

BISHOPS CLYST NEIGHBOURHOOD PLAN

Bishops Clyst Neighbourhood Plan Examination,
A Report to East Devon District Council

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1. Introduction

The Neighbourhood Plan

Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in *italics*.

This Report provides the findings of the examination into the Bishops Clyst Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”

(Paragraph 183, National Planning Policy Framework)

Bishops Clyst Parish Council is the *qualifying body* responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014).

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by East Devon District Council. The Neighbourhood Plan would then be used to determine planning applications and guide planning decisions in the Bishops Clyst Neighbourhood Area.

Role of the Independent Examiner

I was appointed by East Devon District Council, with the consent of the qualifying body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.

I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

As the Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Bishops Clyst Neighbourhood Area to which the Plan relates.

Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The front cover of the Neighbourhood Plan clearly specifies the plan period as “2014 - 2031”

In addition, the Foreword to the Neighbourhood Plan, on page 4, states that:

“The Neighbourhood Plan covers the same period as the new Local Plan and will end in 2031.”

Taking the above into account, the Neighbourhood Plan satisfies the relevant requirement in this regard.

Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of all of the relevant information, I confirmed to East Devon District Council that I was satisfied that the Bishops Clyst Neighbourhood Plan could be examined without the need for a Public Hearing.

2. Basic Conditions and Development Plan Status

Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*¹ following the Localism Act 2011. A neighbourhood plan meets the basic conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.²

An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.³

In examining the Plan, I am also required, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, to check whether:

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);

¹ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

² Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007.

³ The Convention rights has the same meaning as in the Human Rights Act 1998.

- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the content of this Report, I am satisfied that these three points have been met.

In line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan. This sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

European Convention on Human Rights (ECHR) Obligations

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998 and there is no substantive evidence to the contrary.

European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal⁴. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment.

With the above in mind, draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.

“Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.” (Planning Practice Guidance⁵).

This process is often referred to as a screening report, opinion, statement or assessment. If the screening report identifies likely significant effects, then an environmental report must be prepared.

A Screening Report was undertaken by East Devon District Council. This was submitted alongside the Neighbourhood Plan and stated that:

“The BCNP is unlikely to have a significant environmental impact. It does not allocate sites for development and taken as a whole, the impact of the policies in the plan is not considered to be significant enough to warrant further analysis through the SEA process. The Bishops Clyst Neighbourhood Plan does not require Strategic Environmental Assessment.”

Each of the statutory consultees, Natural England, Historic England and the Environment Agency, were consulted on the Neighbourhood Plan. None of the statutory bodies disagreed with East Devon District Council’s conclusion above.

A Habitats Regulations Assessment (HRA) is required if the implementation of the Neighbourhood Plan may lead to likely negative significant effects on protected European sites.

⁴ Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance

⁵ Paragraph 027, ibid

East Devon District Council, in its Habitats Regulations Screening Assessment published in October 2015 and included as an Appendix in the Basic Conditions Statement alongside the Neighbourhood Plan, notes that the East Devon Local Plan (2016) was subject to HRA and that the Neighbourhood Plan is in accordance with the Local Plan and that it does not allocate sites.

Taking the above into account, whilst the Habitats Regulations Screening Assessment recognises that the Exe Estuary and Pebblebed Heaths Special Areas of Conservation are located outside but close to the Neighbourhood Area, it goes on to conclude that:

“The Bishops Clyst Neighbourhood Plan does not require a Habitats Regulations Assessment. The Bisops Clyst Neighbourhood Plan is unlikely to have an adverse effect on a European site...Should adverse impacts arise, there is an agreed range of mitigation measures which will be implemented.”

Further to consultation, none of the statutory bodies disagreed with the above conclusion.

In addition to all of the above, national guidance establishes that ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations is placed on the local planning authority,

“The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.” (Planning Practice Guidance⁶)

In undertaking the work that it has, East Devon District Council has considered the Neighbourhood Plan’s compatibility with EU obligations and has raised no concerns in this regard.

Taking all of the above into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.

⁶ Paragraph 031, Reference: 11-031-20150209, Planning Practice Guidance

3. Background Documents and the Bishops Clyst Neighbourhood Area

Background Documents

In undertaking this examination I have considered various information in addition to the Bishops Clyst Neighbourhood Plan. This has included the following main documents:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Plan Regulations (2012) (as amended)
- East Devon Local Plan 2013-2031 (2016)
- Basic Conditions Statement
- Consultation Statement (Parts 1 and 2)
- Bishops Clyst Design Statement
- Sustainability Appraisal

Also:

- Representations received

In addition, I spent an unaccompanied day visiting the Bishops Clyst Neighbourhood Area.

