

EAST DEVON DISTRICT COUNCIL

STOCKLAND NEIGHBOURHOOD PLAN DECISION STATEMENT

1. Summary

- 1.1 Following an independent examination, East Devon District Council now confirms that the Stockland Neighbourhood Development Plan will proceed to a Neighbourhood Planning Referendum.

2. Background

- 2.1 On 30 October 2013, East Devon District Council designated the area comprising the parish of Stockland as a Neighbourhood Area for the purpose of preparing a Neighbourhood Plan in accordance with Part Two of the Town and Country Planning (England), Neighbourhood Planning (General) Regulations 2012.
- 2.2 Following the submission of the Stockland Neighbourhood Plan to the Council, the plan was publicised and representations were invited. The publicity period ended on 17 May 2016.
- 2.4 East Devon District Council appointed an independent examiner, Mr Nigel McGurk, to review whether the Plan should proceed to referendum.
- 2.5 The examiner's report concludes that subject to making the minor modifications recommended by the examiner, the Plan meets the basic conditions set out in the legislation and should proceed to a Neighbourhood Planning referendum.
- 2.6 Upon publication of the examiner's report, Stockland Parish Council raised a number of objections with some of the recommendations made by the Examiner. Following discussions with the Neighbourhood Plan group, many of these complaints were resolved however there was an outstanding issue in relation to the recommendation made by the Examiner to policy EE2.
- 2.7 The group felt that the recommended wording provided by the examiner was imprecise and also failed to provide a decision maker with a clear indication of how to react to a development proposal. To this end Officers agreed that the examiner's wording may not follow national policy on this point.
- 2.8 In an attempt to resolve this, and as the Council needs to be satisfied that 'the Basic Conditions' (which includes following national guidance) are met, Officers provided the Stockland Neighbourhood Plan group with some potential alternative wording which was felt to react to their concerns as well as conforming to the examiners observations while adhering to national policy.
- 2.9 Stockland were happy with the alternative wording and this change was subsequently agreed at Cabinet.

3. Decision and Reasons

- 3.1 The District Council has made the following modifications, (incorporating the examiners modifications and the further amendment to Policy EE2), to secure that the draft plan meets the basic conditions set out in legislation, for the reasons given:

Reason for Change	Change made
<p>With regards the reference to “<i>other planning policies</i>,” I note that these simply comprise a somewhat subjective and limited list of selected national and District-wide policies. Consequently, I find that they appear cumbersome and add little other than confusion, by detracting attention away from the most important part of the Neighbourhood Plan, the Policies themselves. The inclusion of a subjective list of “<i>other planning policies</i>,” over which the Neighbourhood Plan has no control and which may change over time, is an unnecessary distraction, detracting from the clarity of the Neighbourhood Plan.</p> <p>With regards the “<i>links to key supporting evidence</i>,” again I find that the inclusion of the corresponding lists of information detract attention away from the Neighbourhood Plan’s Policies. They lead each Policy section to appear unwieldy and reduce clarity. Furthermore, the Evidence Base is simply that. It does not comprise the Neighbourhood Plan itself. Together with the “<i>other planning policies</i>” references, I find that the “<i>Key supporting evidence</i>” leads each Policy section to appear unnecessarily confusing.</p>	<p>Page 8, delete the last bullet point</p> <p>Page 9, delete the first bullet point</p> <p>Delete all “Key supporting evidence” and “Related national and district policies” boxes from the Policy sections of the Neighbourhood Plan</p>
<p><u>Policy NE1 – Retaining and Enhancing the Natural Beauty of our Parish</u></p> <p>As worded, the opening paragraph of Policy NE1 places a significant burden on all types of development. There is no evidence to demonstrate that the approach set out would be relevant, possible, viable or deliverable, for all forms of development – including for example, household extensions, to have to demonstrate “<i>no adverse impacts on the natural environment...and enhance the natural environment...</i>”</p> <p>Consequently, as set out, the Policy does not have regard to Paragraph 173 of the Framework, which requires plans to be deliverable and discourages such a scale of obligations and policy burdens as to threaten the viability of development.</p> <p>The second and third parts of the Policy, which relate to circumstances where mitigation measures and/or changes to Devon banks are necessary, support the conservation and enhancement of biodiversity, having regard to Chapter 11 of the Framework, “<i>Conserving and enhancing the natural environment.</i>” Policy NE1 iii) includes a reference to Devon County Highways Protocol. This is</p>	<p>Policy NE1 i) change to “Development proposals <i>that demonstrate that there are no adverse...and that enhance the natural...to do so, will be supported.</i>”</p> <p>Policy NE1 iii) delete “*” and corresponding reference box at the top of page 17</p> <p>Policy NE1, delete section iv) (“Development...dust.”)</p>

