the 22 new pitches required by 2019 and so this is considered to be a key issue with delivery of the plan over the next couple of years.
- 6.17 Work on the gypsy DPD is ongoing and a formal Call for Sites has recently been concluded. The next stage of work will be an evaluation of site options, including potential for expansion of existing sites, with recommendations for future allocations and public consultation coming to Committee in the coming months.

Other Issues addressed in the Inspector's Report

- 6.18 The Inspector's report comments on issues relevant to the local plan overall and detailed subject matters covered in the plan. This report does not seek to comment on all matters. Therefore the Inspector's report, the appendix to it and the local plan overall should be read to gain a full picture. In summary, however, the Inspector does, in his report, refer to such issues as:
- Exeter airport and the need to safeguard and plan for its long term future and also the potential impacts that airport operations can have;
 - The importance of the natural and built environment of East Devon;
 - Need for recreation and sports pitch provision – in this respect the future relationship between the collection and expenditure of Section 106 and Community Infrastructure Levy generated money will require further consideration by the Council.
 - The need to ensure delivery of employment sites to achieve the link between jobs and new housing envisaged by the plan.

7 Community Infrastructure Levy

- 7.1 To support implementation of plan proposals, specifically to secure infrastructure provision, the Council has also produced Community Infrastructure Levy charging schedule. The Charging Schedule was subject to Examination and the inspector's report has been received.
- 7.2 A separate report will come before members on the next stages of work in respect of adoption and implementation of the Charging Schedule but in summary the Inspector concludes that the proposed rates set out by the Council are appropriate.
- 7.3 It is envisaged that the CIL charging schedule could be implemented in time for the start of the next financial year on the 1st April, however there are many processes and procedures that would need to be put in place over the coming months and as a result it is considered appropriate to bring a separate report on the introduction of CIL to a future meeting following further consideration by officers.

8 Monitoring and Future Work

- 8.1 It is clear from the above analysis of some of the key issues associated with the delivery of the Local Plan that there is still a substantial amount of work to do to ensure the successful delivery of the plans allocations and policies and that a 5 year housing land supply is maintained as well as a 5 year supply of gypsy and traveller sites which must first be identified. Future reports will advise Members of progress in these key areas and other areas of policy work that support delivery of the plan such as delivery of the Playing Pitch Strategy.

9. Conclusions

- 9.1 The Inspector has assessed the Council's local plan to determine whether it is sound. With the proposed main modifications incorporated, which were extensively discussed with the Inspector at the examination, the Council has a sound plan (in that the plan is positively prepared; justified; effective and consistent with national policy) and which can be adopted.
- 9.2 In light of the strong negative implications that will arise if a local plan is not in place, from a reputational and resource point of view, and from the desire of wanting to direct and deliver development that is appropriate in all respects, officers strongly advise adoption of the Local Plan incorporating the main modifications.