Bishops Clyst Neighbourhood Area

A plan showing the boundary of the Bishops Clyst Neighbourhood Area is provided on page 5 of the Neighbourhood Plan. Whilst I acknowledge that Bishops Clyst combines two former parishes that were merged administratively in 1976, the presentation of the plan on page 5 is a little confusing. It is entitled “*Bishops Clyst Neighbourhood Area boundary*” but the red line provided effectively shows two areas. For clarity, I recommend:

- **Map 1, page 5, change red line to show the Neighbourhood Area as a single area**

Further to an application made by Bishops Clyst Parish Council, East Devon District Council approved the designation of Bishops Clyst as a Neighbourhood Area on 5 March 2014.

This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

4. Public Consultation

Introduction

As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Bishops Clyst Neighbourhood Plan Consultation

A Consultation Statement (split into two parts: Community Consultation and Statutory and Strategic Consultees' Consultation) was submitted to East Devon District Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *regulations*⁷.

The Consultation Statement provides information to demonstrate that community engagement was at the heart of the plan-making process and that it was carried out in a comprehensive manner.

The Neighbourhood Plan was produced by a Steering Group comprising members of the local community, including Parish Councillors.

At the start of the consultation process, in November 2014, letters and emails were sent to various individuals and organisations to canvas initial thoughts regarding the Neighbourhood Plan. In the same month, 655 Community Questionnaires were delivered, one to each dwelling in the Parish. Of these, 332 completed Questionnaires were returned. The compiled results were used to inform an Aims and Objectives Workshop held in January 2015.

The views of younger people, from St Marys Primary School and Clyst Vale College were actively sought and taken into account and every business in the Parish was visited by a member of the Steering Group, to encourage engagement.

⁷Neighbourhood Planning (General) Regulations 2012.

Two days of Community Consultation were then held in March 2015 and were attended by a total of 107 people. The results fed into a series of modifications and refinements to the emerging plan. An early version of the plan was then consulted upon in September 2015, ahead of the Pre-Submission Consultation period. This enabled revisions to be made ahead of the more formal and wide-ranging six week consultation stage.

Pre-submission consultation took place during January and February 2016. It was supported by drop-in sessions held at three different venues across the Neighbourhood Area.

Evidence has been provided to demonstrate that the plan-making process was widely publicised. A dedicated Neighbourhood Plan website was created and this linked with the Parish Council's own website. All documents, minutes, reports and related information were made available. Progress reports were made to Parish Council meetings and Steering Group meetings were advertised on Parish notice boards and in the Clyst Valley News, with members of the public invited to attend and participate.

Agendas and minutes of all meetings were also displayed on Parish notice boards and regular related articles appeared in the Clyst Valley News and the Contact Magazine.

The Consultation Statement provides significant evidence to demonstrate that community engagement was encouraged throughout the plan-making process, that matters raised were duly considered and that the reporting process was transparent.

Taking everything into account, I am satisfied that the consultation process was robust.

5. The Neighbourhood Plan – Introductory Section

The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner’s Report. This Chapter considers the Introductory Section of the Neighbourhood Plan.

The Foreword is clear and concise. There is a single typographical error:

- **Page 4, line 2, add “It is a key part...”**

The Introduction refers to the built-up area boundary (BUAB). East Devon District Council has pointed out that a new BUAB will be proposed in a Villages Development Plan Document and I recommend:

- **Page 6, Para 1.11, change to “...(BUAB) for Clyst St Mary will be proposed in a Villages Plan Document to be produced by East Devon District Council. In the meantime...”**

Part of Paragraph 1.13 is unnecessarily confusing and I recommend:

- **Page 6, Para 1.13, change to “...dwellings, small gardens and parking for residents and visitors.**

I note that the “Plan’s Status” section is very clearly set out and provides an excellent, brief summary of how a made neighbourhood plan fits into the planning system

Page 11 refers to the structure of the Neighbourhood Plan. Whilst the Neighbourhood Plan is, largely, very well structured, I find that the inclusion of a limited and to some extent, subjective, list of Local Plan policies and National Planning Policy Framework (the Framework) references after each group of Policies detracts from a focus on the most important part of the Neighbourhood Plan - its Policies.

Whilst perhaps helpful during the plan-making stages, the inclusion of these lists of references in the final version is unnecessary and potentially confusing, in that they draw attention away from the Neighbourhood Plan’s Policies and result in a less concise document. Other Policies and other planning documents exist and there is no need to attempt to summarise them in the Neighbourhood Plan.

I recommend:

- **Page 11, Para 5.3, delete “...reference to the planning...each policy.”**
- **Delete the “Related National & Local Policies” box after each group of Policies in the Policy Section of the Neighbourhood Plan**

The Neighbourhood Plan refers to a Community Action Plan and provides links to a website where it states that the Plan “*can be viewed.*” However, at the time of undertaking this examination, the Community Action Plan was not included in the list of “*Other Documents*” at the website address provided. I was provided with a copy of this document by East Devon District Council.