<p>not something under the control of the Neighbourhood Plan and I make a recommendation in this regard below.</p> <p>The final part of Policy NE1 requires all proposals for development to demonstrate that there will be no adverse impacts to air quality, or “<i>excess smell or dust.</i>” With regards this latter reference, “<i>excess</i>” is not defined and does not therefore provide a decision maker with a clear indication of how to react to a development proposal, contrary to Paragraph 154 of the Framework.</p> <p>Further, taken together, it is not clear why it would be relevant, possible, viable or deliverable, for all forms of development to comply with Policy NE1 iv). I find that the requirement set out does not have regard to Paragraph 173 and there is no evidence to the contrary.</p>	
<p><u>Policy NE2 – Supporting and Protecting our Turbaries</u></p> <p>The supporting plan to Policy NE2, “<i>Inset Map 1</i>” is insufficiently clear. As a statutory planning Policy, it is essential that the land referred to in Policy NE2 can be clearly identified.</p>	<p>Replace Inset Map 1 on page 19 with a plan, or plans, showing clearly identifiable boundaries on an Ordnance Survey base for each of the Turbaries. The precise boundaries of the Turbaries must be clearly visible</p>
<p><u>Policy NE3 – Preserving Tranquillity and Our Dark Skies</u></p> <p>As set out, the Policy places an onerous requirement on all forms of development. It may not be relevant or viable for all development proposals to demonstrate “<i>no significant adverse affect</i>” on tranquillity or dark skies and there is no evidence before me to the contrary.</p>	<p>Policy NE3, change to “<i>Development should maintain the tranquillity and dark skies of the parish.</i>”</p>
<p><u>Policy BHE1 – Protecting Our Valued Archaeological and Heritage Assets in Stockland Parish</u></p> <p>There are two typographical/grammatical errors on page 24.</p> <p>Whilst Policy BHE1 seeks to protect heritage assets, it fails to have regard to the balanced approach set out in the Framework and is not in general conformity with the Local Plan. Rather than reflect this balanced approach to conserving assets in a manner appropriate to their significance, as worded, Policy BHE1 simply seeks to impose a blanket requirement for development to demonstrate “<i>no adverse impact</i>” on designated and non-designated heritage assets and other, un-named assets and their settings. This results in a cumbersome Policy that fails to meet the basic conditions.</p>	<p>Page 24, line 5, change “suggest” to “<i>demonstrates</i>”</p> <p>Page 24, second paragraph, line three, change “of” to “to”</p> <p>Page 24, lines 4-6, change to “...<i>Listed Buildings, Conservation Areas and Scheduled Monuments.</i>”</p> <p>Replace Policy BHE1 with “<i>Where relevant, proposals affecting heritage assets and/or their settings should take into account Conservation Area Appraisal(s) and are encouraged to have regard to additional local evidence documenting local historic and heritage assets.</i>”</p>

<p>The Policy then goes on to demand that all development proposals should “<i>take fully into account</i>” a variety of information, including “<i>any</i>” local evidence. Nothing is provided to demonstrate that such an onerous requirement has regard to national policy or is in general conformity with the Local Plan. Taking this and the above into account, I find that the Policy, as set out, could serve to prevent sustainable development from coming forward and there is no evidence before me to the contrary.</p>	
<p><u>Policy BHE2 – Protecting Our Hamlets’ Historic Identity</u></p> <p>As set out, the Policy is negatively worded, in that it “<i>only</i>” supports development, subject to various criteria. This results in a restrictive approach that fails to provide the flexible and balanced approach to conserving heritage assets in a manner appropriate to their significance, as required by the Framework.</p> <p>However, this can be addressed by a minor change to Policy BHE2, modifying it so as to create a positive planning Policy, as per the recommendations below. The approach recommended also has regard to Planning Practice Guidance, which requires land use planning policies to be precise and concise.</p> <p>East Devon District Council has provided information with reference to undertaking a Local Listing exercise at some stage in the future. This is relevant to both the first paragraph and the final part of Policy BHE2, which effectively repeats part of Policy BHE1, but in so doing, also attempts to afford material planning weight to something that may or may not be produced in the future.</p> <p>Taking the above into account, Policy BHE2, as worded, is not precise and nor does it provide a decision maker with a clear indication of how to react to a development proposal. In addition, it is not the role of neighbourhood plans to afford statutory weight to documents that do not exist.</p>	<p>Policy BHE2, change to “...development proposals <i>affecting heritage assets</i> will only be supported where they...”</p> <p>Policy BHE2, delete “Where further local...proposed in the hamlets.”</p>
<p><u>Policy BHE3 – Maintaining the Built Character of Our Parish through High Quality Design</u></p> <p>Part of the supporting text on page 29 is worded as though it is a Policy, which it is not.</p> <p>The final part of the Policy sets out a requirement for development to comply with</p>	<p>Page 29, second paragraph, change to “...to this Plan and the Parish Council is keen for it to be taken into account as part of future development proposals in Stockland.”</p> <p>Policy BHE3, line 2, change to “...proposals for development will be supported where they take into account the Blackdown Hills Area of Outstanding Natural Beauty Design Guide for</p>