Whilst it does not form part of the Neighbourhood Plan, the Community Action Plan is referred to within it and I recommend:

- **Ensure that the Community Action Plan is available to download directly from the web-link provided**

6. The Neighbourhood Plan – Neighbourhood Plan Policies

Natural Environment

Policy BiC01 Protecting and Enhancing Geodiversity, Biodiversity and Wildlife

Together, East Devon Local Plan (Local Plan) policies EN4 (*Protection of Local Nature Reserves, County Wildlife Sites and County Geological Sites*) and EN5 (*Wildlife Habitats and Features*) protect key wildlife sites and natural habitats from adverse development. In addition, national policy, in Chapter 11 of the National Planning Policy Framework (the Framework), “*Conserving and enhancing the natural environment,*” states that:

“The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible...” (Paragraph 109).

In this respect, Policy BiC01, which seeks to protect and enhance biodiversity, has regard to the Framework and is in general conformity with the Local Plan. However, some detailed parts of the Policy raise concerns when considered against the basic conditions.

The Framework states that:

“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking.” (Paragraph 173)

The introduction to the Policy states that all development “*will be expected to protect and enhance biodiversity and wildlife.*” However, no evidence is provided to demonstrate that in all cases, for example, it will be viable, let alone possible or appropriate, for household extensions to enhance biodiversity.

Criterion a) refers simply to protecting “*grasslands.*” There is no evidence to suggest national or local planning Policy protect grasslands for their own sake. However, taking supporting evidence and current planning policy into account, more precise wording could be used to clarify that the Policy is referring to “*species rich grasslands.*”

Criteria b), c), d), e) and f) are vague. For example, no detailed information is provided to define what would comprise an “*appropriate buffer zone...appropriate mitigation...*,” an “*ecologically sensitive area...ecological corridor...important geological site...*” a tree of “*...amenity value...*,” or what might comprise “*appropriate planting of new native trees and hedges.*”

This leads the above Criteria to appear imprecise, contrary to national policy and advice. Planning Practice Guidance is explicit in requiring land use planning policies to be precise⁸. As set out, Criteria b) to f) fail to provide a prospective applicant with sufficient clarity and are imprecise.

Further to the above, I note that Map 3 indicates “*Areas of Ecological Significance.*” The Map includes reference to areas that are already protected as well as to “*Unconfirmed Wildlife Sites.*” On the face of it, this latter category makes little sense and neither Policy 3 nor its supporting text provide a decision maker with relevant detailed information in this regard. Consequently, the Policy fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

Taking the above into account, I recommend:

- **Policy BiC01, change the first two opening sentences to “*Where appropriate, proposals for new development will be expected to protect and enhance biodiversity and wildlife, to include:*”**
- **Delete Criterion b) to f) inclusive**
- **Delete Map 3**
- **Para 8.4, delete final three sentences**
- **Change footnote 13, to “*...East Devon Pebblebed Heaths Special Area of Conservation.*”**

⁸ Ref: Planning Practice Guidance 41-041020140306.

Policy BiC02 Protecting Trees and Woodlands

By affording protection to woodland, Policy BiC02 has regard to the Framework, which, in Chapter 11, promotes the conservation and enhancement of biodiversity.

However, it may not, in all cases, be appropriate for replanting to take place on-site and there is no evidence to demonstrate that, for example, re-planting nearby to a development site would, in all cases be inappropriate. I address this in the recommendations below.

The second part of the Policy is vague and imprecise. It is not clear what “*proximity of existing mature trees*” actually means in terms of specific distance.

I recommend:

- **Policy BiC02, line 3, change to “...appropriate replacement *planting together* with a method...”**
- **Delete “New development within the proximity...during construction.”**

In making the second recommendation above I am mindful that East Devon District Council can already use planning conditions to control the protection of trees, as appropriate.

Policy BiC03 Improving Flood Defences

The Framework supports:

“...using opportunities offered by new development to reduce the causes and impacts of flooding” (Paragraph 100)

The first part of Policy BiC03 has regard to this.

The Policy goes on to include a reference to Policy BiC01. This makes little sense. In the absence of any reasoned evidence, it is not clear how, in all cases, the construction of new flood defences at Clyst St Mary can *“maximise contribution”* to a Policy (as worded), or even to development outcomes, as perhaps was the intention of this part of Policy BiC03. In any case, I recommend substantial changes to Policy BiC01. Furthermore, I note that the Neighbourhood Plan should be read as a whole and there is no need to cross-reference Policies within it.

For clarity, I recommend:

- **Policy BiC03, change second sentence to *“In improving flood defences, opportunities should be taken to enhance biodiversity.”***

Policy BiC04 Minimising Flood Risk

It will not be appropriate, in all circumstances, for all new development to incorporate SuDS systems. For example, there is no reason why a new shop sign, or the replacement of a window in a Listed Building should incorporate SuDS.