<p>guidance outside the control of the Neighbourhood Plan. I also note that design guidance is simply that. Notwithstanding this, I recognise that the Blackdown Hills Area of Outstanding Natural Beauty Design Guide for Houses provides helpful and locally distinctive guidance.</p>	<p>Houses and: i) ensure that the size...</p>
<p><u>Policy HP1 – Meeting Demonstrable Local Needs on Local Exceptions Sites</u></p> <p>Policy HP1 ii) is dependent upon another Policy in another planning document, over which the Neighbourhood Plan has no control. Furthermore, I note that it is not the role of neighbourhood plans to repeat or replicate existing planning policy.</p> <p>The second paragraph of page 37 reads in part as though it is a Policy, which it is not.</p>	<p>Delete Policy HP1 ii) (“where they...Local Plan; and,”)</p> <p>Page 37, second paragraph, on both lines 1 and 2, change “must” to “should”</p>
<p><u>Policy CFS1 – New Retail and Commercial Development in Stockland Village</u></p> <p>Whilst Policy CFS1 has regard to national policy, its use of the phrase “will be permitted” runs the risk of pre-determining planning applications without taking all relevant factors into account.</p> <p>Also, the last criteria of Policy CFS1, vii), is undefined and consequently, imprecise. It fails to provide a decision maker with a clear indication of how to react to a development proposal.</p>	<p>Policy CFS1, line 2, change to “...local community will be supported on sites...”</p> <p>Delete Policy CFS1 vii) (“Each unit...local area.”)</p>
<p><u>Policy CFS2 – Improvements to Existing Local Community Facilities, Amenities and Assets</u></p> <p>There is a mistake in Policy CFS2 i)</p>	<p>Policy CFS2 i) change to “...there is a demonstrable need for <i>them</i>,”</p>
<p><u>Policy CFS3 – Loss of Local Community Facilities, Amenities and Locally Valued Assets through Redevelopment</u></p> <p>The wording of criterion i) of the Policy is unclear and I make recommendation in this regard below, in the interests of clarity.</p> <p>In Paragraph 188, the Framework recognises that early engagement has significant potential to improve the efficiency and effectiveness of the planning system for all parties and that good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community. However, unless required by law, engagement with the local community is a desirable, rather than compulsory requirement. This in mind, the recommendation below acknowledges the aims of the Neighbourhood Plan, having regard to national policy.</p>	<p>Delete Policy CFS3 ii)</p> <p>Delete Policy CFS3 iii)</p> <p>Add new sentence to the end of Policy CFS3, “<i>In all circumstances involving the change of use or possible loss of community facilities, prospective developers are encouraged to engage with the local community at the earliest opportunity.</i>”</p>