However, in general, the provision of SuDS is widely recognised as contributing towards flood resilience and resistance in a sustainable manner and I recommend:

- **Policy BiC04, change to “*Where practical and appropriate, development proposals for the...minimise flood risk and, in particular...Park Avenue.*”**

Policy BiC05 Water Course Status

Policy BiC05 seeks to impose a requirement on all development, whether relevant or not, to provide a “*risk assessment*” amongst other things. No clarity is provided with regards precisely what the risk assessment must include, or of how it will be assessed, who by and on what basis. The Policy is imprecise in this respect.

Further to the above, Policy BiC05 goes on to state that development proposals should incorporate measures:

“...to maintain and or enhance the ecological status of local water courses including monitoring.”

No detail is provided with regards precisely what levels need to be maintained, what the precise ecological status of all water courses comprises and what “*monitoring*” means. There is no evidence to demonstrate that viability has been taken into account in bringing forward this Policy, having regard to Paragraph 173 of the Framework.

Policy BiC05 does not provide a decision maker with a clear indication of how to react to a development proposal and fails to have regard to Paragraph 154 of the Framework.

I recommend:

- **Delete Policy BiC05**
- **Para 8.16, change to “...present status *and the Parish Council will seek opportunities to...status.*”**

Built Environment

Policy BiC06 Changes to Historic Buildings

National policy, in Chapter 12 of the Framework, “*Conserving and enhancing the historic environment*,” recognises heritage assets as irreplaceable and requires the conservation of heritage assets in a manner appropriate to their significance.

Local Plan Strategy 49 (*The Historic Environment*) and Policy EN9 (*Development Affecting a Designated Heritage Asset*) establish a District-wide approach to protecting East Devon’s heritage assets.

The first part of Policy BiC06 could have unforeseen circumstances. It simply supports any type of development so long as the development maintains the character of a heritage asset. Such an approach fails to take into account what might be relevant factors, such as the impact of development on highway safety or residential amenity and could result in support for inappropriate types of development.

The rest of Policy BiC06 refers to something that does not exist. Whilst a Local Heritage List might emerge and obtain some kind of material planning status in the future it is inappropriate for a land use planning policy to, effectively, be based on something that is not yet in existence.

Taking all of the above into account, I recommend:

- **Delete Policy BiC06**
- **Delete Paras 9.7 and 9.8**

In making the above recommendation I am mindful that, together, national and local planning policies already afford appropriate protection to both designated and non-designated heritage assets.

Policy BiC07 Maintaining Local Character

Together amongst other things, the Framework and Local Plan seek to protect local character.

Paragraph 58 of the Framework requires development to:

“...respond to local character and history, and reflect the identity of local surroundings and materials, whilst not preventing or discouraging appropriate innovation.”

Local Plan Strategy 48 (*Local Distinctiveness in the Built Environment*) recognises that local character is of critical importance.

To some degree, Policy BiC07 has regard to the Framework and is in general conformity with the Local Plan. However, no evidence is provided to demonstrate that in every case it will be viable, or appropriate, for a development proposal to provide a landscape character assessment.

The Bishops Clyst Design Statement provides a relevant, helpful and informative guide for developers. However, it has not been adopted as a planning document by East Devon District Council and it does not have the same planning status, or carry the same material planning weight, as a statutory planning document.

I recommend:

- **Policy BiC07, change to “*Development proposals should, where appropriate, provide an assessment of the character of the site and its context (including landscape character) and show how the development fits in with these specific characteristics. All development proposals are encouraged to demonstrate how they have taken the Bishops Clyst Design Statement into account.*”**

Policy BiC08 Development outside of the Built-Up Area Boundary

Policy BiC08 refers to the Clyst St Mary settlement boundary. However, in so doing, the Policy suggests that the boundary comprises “*the limit to development.*” It goes on to state that development outside the boundary will only be supported if it comprises re-use of a building, or use of a heritage asset; or complies with the Neighbourhood Plan and strategic policies in the Local Plan.

National policy is founded upon sustainable development. It supports sustainable growth. Chapter 3 of the Framework, “*Supporting a prosperous rural economy,*” promotes various types of economic development within rural areas and in Paragraph 55, the Framework recognises that there are special circumstances that provide for different types of housing in the countryside.

Many different forms of development, in addition to those identified in Policy BiC08, may be appropriate within a rural environment and no substantive evidence has been provided to the contrary.

Taking the above into account, the approach set out in Policy BiC08 does not have regard to national policy.

Furthermore, as worded, Policy BiC08 seeks to ignore all forms of adopted planning policies other than those in the Neighbourhood Plan, or which comprise strategic policies in the Local Plan. No justification for such an approach is provided. All up to date, adopted planning policies carry material planning weight. They cannot be ignored.