<p>Criterion iii) of Policy CFS3 is confusingly worded. Further, it contradicts part i) of the Policy. If a community use is not viable, then it may not be possible to prevent its loss</p>	
<p><u>Policy CFS4 – The Kings Arms Inn</u> The Policy effectively supports any proposal for any kind of development, so long as it would enable the King’s Arms Inn to serve as a community hub. Consequently, as worded, Policy CFS4 could have unforeseen circumstances and lend support to unsustainable development.</p>	<p>Change Policy CFS4 to “<i>The development of the King’s Arms Inn as a community hub will be supported.</i>”</p>
<p><u>Policy CFS5 – Stockland Church of England Primary Academy</u> As worded, the first part of Policy CFS5 is neither precise nor concise.</p>	<p>Policy CFS5 – Replace “Proposals for development that lead to the provision of new...” with “<i>The provision of new...</i>”</p>
<p><u>Policy TRA1 – Off-road Car Parking</u> Paragraph 58 of the Framework supports the provision of safe environments. Policy TRA1 has regard to this and no changes are recommended.</p> <p>The second paragraph of supporting text on page 45 reads as though it is a planning policy in the Neighbourhood Plan, which it is not. Furthermore, I note that the text in this paragraph simply repeats part of the content of Local Plan policy TC9 (Parking Provision in New Development).</p>	<p>Delete second paragraph on page 45 (“New developments...parking spaces.”)</p>
<p><u>Policy TRA2 – Vehicular Access and Egress Arrangements</u> As worded, the opening sentence of the Policy could have unforeseen circumstances, as it suggests that any form or type of development will be supported, so long as it requires new or improved access. I address this in the recommendations below.</p> <p>Policy TRA2 i) relates only to developments (plural). This is a grammatical error and is addressed below.</p> <p>The final criterion, TRA2 iii), is unnecessary. I refer earlier (page 14 of this Report) to the Neighbourhood Plan’s reference, on page 9, to all Policies of the Neighbourhood Plan needing to be taken into account. This avoids the need for the cross referencing of Policies, which can introduce unnecessary confusion.</p>	<p>Policy TRA2, change opening sentence to “<i>The development of new or improved...</i>”</p> <p>Change TRA2 i) to “<i>it takes the safety of pedestrians...</i>”</p> <p>Delete TRA2 iii)</p>
<p><u>Policy TRA3 – Rights of Way (Public Footpaths, Bridleways, Byways, Unclassified Roads and Other Trails)</u> There is a typographical error on page 47. Paragraph 75 of the Framework establishes that:</p> <p><i>“Planning policies should protect and enhance</i></p>	<p>Page 47, first paragraph, line 4, replace “out” with “<i>our</i>”</p> <p>Change Policy TRA3 to “<i>The improvement and enhancement of public rights of way will be supported.</i>”</p>

<p><i>public rights of way and access.”</i></p> <p>The general intent of Policy TRA3 has regard to this. However, as worded, the Policy is imprecise and could result in unforeseen circumstances. As set out, Policy TRA3 would support any proposal, for any form of development, subject to it meeting the Policy’s requirements.</p> <p>Further to the above, Policy TRA3 could prevent sustainable development from coming forward. Rather than support the protection and enhancement of public rights of way, in line with the Neighbourhood Plan’s objectives, as worded, the Policy would only support such improvements where they achieve a list of criteria – including, for example, preventing motor vehicles from using them. There is no evidence to demonstrate that all improvements to public rights of way can achieve the requirements of Policy TRA3, or whether such requirements are relevant, viable or necessary land use planning requirements.</p>	
<p><u>Policy EE2 – Conversion of Agricultural Buildings</u></p> <p>As worded, the opening sentence of Policy EE2, “... <i>where it is justified in order to support farm diversification in the interests of viability and...</i>” places an onerous requirement on applicants to demonstrate both that conversion will lead to diversification and that it is in the interests of viability. There is nothing to demonstrate why such a departure from national or local policy and resulting failure to meet the basic conditions, is necessary or supported by evidence.</p> <p>Policy EE2 goes on to refer to “<i>significant harmful impacts,</i>” “<i>unacceptable impacts</i>” and “<i>unacceptable conflicts,</i>” without defining what these might be. In this regard, Policy EE2 fails to provide a decision maker with a clear indication of how to react to a development proposal.</p> <p>The final part of the Policy refers to “<i>substantial...extension.</i>” Again, this is an imprecise term and I address it in the recommendations below.</p>	<p>Replace policy EE2 with ‘<i>To support farm diversification, the conversion of existing agricultural buildings for business or business-related purposes will be supported where:</i></p> <ol style="list-style-type: none"> 1) <i>The proposal would be compatible with its landscape setting.</i> 2) <i>The local road network could safely accommodate the increase in vehicles resulting from the proposal.</i> 3) <i>The proposal complements, or is otherwise compatible with the agricultural or other land based activities present in the area.</i> 4) <i>The proposal would not harm the amenity of neighbouring residents and/or other uses.</i> <p><i>The buildings concerned would not require substantial rebuilding or disproportionate extension.’</i></p>
<p><u>Policy EE3 – Farming and other rural businesses</u></p> <p>There is a typographical error in the supporting text on page 53.</p> <p>As worded, the Policy is unnecessarily repetitive, resulting in confusion and a lack of precision. In protecting and promoting the</p>	<p>Page 53, supporting text, first line, delete “...described and...”</p> <p>Policy EE3, delete “...how it will protect and/or enhance the rural characteristics of the surrounding area and demonstrate...”</p>