Policy BiC08 does not meet the basic conditions.

I recommend:

- **Delete Policy BiC08**
- **Delete Para 9.13**
- **Delete Map 5**

In making the above recommendations, I note that there will be an opportunity to establish a new Built-Up Area Boundary through the emerging East Devon Villages Development Plan Document.

Housing

Policy BiC09 Meeting Local Housing Need

Paragraph 10.6 of the supporting text states that the Parish Council will regularly update its Housing Needs Survey:

“...so as to offer advice on an appropriate local housing mix...”

However, Policy BiC09 goes on to state that all housing proposals:

“...need to demonstrate how they contribute towards meeting the identified housing needs...by reference to the most recent Housing Needs Survey for Bishops Clyst.”

Such a requirement is very different to that of the Parish’s Housing Needs Survey simply providing relevant advice. It effectively raises the status of the advisory Survey, contrary to the supporting text, without apparent justification. This runs the risk of requiring reliance on an advisory document, without any corresponding statutory requirement for the document to be produced, updated or necessarily robust.

Notwithstanding the above, the Policy is imprecise, in that no indication is provided as to how any residential development proposal should “contribute” to meeting needs. Furthermore, the Policy does not establish what might happen should a development not contribute to these needs and consequently, it does not provide a decision maker with a clear indication of how to react to a development proposal.

In making the recommendation below, I acknowledge that the Parish Council intends to undertake its own Housing Needs Surveys and that it would be helpful for developers to refer to this. I recommend:

- **Delete Policy BiC09**
- **Retain Para 10.6**

Policy BiC10 Meeting Demand for Smaller Dwellings

The Neighbourhood Plan is confusing with regards the provision of smaller dwellings.

Paragraph 10.7 of the supporting text refers explicitly to the need for one and two bedroomed affordable dwellings. Paragraph 10.8 then states that the Parish Council requires an unspecified minimum number of smaller households within larger housing developments. With reference to existing commitments, it goes on to state that:

“...the number of smaller dwellings identified in the Housing Needs Survey will be easily reached.”

Paragraph 10.8 states that there has not been any specific consultation on the *“question of providing smaller dwellings.”*

Then, apparently regardless of much of the above, Policy BiC10 seeks to impose a requirement for all residential developments to contain a mix of dwellings including at least 25% comprising one or two bedroom dwellings. This is based on an assumption that 25% *“is adequate for demand...”*

The Policy does not reflect the supporting text.

It is not clear how a development of say three (or two, or one) dwellings could provide 25% of homes as one or two bedroomed, or indeed, why it would need to do so. Furthermore, there is no evidence to demonstrate that the requirements of Policy BiC10 have regard to Paragraph 173 of the Framework, in respect of viability.

Paragraph 50 of the Framework supports the provision of a wide choice of high quality homes. Taking this, the above and the supporting information provided into account, I recommend:

- **Policy BiC10, change to *“Within residential development sites, the provision of a mix of dwellings, to include one or two bedroom dwellings, will be supported.”***

BiC11 Off-road Parking Spaces on New Housing Developments

Policy TC9 (*Parking Provision in New Development*) of the Local Plan requires one parking space for one bedroomed homes and two parking spaces for homes with two or more bedrooms.

Policy BiC11 seeks to set its own parking standards. These would include the provision of a minimum of two spaces for a one bedroomed dwelling and three spaces for a three bedroomed house. As such, the proposed parking standards are significantly greater than those set out in the Local Plan and as a consequence, Policy BiC11 is not in general conformity with the Local Plan.

The Framework states:

“If setting local parking standards for residential and non-residential development, local planning authorities should take into account: the accessibility of the development; the type, mix and use of the development; the availability of and opportunities for public transport; local car ownership levels; and an overall need to reduce the use of high-emission vehicles.” (Paragraph 39)

The Neighbourhood Plan does not provide substantive evidence to demonstrate that, in seeking to set significantly different parking standards to those in the Local Plan, it has had regard to Paragraph 39 of the Framework. Furthermore, there is no evidence to demonstrate that the requirements set out in Policy BiC11 are viable, having regard to Paragraph 173.

The Neighbourhood Plan states that the standards set out in Policy BiC11 are aimed at ensuring that local roads do not become any more congested or obstructed by parked cars. Notwithstanding the lack of substantive evidence of existing congestion and obstructions, no evidence has been provided to demonstrate that Policy BiC11 will necessarily achieve these aims.

The Policy does not meet the basic conditions. I recommend:

- **Delete Policy BiC11**
- **Delete Para 10.11**

Policy BiC12 Providing Space for New Dwellings

Policy BiC12 is vague and imprecise. It requires the provision of:

“...suitable and adequate private garden, outdoor amenity and external storage space commensurate with the size and type of dwelling and the likely needs of the occupiers.”

No indication is provided of what “suitable and adequate” means in this context. Furthermore, it is not clear what the difference between “private garden” and “outdoor amenity” space comprises and nor is any detail provided with regards what the likely needs of occupiers are. It is unclear how this latter requirement would be calculated, who by and on what basis.

The Policy goes on to require that:

“The layout and amount of land used for garden or amenity space for each dwelling should be in accordance with the Bishops Clyst Design Statement.”

However, the Bishops Clyst Design Statement does not provide any detailed or specific measurements in this regard. Furthermore, I note that the Design Statement has not been adopted by East Devon District Council and that it simply comprises local guidance.

Taking the above into account, I recommend:

- **Policy BiC12, change to “Proposals for housing development should include provision for private outdoor amenity space and external storage space.” (delete rest of Policy)**

Policy BiC13 Safeguarding Community Facilities

Chapter 8 of the Framework, “*Promoting healthy communities,*” recognises that the planning system can play an important role in creating healthy, inclusive communities.

In Paragraph 70, the Framework requires planning policies to:

“...plan positively for the provision of...community facilities...and...local services to enhance the sustainability of communities and residential environments.”

Policy BiC13 seeks to protect community facilities.

The Policy refers to registered Assets of Community Value but there is no evidence in the Neighbourhood Plan that any of these exist in the Neighbourhood Area. It is not the role of land use planning policies to protect something that does not exist.

The Policy then sets out a list of criteria, all of which need to be met. The first part of Criterion A negates the need for the second part – if there is no viable prospect of continued use, then it is very likely that there is a need for change.

Criterion A conflicts with Criterion C. If there is no viable prospect for the continuing use of a facility then it cannot continue, whether or not there is some need or demand for it, as the need or demand is insufficient to make the use viable.

Criterion D is imprecise as it fails to provide applicants or decision makers with an indication of what the “*special character*” of the area comprises.

Taking the above into account, I recommend:

- **Policy BiC13, delete “...and registered Assets of Community Value...”**
- **Criterion A, delete “...and they demonstrate a need for their proposed change;”**
- **Criterion C, change to “it will provide an alternative community use;”**
- **Delete Criterion D**

Policy BiC14 Increasing Connectivity

The Framework recognises that:

“Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.” (Paragraph 42)

Policy BiC14 has regard to the Framework.

No changes recommended.

Policy BiC15 Primary School Expansion

Paragraph 11.9 of the supporting text refers to the likely need for expansion of the primary school and also notes the Parish Council's support for this. However, Policy BiC15, in attempting to provide land use planning policy support, sets out what appears as a confusing, imprecise and unclear Policy.

Firstly, it is not clear why only development to meet "*local needs*" is supported, and in the absence of a clear definition, what this actually means. If the primary school needs to expand, then it needs to expand. It is neither the role nor responsibility of the Neighbourhood Plan to dictate the basis of the need for the expansion of a school.

The Bishops Clyst Design Statement does not provide clarity on how a village school should expand and it is therefore unclear why such expansion must be "*in accordance with the Design Statement.*"

No indication of what "*unacceptable loss*" is, is provided and hence, this part of Policy BiC15 is imprecise. Further, it is not clear what "*any nuisance*" might comprise, how this will be measured, who by and on what basis. Consequently, the Policy does not provide a decision maker with a clear indication of how to react to a development proposal.

The Policy does not have regard to national policy and does not meet the basic conditions. I recommend:

- **Delete Policy BiC15**
- **Retain Para 11.9 (which provides helpful background information)**

I note that the deletion of Policy BiC15 does not, in any way, prevent an application for the expansion of the village primary school from coming forward.

Policy BiC16 Provision of Local Health Services

Policy BiC16 supports development to deliver local health services. Appropriately, the Policy refers to “*having regard*” to the Bishops Clyst Design Statement.

The Policy is in general conformity with Local Plan Strategy 4 (*Balanced Communities*) and meets the basic conditions.

No changes recommended.

Business and Jobs

Policy BiC17 Existing Business Space

Local Plan Strategy 32 (*Resisting Loss of Employment, Retail and Community Sites and Buildings*) seeks to resist the loss of employment uses, in order to ensure that local communities remain vibrant and viable, and are able to meet the needs of residents.

Policy BiC17 seeks to resist the loss of business space, whilst providing for some flexibility, should the existing use be unviable. The Policy is in general conformity with the Local Plan and has regard to Paragraph 173 of the Framework.

Policy BiC17 meets the basic conditions and no changes are recommended.

Policy BiC18 Farm Diversification

To support a prosperous rural economy, national policy promotes:

“...the development and diversification of agricultural and other land-based rural businesses.” (Paragraph 28, the Framework)

To some extent, Policy BiC18 supports diversification and has regard to this. However, the Policy only supports diversification *“where it is justified...in the interests of viability.”* Such an approach does not have regard to national policy, which does not set out such an onerous requirement.