<p>AONB’s natural beauty and special character, the Policy protects the area’s “<i>rural characteristics</i>” worthy of protection.</p>	
<p><u>Policy ELC1 – Small Scale Renewable and Low Carbon Energy Schemes</u></p> <p>As worded, Policy ELC1 i) is confusing, partly due to the use of grammar. It is not clear, for example, how low carbon energy schemes can provide “...<i>appropriate landscaping used where necessary to protect the quality of...tranquillity and wildlife habitats</i>” or why this will be relevant or necessary in all cases.</p> <p>To a large degree, the second criterion, Policy ELC1 ii), repeats the intent of the preceding criterion. Furthermore, it is unclear how a proposal can demonstrate “<i>how it will not</i>” have an adverse impact. This is an unreasonable policy requirement and due to the repetition referred to, is unnecessary.</p> <p>The final part of the Policy seeks to impose a requirement to take non-adopted guidance, not controlled by the Neighbourhood Plan, into account. Guidance is simply that. I acknowledge that the “<i>Renewable Energy in the Blackdown Hills Report 2010</i>” provides useful information and take this into account in the recommendations below.</p>	<p>Policy ELC1, change first paragraph to “...sensitively sited <i>and where necessary, appropriately landscaped, in order to protect the quality of Stockland’s...</i>”</p> <p>Delete Policy ELC1 ii) (“Proposals...habitats.”)</p> <p>Replace ELC iii) with a new sentence (not forming a bullet point) “Proposals for renewable or low carbon energy schemes are encouraged to take into account the advice given in the “Renewable Energy in the Blackdown Hills Report {2010}.””</p>
<p><u>Policy ELC2 – Large Scale Renewable and Low Carbon Energy Schemes</u></p> <p>Unlike the previous Policy, Policy ELC2 does not promote renewable and low carbon energy. Rather, it comprises a negative Policy and, in conflict with Planning Practice Guidance, is based on vague and imprecise terms.</p> <p>For example, no indication is provided as to when a scheme might be “<i>likely to have</i>” an adverse impact and consequently, this phrase does not provide clarity. Furthermore, no indication is provided with regards how “<i>the enjoyment of the natural and built environment</i>” can be measured, who by and on what basis.</p> <p>The Policy does not provide a decision maker with a clear indication of how to react to a development proposal.</p> <p>Taken as a whole, the Policy does not have regard to national policy, which requires: “...<i>a positive strategy to promote energy from renewable and low carbon sources</i>” (Paragraph 97, the Framework).</p> <p>Policy ELC2 could prevent sustainable development from coming forward. It does not</p>	<p>Delete Policy ELC2</p>

meet the basic conditions.	
<p>However, it is not clear why Appendix 1 is included in the Neighbourhood Plan. This is a long background document. It does not add any clarity to the Neighbourhood Plan but rather detracts from the concise nature of the document. The content of the Appendix simply forms part of the Evidence Base.</p> <p>I note that the recommendations made in this Report will have a subsequent impact on page numbering and Contents.</p>	<p>Remove Appendix 1 from the Neighbourhood Plan</p> <p>Update the Contents and page numbering to reflect recommendations</p>

- 3.2 The District Council has considered whether to extend the area in which the referendum is to take place. Like the examiner, the District Council has decided that there is no reason to extend the Neighbourhood Plan area for the purpose of holding the referendum.
- 3.3 The examiner has concluded that with the minor modifications made the Plan meets the basic conditions and other relevant legal requirements. The Council concurs with this view. Therefore to meet the requirements of the Localism Act 2011 a referendum which poses the question ‘Do you want East Devon District Council to use the Neighbourhood Plan for Stockland to help it decide planning applications in the neighbourhood area?’ will be held in Stockland Parish.
- 3.4 The date on which the referendum will take place is agreed as 24 November 2016.

EAST DEVON DISTRICT COUNCIL CABINET
12 October 2016