In addition to the above, Paragraph 12.6, expresses the opinion that:

“Development, other than normal agricultural development, in the countryside, should be strictly limited.”

No substantive evidence has been provided in support of this statement, which appears at odds with national policy founded on sustainable growth and supporting a prosperous rural economy, in part through:

“...the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings.” (Paragraph 28, the Framework)

Paragraph 32 of the Framework is clear in establishing that development should only be prevented on transport grounds where the residual cumulative impacts are severe. The Policy is vague and imprecise in its reference to *“unacceptable”* impacts on the local road network.

Taking all of the above into account, I recommend:

- **Policy BiC18, change to *“To support farm diversification, the conversion of existing agricultural buildings for business or business-related purposes will be supported where: a) the proposal would be compatible with its landscape setting; b) the proposal takes into account residential amenity and highway safety; c) the proposal is compatible with the agricultural or other land based activities present in the area; d) the buildings concerned would not require substantial rebuilding or disproportionate extension.”***
- **Delete Para 12.6**

Policy BiC19 Business Development

Paragraph 28 of the Framework states that:

“Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.”

Policy BiC19 supports economic development and has regard to national policy.

No changes are recommended.

Policy BiC20 The Westpoint Showground

Policy BiC20 seeks to support development “*consistent with the site’s current purpose and activities.*” However, no detail is provided with regards specifically what kind of development would be consistent with the site’s current purpose and activities and as such, Policy BiC20 is imprecise.

With reference to the final part of the Policy, it is unclear on what statutory basis future planning permissions are required to comply with planning conditions for previous development. Similarly, it is unclear how something that has not yet occurred can be subject to a pre-existing legal agreement.

In making the recommendation below I also note that the reference to “*careful scrutiny*” in Criteria c) lacks precision in terms of who will scrutinise proposals and on what basis.

I recommend:

- **Delete Policy BiC20**
- **Delete Para 12.8**

Traffic and Parking

Policy BiC21 Traffic Impact of New Development

Policy BiC21 requires all proposals for major development to demonstrate how they will provide good pedestrian and cycle connections with safe crossings to bus stops, schools and other village facilities. The requirement is regardless of the location of development. However, no evidence is provided to demonstrate that such a requirement would be viable or appropriate for all major development, leading this part of Policy BiC21 to fail to have regard to Paragraph 173 of the Framework.

The Policy goes on to require all major development to mitigate additional traffic impact on the main roads. However, this fails to have regard to Paragraph 32 of the Framework, which states that:

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

No indication is provided in respect of how all major development can be expected to “not encourage ‘rat-running’” and how this will be measured, who by and on what basis. This part of Policy BiC21 is imprecise.

Policy BiC21 does not meet the basic conditions.

I recommend:

- **Delete Policy BiC21**

Policy BiC22 Off-Road Parking Spaces for Existing Premises

Policy BiC22 supports the provision of additional off-road parking spaces in Clyst St Mary and Sowton. This has regard to Paragraph 39 of the Framework, which seeks to improve the quality of parking in town centres.

However, it is not clear what the differences are between the first three Criteria – *“character of the local environment...quality of the surrounding natural environment...visual amenity of the area.”* No detail is provided in this regard and consequently, the Policy is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal.

As set out, the Policy does not require new parking spaces to take account of highway safety or residential amenity. Given that such spaces would, in all likelihood, be located adjacent to and accessed from the highway, it would be appropriate for a Policy concerned with local character and flood risk to also have regard to such matters.

I recommend:

- **Delete Criterion a), b) and c) and replace with “a) local character; b) residential amenity; c) highway safety**

BiC23 Off-Road Parking for New Development

As set out, Policy BiC23 is vague and imprecise. It requires all non-residential development to provide for “adequate” parking and is reliant on other Policies in other documents not within the control of the Neighbourhood Plan, to define “adequate.”

Further to the above, it is unclear why all non-residential development should provide parking. It would not be relevant or appropriate for many types of non-residential development – for example, advertisements, new shop fronts, changes to Listed Buildings etc. – to provide parking. No justification is provided for such an onerous approach.

However, I recognise the local community’s concerns with regards off-road parking and taking the information before me into account, I recommend:

- **Policy BiC23, change wording to “*New non-residential development should demonstrate consideration of the need for off-road parking, taking into account the type of development and accessibility of the location. Where practicable, permeable materials should be used for parking areas.*”**
- **Delete Paras 13.9, 13.10 and 13.12 (taking into account recommendations above)**

Policy BiC24 Improving Footpaths and Links

Paragraph 75 of the Framework establishes that:

“Planning policies should protect and enhance public rights of way and access.”

Policy BiC24 supports improvements to footpaths and pedestrian links and has regard to national policy.

No changes recommended.

Cycleways and Footpaths

Policy BiC25 Improving Cycle Routes and Facilities

National policy promotes sustainable modes of transport and in the light of this, Paragraph 35 of the Framework seeks to:

“...give priority to pedestrian and cycle movements.”

Policy BiC25 supports the improvement and extension of cycle routes and facilities and in so doing, has regard to national policy.

Policy BiC25 contributes to the achievement of sustainable development and no changes are recommended.

Policy BiC26 Linking the Parish to the Exe Estuary Trail

Paragraph 204 of the Framework states that planning obligations should only be sought where they are:

“...necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.”

Policy BiC26 seeks contributions from developers towards the design and construction of a cycleway. However, in the absence of any evidence – for example, setting out which developments would provide contributions and on what basis, there is nothing to demonstrate that the Policy has regard to Paragraph 204 of the Framework.

Policy BiC26 is imprecise and does not meet the basic conditions. I recommend:

- **Delete Policy BiC26**

Policy BiC27 Pedestrian Links to and from New Housing Development

Local Plan Policy TC4 (*Footpaths, Bridleways and Cycleways*) encourages the provision of footways and routes for pedestrians within and through new developments.

Subject to being appropriate and practicable, Policy BiC27 seeks the provision of safe pedestrian access links and is in general conformity with the Local Plan. It contributes to the achievement of sustainable development and no changes are recommended.

Sports and Recreation

Policy BiC28 Local Green Space

The Framework enables local communities to identify, for special protection, green areas of particular importance to them. Paragraph 76 states that

“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”

Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land. Notably, the Framework is explicit in stating that

“The Local Green Space designation will not be appropriate for most green areas or open space.” (Para 77)

Consequently, when designating Local Green Space, plan-makers should demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

Policy BiC28 designates three areas of Local Green Space. Each site is identified as being special to the local community and of particular significance due to its local recreational value. None of the sites comprise extensive tracts of land and each of them are local in character and in close proximity to the community they serve.

The designations have regard to national policy. I note that designation as a Local Green Space has no impact on ownership or access. It simply provides protection on the basis set out in the Framework. I also note that Policy BiC28 is in general conformity with Local Plan Policy RC1 (*Retention of Land for Sport and Recreation*), part of the purpose of which is to protect open space.

In this regard, the wording of Policy BiC28, as set out, should have regard to Paragraph 77 of the Framework, which is clear in respect of how Local Green Space should be controlled. I address this in the recommendations below.

I recommend:

- **Policy BiC28, change first sentence to “...Local Green Spaces, *where new development is ruled out other than in very special circumstances: 1, Clyst...*”**
- **Delete “Proposals for development on this land...will be resisted.”**

BiC29 Protecting Existing Sport Facilities

The Framework states that

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.” (Paragraph 74)

Policy BiC29 seeks to prevent the unnecessary loss of sporting facilities and in so doing, it has regard to national planning policy.

The final criteria of the Policy, Criteria c), makes reference to other Policies in the Neighbourhood Plan. This is unnecessary as the Policies of the Neighbourhood Plan should be read together.

Criteria c) also refers to the need for proposals to comply with *“higher level policy.”* An application for development will be considered against all relevant adopted policies, regardless of whether they are *“higher level”* or not.

Taking the above into account, I recommend:

- **Policy BiC29, delete Criteria c)**

Policy Bic30

The Framework recognises that:

“...opportunities for sport and recreation can make an important contribution to the health and well-being of communities.” (Paragraph 74)

Furthermore, in Chapter 8, *“promoting Healthy communities,”* the Framework requires positive planning for to deliver the recreational facilities that a community needs.

Policy BiC30 is a positive planning Policy that supports development that improves or extends sports and recreational facilities. It has regard to national policy.

Criterion a) refers to *“etc”* which is an imprecise term and Criterion c) fails to have regard to Paragraph 32 of the Framework, which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

I recommend:

- **Policy BiC30, Criterion a), delete “etc”**
- **Delete Criterion c)**

7. The Neighbourhood Plan: Other Matters

I note that the recommendations made in this Report will have a subsequent impact on page numbering and Contents. I recommend:

- **Update the Contents page (page 3) to reflect the recommendations above**

8. Summary

I have recommended a number of modifications further to consideration of the Bishops Clyst Neighbourhood Plan against the basic conditions.

Subject to these modifications, I confirm that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

Taking the above into account, I find that the Bishops Clyst Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

9. Referendum

I recommend to East Devon District Council that, subject to the modifications proposed, the **Bishops Clyst Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

I am required to consider whether the Referendum Area should be extended beyond the Bishops Clyst Neighbourhood Area.

I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

Consequently, I recommend that the Plan should proceed to a Referendum based on the Bishops Clyst Neighbourhood Area approved by East Devon District Council on 5 March 2014.

Nigel McGurk, September 2016
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